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Thursday
December 15, 1988

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WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

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4. An introduction to the finding aids of the FR/CFR system.

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

WASHINGTON, DC

WHEN: January 26, at 9:00 a.m.
WHERE: Office of the Federal Register,
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WHEN: January 12, at 9:00 a.m.
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Title 3—

The President

Memorandum of December 12, 1988

Memorandum for the Archivist of the United States

By the authority vested in me as President by the Constitution and laws of the United States, including Section 301 of Title 3 of the United States Code, I hereby authorize you to ascertain whether the printed enrollments of H.R. 4637, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461), H.R. 4776, the District of Columbia Appropriations Act, 1989 (Public Law 100–462), and H.R. 4781, the Department of Defense Appropriations Act, 1989 (Public Law 100–463), are correct printings of the hand enrollments, which were approved on October 1, 1988, and if so to make on my behalf the certifications required by Section 2(c) of H.J. Res. 665 (Public Law 100–454).

Attached are the printed enrollments of H.R. 4637, H.R. 4776, and H.R. 4781, which were received at the White House on December 1, 1988.

This memorandum shall be published in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
Washington, December 12, 1988.

[FR Doc. 88–28996
Filed 12–13–88; 3:02 pm]
Billing code 3195–01–M

Rules and Regulations

Federal Register
Vol. 53, No. 241
Thursday, December 15, 1988

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 1d

Rural Labor; Immigration Reform and Control Act of 1986

AGENCY: Office of the Secretary, USDA.
ACTION: Final rule.

SUMMARY: This final rule retains 7 CFR Part 1d, which defines fruits, vegetables, and other perishable commodities as prescribed by section 302(a) of the Immigration Reform and Control Act of 1986, Pub. L. 99–603, 100 Stat. 3359 (hereinafter referred to as "the Act"). This final rule redetermines whether the commodity sod meets the definition of "other perishable commodities" promulgated at 7 CFR 1d.7, in light of the decision and remand of this issue to the Secretary of Agriculture from the United States District Court for the Northern District of Illinois in *Heriberto Morales, et al. v. Richard E. Lyng, et al.*, Civil Action No. 87–C–20522. This rule will assist the Immigration and Naturalization Service (INS) in determining the special agricultural workers to be admitted into the United States for temporary residence.

EFFECTIVE DATE: December 15, 1988.

FOR FURTHER INFORMATION CONTACT: Al French, Coordinator of Agricultural Labor Affairs, Economic Analysis Staff, Room 227–E, Administration Building, United States Department of Agriculture, 14th and Independence Avenue SW., Washington, DC 20250–1400; telephone (202) 447–4737.

SUPPLEMENTARY INFORMATION:

Background

Section 302(a) of the Act states that "seasonal agricultural services" means "the performance of field work relating to planting, growing and harvesting of fruits and vegetables of every kind and other perishable commodities, as defined in regulations by the Secretary of Agriculture." 8 U.S.C. 1160(h). This subsection requires the Secretary of Agriculture to publish regulations defining the fruits, the vegetables, and the other perishable commodities in which the field work related to planting, cultural practices, cultivating, growing and harvesting will be considered "seasonal agricultural services" for purposes of the Act.

On June 1, 1987, the United States Department of Agriculture (USDA) published its final rule defining the terms "fruits," "vegetables," and "other perishable commodities," as well as several other terms that were necessary to an understanding of the definition of "fruits," "vegetables," and "other perishable commodities."

In the final rule, USDA defined the term "fruits" as "the human edible parts of plants which consist of the mature ovaries and fused other parts or structures, which develop from flowers or inflorescence." 7 CFR 1d.5. The term "vegetables" is defined as "the human edible herbaceous leaves, stems, roots, or tubers of plants, which are eaten, either cooked or raw, chiefly as the principal part of a meal, rather than as a dessert." 7 CFR 1d.10. The term "other perishable commodities" is defined as "those commodities which do not meet the definition of fruits or vegetables, that are produced as a result of seasonal field work, and have critical and unpredictable labor demands." 7 CFR 1d.7. "Critical and unpredictable labor demands" is defined to mean "that the period during which field work is to be initiated cannot be predicted with any certainty 60 days in advance of need." 7 CFR 1d.3. USDA explained that "critical and unpredictable labor demands" was defined to make it clear that the use of alien workers is predicated upon circumstances which create the critical, yet unpredictable demand for a labor force on short notice. 52 FR 13247 (April 22, 1987). An exclusive list of those commodities that were determined to be subject to critical and unpredictable labor demands was provided within the definition of "other perishable commodities," as well as a list of examples of commodities that were determined to be not subject to critical and unpredictable labor demands. 7 CFR 1d.7. Sod was listed as an example of a commodity that was not a fruit or vegetable and was determined to be not subject to critical and unpredictable labor demands. *Id.*

On October 21, 1988, at 53 FR 41339–41342, USDA requested public comment on a proposed rule that reexamined whether the commodity sod meets the definition of "other perishable commodities," in light of the remand of those issues to the Secretary of Agriculture from the United States District Court for the Northern District of Illinois in *Heriberto Morales, et al. v. Richard E. Lyng, et al.*, Civil Action No. 87–C–20522 (hereinafter referred to as "*Morales v. Lyng*"). The comment period closed November 7, 1988. USDA received 68 comments on the proposed rule during the comment period. The comments received are discussed below.

Comments

All of the comments received in response to the October 21, 1988, proposed rule urged the inclusion of sod as an "other perishable commodity." Generally, commenters stated that the planting, cultural practices, cultivation, growing and harvesting of sod, while mechanized to some degree, were seasonal, labor intensive activities and were subject to critical and unpredictable labor demands. Most commenters claimed that the planting, mowing, weeding, irrigation and harvesting of sod are labor intensive activities which are unpredictable as to timing, critical as to need, and require the hiring of extra laborers to perform the activities. Many commenters added soil preparation, picking up rocks, netting, selection of sod pieces, rolling and stacking, and scrap removal as additional seasonal activities which were subject to critical and unpredictable labor demands. No commenter described any field work which is performed by a regular employee complement.

In *Northwest Forest Workers Association v. Richard E. Lyng*, 688 F. Supp. 1 (D.D.C. 1988) (hereinafter referred to as "*NWFWA v. Lyng*"), the United States District Court for the District of Columbia upheld the USDA definition of "other perishable commodities" as "those commodities which do not meet the definition of fruits or vegetables, that are produced as a result of seasonal field work, and have critical and unpredictable labor

demands." *NWFWA v. Lyng*, 688 F. Supp. at 5–7. The court upheld also the USDA definition of "critical and unpredictable labor demands" to mean that the period during which field work was to be initiated cannot be predicted with any certainty within 60 days in advance of need. *Id.* USDA explained that "critical and unpredictable labor demands" was defined to make it clear that the use of alien workers is predicated upon circumstances which create the critical, yet unpredictable demand for a labor force on short notice. 52 FR 13247 (April 22, 1987). Thus, to meet the definition of "critical and unpredictable labor demands, the production of a commodity must be subject to a "critical" *and* "unpredictable" demand for a labor force on short notice. Because this rule must be applied by INS on a uniform basis to determine whether alien applicants may be admitted to the United States as special agricultural workers, this determination must be made on a commodity-by-commodity basis. Thus, USDA must examine the labor demands of each commodity on a national basis as a whole.

In the original final rule, USDA determined that sod production is not sufficiently "seasonal" within the meaning of the USDA definition. USDA defined "seasonal" as meaning "the employment pertains to or is of the kind performed exclusively at certain seasons or periods of the year." 7 CFR 1d.8. In the most recent proposed rule, USDA proposed to determine that sod production does not fall within the definition of "seasonal." 53 FR at 41340–41341 (October 21, 1988). USDA has determined that many operations with respect to sod production are performed generally on a year round basis and not "*exclusively* at certain seasons or periods of the year." However, upon review of the various operations with respect to sod production, USDA recognizes that certain other practices, at least in some areas, may be limited to certain seasons or periods of the year. Therefore, USDA has examined those operations which are limited, at least in some areas of the United States, to certain seasons of the year to determine whether such seasonal field work creates a critical and unpredictable labor demand for a labor force.

In determining whether a commodity meets the definition of critical and unpredictable labor demands, USDA must examine the degree to which the production of a commodity has been mechanized. There is a clear expression of congressional intent in the legislative history of the Act that the Special Agricultural Worker (SAW) program was to include as "other perishable commodities" crops which "must be harvested by hand, thereby requiring a large number of workers on short notice," and not "where mechanical harvesters can be used * * *." 131 Cong. Rec. S11322 (September 12, 1985) (statement of Sen. Wilson); *see also* 131 Cong. Rec. S11325 (September 12, 1985) (statement of Sen. Hatch); 131 Cong. Rec. S11334 (September 12, 1985) (statement of Sen. Gorton); 131 Cong. Rec. S11344 (September 12, 1985) (statement of Sen. Evans); 131 Cong. Rec. S11537 (September 16, 1985) (statement of Sen. Gorton); 131 Cong. Rec. S11606 (September 17, 1985) (statement of Sen. Wilson); 131 Cong. Rec. S11607 (September 17, 1985) (statement of Sen. Gorton); H.R. Rep. No. 99–682, 99th Cong., 2d Sess., Part 1, July 16, 1986, at p. 85. Mechanization affects labor demands in that the more mechanized the production of a particular crop is, the less critical and the more predictable the labor demands are. Highly mechanized crops do not generally experience a critical need for a labor force or short notice.

In *Texas Farm Bureau, et al. v. Richard E. Lyng, et al.*, Civil Action No. M–88–095–CA (E.D. Tex. Sept. 28, 1988) (hereinafter referred to as *"Taxas Farm Bureau v. Lyng"*), the United States District Court for the Eastern District of Texas upheld, *inter alia*, the USDA determination to exclude the commodity hay from the definition of "other perishable commodities" because its "labor requirements * * * have been largely met by the use of herbicides and mechanization." *Texas Farm Bureau v. Lyng*, slip op. at 14 (quoting 52 FR at 20374). As recognized by the court, USDA "considered a number of factors in determining whether a commodity had a critical labor demand. The factors included the nature and extent to which the field work activities utilized labor, the importance of the timing of these activities, [the] effect of a failure to perform these activities and the amount of labor needed." *Id.* at 15 (citations omitted). USDA determined that because hay was so largely mechanized, there is no real critical labor demands for large numbers of workers. *Id.* at 16. In addition, USDA determined that the timing of the harvest of hay is less critical than those commodities which would perish and become unmarketable altogether. *Id.* Thus, in that case the court approved of the USDA determination of the relationship between mechanization and criticality and predictability.

In the proposed rule USDA explained that it had determined that sod did not meet the definition of "other perishable commodities" because the production of sod is highly mechanized and does not involve critical and unpredictable labor demands. 53 FR 41339–41342 (October 21, 1988). USDA also determined that labor demands with respect to the production of sod are reasonably predictable more than 60 days in advance, and weather conditions do not create a critical need for additional labor significantly above the level than can be predicted months in advance. *Id.*

USDA found that many of the comments and sources are quite contradictory. For example, one sod commenter, a turfgrass science professor, stated "[t]he majority of sod operations use small walk-behind sodcutters, hand rolling or folding * * *." But another commenter wrote "[i]t is true that people no longer cut and hand roll sod * * *."

One commenter wrote "[netting] must be done without the use of tractors," while a published authority writes "[p]lastic netting can be installed by a [tractor] rig which rolls it out on tip of a seeded field." A number of commenters stated that netting must be pegged down by hand labor, while an authority writes "[i]f the netting is laid perpendicular to the irrigation laterals, the pipe can serve as the anchor. Except in high wind areas, wooden pegs are probably not needed." [Turfgrass Sod Production, U. of California, Publication 21451, Stephen T. Cockerham, Superintendent of Agricultural Operations for the University of California, Riverside, 1988, pg 36].

Although it is widely recognized that mowing is done by machines, many commenter stated that mowing is an "extremely labor intensive activity" and involves "high levels of hand labor." Several commenters claim that "we must go back and pick up rocks that are laying on the ground * * * by hand by [sic] laborers." On the other hand, a published authority writes "[a] stone picking machine may be used for stone and rock removal * * *."

Many commenters claimed that is impossible to predict the timing or the number of workers which would be needed for sod operations, while others stated in their original comments to the proposed rule published on April 22, 1987, "[b]ased on past experience, we can forecast our labor requirements both in terms of dates and number of workers." Some commenters claim "[s]od harvesting is where labor needs are most critical." However, a sod authority comments "[s]od producers

are not highly mechanized—just the cutting and stacking of sod * * *." One commenter stated "[i]n my previous letter of April 30, 1987, my statement regarding that 'labor requirements were predictable' was misconstrued. Based on today's letter, my labor demands are critical and unpredictable." Thus, not only were many of the comments inconsistent with published materials and expert opinions, many of the comments were inconsistent with the comments of other commenters and with comments received previously from some of the same commenters.

The comments indicate substantial confusion concerning whether sod production is highly mechanized as opposed to being a labor intensive operation requiring high degrees of manual labor. An official of one of the plaintiff sod producer organizations commented:

[W]e must perform a variety of activities, all of which require us to hire labor on short notice. The specific activities include preparation of the soil by plowing, discing (sic), chiseling, leveling, rotovating, culti-packing, and harrowing. We are also involved in planting seed, applying fertilizer and harvesting * * *. During the course of the season our work force varied between 18 and 37 seasonal workers.

In 1987, this same commenter wrote:

The sod industry has become quite mechanized over the past several years, but many operations such as irrigation, mowing, harvesting, chemical applications, etc. are still very hand labor intensive.

Many other commenters wrote:

Turfgrass sod production is an extremely labor intensive activity. Mowing, irrigating, fertilizing, planting, spot checking for weeds and foreign grasses and harvesting involve high levels of hand labor.

According to another commenter:

We then perform at least 14 tractor operations to get the crop planted. From planting until harvest begins 9 to 12 months later, we will perform at least 55 more tractor operations. The bulk of these is mowing. To market high quality turf, we must mow it 3 times per week in April, May, and June * * *. Sod harvesting is where labor needs are most critical.

These comments are typical of a large number of commenters which USDA believes confuse the relationship between mechanization and hand or manual labor, and labor intensiveness.

The following dictionary definitions are set out to clarify this confusion:

Manual labor: worked or done by hand and not by machine. [Webster's Ninth New Collegiate Dictionary, Merriam Webster, Inc. 1986].

Mechanize: to equip with machinery esp. to replace human or animal labor. [Webster's Ninth New Collegiate Dictionary, Merriam Webster, Inc. 1986].

Mechanization: A term of very broad meaning, but essentially dealing with changes in the processes of production which result in the displacement of human labor or human skills by machine operations. [Robert's Dictionary of Industrial Relations, Revised Edition, The Bureau of National Affairs, 1971].

The "specific activities" cited by the commenters above, *e.g.*, plowing, disking, chiseling, leveling, rotovating, culti-packing, and harrowing, are all mechanized operations. The planting of seed and the applying of fertilizer in sod operations also are mechanized operations. The "very hand labor intensive operations" of mowing and chemical applications are also performed by machines. All of the foregoing are clearly mechanized operations and, by definition, are not manual labor. The irrigation and harvesting of sod are also largely mechanized operations, although USDA recognizes that, in addition to machine operations, the use of manual labor may be associated with irrigation and harvesting operations. USDA recognizes also that it is sometimes necessary to spot spray herbicides in sod production, but weed and disease control is accomplished largely by spraying machines.

One authority on sod production provided detailed comments to USDA, which was endorsed by a number of other authorities:

While machines have been adapted to some of the operations on sod farms, sod production can not be described as a highly mechanized operation. The reason for this is the lack of sod producers' ability to accurately predict, 60 days in advance, what he will do and when he will need to do it, to produce his sod.

While USDA has determined that mechanization is a causal factor in creating predictability in terms of the number of workers needed and this determination was accpeted in *Texas Farm Bureau* v. *Lyng*, USDA is unable to discern how the inability to predict the timing and need for future activities in sod production is a causal factor in promoting mechanization, or the lack thereof.

This commenter stated further:

As a result of partial mechanization, the unpredictability of seasonal activities has increased * * *. In fact, the use of the machine driven sod cutter * * * increases the hand labor complement because it can require more men be working to pick up the sod and stack it.

USDA is not persuaded that mechanization makes activities less predictable or increases the labor demands. Clearly the use of labor saving machinery, such as the machine driven sod cutter, results in a reduced, rather than an increased, demand for labor to perform a comparable amount of work.

A paper apparently prepared especially as a vehicle for responding to the proposed rule was subscribed to by some authorities in the sod field. Apparently, some of these authorities did not understand the context of the regulatory framework in which the issues were being considered. One authority who endorsed the paper stated:

I don't agree with everything in * * * [the paper], but I do agree with the general tenor * * *. Compared to what it used to be, [sod] certainly is [mechanized]. Compared to tomatoes, celery, and other *mechanically* harvested, hand packed crops it isn't. The idea of any field crop being 'highly mechanized' is a delusion perpetuated by engineers and poorly informed casual observers." (Emphasis added).

Another authority who endorsed the paper cited in the above comment stated in his book:

Today, machinery is used to perform almost all turfgrass maintenance practices. [Turfgrass Science and Management, Robert D. Emmons, Delmar Publishers, 1984.]

As explained above, Congress intended the SAW program to include as "other perishable commodities" crops which "must be harvested by hand, thereby requiring a large number of workers on short notice," and not "where mechanical harvesters can be used * * *." 131 Cong. Rec. S11322 (September 12, 1985) (statement of Sen. Wilson).

In summary, although many of the commenters asserted that the production of sod is not largely a mechanized operation, many other commenters stated that sod production is largely a mechanized operation. The published authorities agree with the latter, that sod production is largely mechanized. Thus, after thoroughly reviewing all of the comments and available authoritative sources, USDA concludes that sod production is largely a mechanized operation.

USDA recognizes that while some manual labor is utilized in sod production activities, on the basis of the labor requirements indicated in the comments, USDA has determined that there is not a critical and upredictable demand for a large number of manual laborers on short notice.

In reviewing the comments and other authoritative sources, USDA notes that while commenters cited the need for extra labor during the "high season," this season encompasses most of the year in all sod producing areas.

According to the American Sod Producers Association, the average sod farm of 125 to 199 acres requires 5 to 9 employees during the "high season," which is generally 9 months in the northern United States, and 3 to 5 employees during the "low season," which is generally 3 months. Other commenters that indicated the number of workers they require for sod production stated that they generally reduce their work force by half during the "low season." This pattern of employment does not indicate a critical and unpredictable demand for large numbers of workers. Rather, it indicates a reduction in employment during the "low season" and a return to the normal work complement during the "high season." USDA believes that the magnitude, labor intensity, criticality, and predictability of the employment pattern with respect to sod production do not constitute a critical, yet unpredictable demand for a large labor force on short notice. Despite this pattern of employment, many commenters argued that specific activities involved in sod production created critical and unpredictable labor demands.

The activities involved in planting of sod vary widely throughout the nation from re-establishment through rhizomes left in the soil following harvest to intensive land preparation and reseeding of a new crop. Similarly, the timing of planting varies widely. Some areas plant on a year round basis, some plant only in the spring and fall, some in the spring and early summer, some plant in the summer, and some utilize dormant planting in the winter. Many commenters contend that the timing of planting is critical and unpredictable while others stated that they are able to forecast with specificity the timing of planting, such as one commenter who stated that "[o]ur planting times are very short. We have about two weeks in late June and again about two weeks in late August, due to the very unpredictable weather conditions, to get our crops seeded." Some authorities find planting less critical and describe planting considerations in terms of it being "preferred" to plant during a certain season and that other times may be "less desirable."

USDA has determined that the planting of sod is not subject to critical and unpredictable labor demands because the planting of sod is largely mechanized. However, USDA recognizes that sod planting is part of an integrated process which may involve land preparation, planting, in some cases netting, and post-planting irrigation. While some manual labor may be needed to pick up roots and rocks in some cases where not done by machine, land preparation activities do not have critical or unpredictable timing and are primarily mechanized operations.

Several commenters described a need for manual laborers to apply and peg netting. USDA recognizes that if netting is used it should be applied a relatively short time after seeding. However, netting is not critical because it is elective and most growers do not use it. Moreover, the grower has the option of delaying his seeding if he is not prepared to install his netting. In addition, the netting operation does not require a labor force on short notice. One commenter stated that 7 workers could do 20 acres per day. This indicates that the netting operation may be accomplished with the normal work complement.

Although many commenters stated that mowing is an "extremely labor intensive activity" and involves "high levels of hand labor," USDA notes that the scientific literature indicates clearly that mowing is a mechanized activity and does not require a large labor force on short notice. For example, one researcher found "[t]he most common size mower reported was the 5 gang, ground driven unit; however, units from 3-gang to 9-gang were reported." While USDA notes that the frequency of mowing will vary depending on weather conditions, mowing is generally performed by machine operators who are part of the normal work complement of a sod farm, and does not require a large number of workers on short notice.

Many commenters stated that fertilizing was "an extremely labor intensive activity" which "involve[s] high levels of hand labor." However, published authorities indicate that the application of fertilizer is generally a mechanized operation. One authority states, for example:

> It is essential that the fertilization of sod be performed by machine or injection into an irrigation system in order to achieve uniform distribution. [Turfgrass: Science and Culture, James B. Beard (Michigan State University), Prentice-Hall, Inc., 1973, pg 450.]

Another authority states:

> The majority of fertilizer used on turfgrass is in a dry or granular form. It is distributed with either a drop or rotary spreader." [Turfgrass Science and Management, Robert D. Emmons, Delmar Publishers, 1984.]

USDA has determined that fertilization is a mechanized activity and does not require a large labor force on short notice.

Many commenters described weed control as subject to "extreme labor intensity" which "requires extensive hand labor." One commenter, who submitted a paper written as a comment, describes weed control as:

> Weed control in a sod field is a complicated and critical process * * *. Herbicides to control grass weeds are not readily available and are not completely effective. Grass weeds are generally controlled by intense and labor demanding practices * * *. Sod farmers * * * have to use hand laborers to manually apply non-selective herbicides on individual grass weeds in order to eliminate them.

Although some commenters indicated that they used hand labor to control weeds, another sod authority writes:

> Most weeds * * * can be eliminated by fumigating * * *. Relatively simple machines can inject the fumigants and lay the tarp in one operation. Forty eight hours later the tarp can be removed and seed can be planted.
> * * * * *
> Under normal conditions, the sod grower can expect a fumigation to be effective for 4 to 6 years, sometimes longer, before pest population builds to problem proportions. [Turfgrass Sod Production, U. of California, Publication 21451, Stephen T. Cockerham, Superintendent of Agricultural Operations for the University of California, Riverside, 1988, Pg 30, 31].

In addition, USDA has been informed by an agronomist with a state University Department of Agronomy that "[t]here is little or no hand weeding" in sod production. USDA believes that weeds are generally controlled by the use of herbicides applied with machines. Subsequent re-infestations of weed pests may be dealt with on an ongoing basis by the normal work complement. Even in the worst possible case, a sod farm operated under generally accepted management practices should not experience sudden weed infestations, immediately prior to harvest, of critical proportions. However, even this de minimis case would be unlikely to constitute a critical demand for a labor force on short notice.

Several commenters described the need to control insect pests and disease on an immediate basis. One commenter describes this situation as:

> A disease such as Pythium blight can destroy thousands of square meters of sod in less than 24 hours if not treated immediately. Disease control on a sod farm generally requires a highly mobile labor force to control turfgrass canopy humidity and soil moisture, such that the disease is suppressed and the need for chemical control is minimized. Last year alone, numerous cases of diseased sod *resulting from infrequent mowing* were reported to the University of Illinois. This is due to sod producer's inability to predict the

growth rate of grass and having too few seasonal laborers to meet the demand. (Emphasis added).

However, another sod expert has written:

For turfgrass disease to occur, there must be a virulent pathogen, susceptible turfgrass, and proper environmental conditions. Sod producers reported few incidents of turf diseases in 1976 and 1979. During the summer of 1980, an outbreak of gray leafspot was reported in St. Augustinegrass sod in south Alabama. Diseases did not appear to be a serious problem on most commercial turfgrass farms in the state. [Commercial Turfgrass Sod Production in Alabama, Alabama Agricultural Experiment Station, Auburn University, Gale A. Buchanan, Director, Bulletin 529, August 1981, pg 20].

USDA recognizes that insect infestations and the outbreak of disease may, in extreme circumstances, be critical. However, because such incidents are controlled by the application of chemicals by machine, they do not create a critical and unpredictable labor demand.

Several commenters stated that sod must be harvested at the optimum time and noted that various factors could cause delays in the field work performed by the sod industry. They argued that such delays created critical and unpredictable labor demands.

USDA has determined that each crop's optimum harvest period is of relatively long duration, thus militating against the creation of critical and unpredictable labor demands. The comments indicate that the harvesting period for sod is quite long, and that even if the harvest is delayed substantially, it nevertheless remains marketable at reduced quality. One commenter stated for example:

From the time of seeding, our sod takes a minimum of 9 months to prepare for sale, and if not sold within two years of seeding, is discounted in price and not classified by us as nursery sod.

While many commenters asserted that the harvesting of sod accounted for the greatest labor demand, one authority, while urging the inclusion of sod as an "other perishable commodity," stated that harvesting and stacking was the *only* mechanized activity in sod production. He contended that other machine operations such as "land preparation, seeding or sprigging, fertilization, and pest control" are labor intensive. Another authority found that:

[a]ll growers with more than 100 acres (in Alabama) used one or more tractor-mounted sod cutters. These machines cut, rolled, and palletized the sod in one operation.

Many commenters stated that because they were unable to forecast customer's orders from day to day, that the harvesting of sod is critical and unpredictable. One authority commented that:

[f]ew farms cut enough sod on a daily basis to be able to support a full crew of laborers needed for harvesting * * * [T]he rate of harvest can not be spread out over a season or over a single day in order to keep a full crew busy.

The comment of the manager of a 900 acre sod farm which operates eight months of the year was typical of such comments, but provided somewhat greater detail:

Due to * * * extreme fluctuation[s] in weather conditions, our labor needs are *very* unpredictable * * *. [Our] farm cannot predict with any certainty when field work is to be initiated 60 days in advance. We cannot even predict from one day to the next many times what our labor needs will be * * *. One day we might cut 100,000 or 200,000 square feet of sod and the next day or a few days none or very little at all * * *.

USDA notes that, assuming this farm harvests only half of its 900 acres each year, it would be necessary to harvest an average of 115,000 square feet per weekday. This suggests that the harvesting operation on this farm is largely a continuous operation. USDA also recalls that in 1987, this same commenter states:

Within reasonable limits, the seasonal nature of labor requirements are quite predictable. Based on past experience, we can forecast our labor requirements both in terms of dates and number of workers. These figures are predicated on sod harvesting requirements, nurturing [sic] of immature sod and preparation of new fields for future years' sod growth.

The manager of a 500 acre sod farm commented:

[T]o harvest sod, it takes a crew of four men about 8 hours/acre, or 32 man hours/acre * * *.

* * * * *

This year we employed about 35 total field laborers. Assuming that this grower harvests half of his 500 acres each year, his normal work complement could, if it were critical to do so, harvest the year's crop in 52 man days. It seems more likely that the limit of harvesting capacity in this case is the number of harvesting machines available rather than the amount of labor.

Three sod farmers who in 1987 commented "[b]ased on past experience, *we can forecast our labor requirements both in terms of dates and number of workers*" (emphasis added), stated in their comments in 1988:

I recall that in my past letter I stated that labor needs can be predicted in advance. This statement is true in the fact that we know we will need laborers from March through November of each year. *But the number of workers depends* upon the demand of the local market and also the weather conditions.

In addition, some of the commenters who stated in 1987 that they could forecast their labor needs, stated in their most recent comments:

The comment in my letter to Mr. Lyng of May 4, 1987, about being able to forecast our labor needs for sod just meant that we have a general idea of how many workers we're going to need for the season. Any grower who can't do that is in bad shape.

Others stated:

In my previous letter of April 30, 1987, my statement regarding that "labor requirements were predictable" was misconstrued. Based on today's letter, my labor demands are critical and unpredictable.

In *Morales v. Lyng* the court noted that similar conflicting statements could be reconciled:

In short, all of the comments could be reconciled in a plausible fashion and interpreted to mean that: general seasonal demands of extra laborers are predictable, but often within seasonal parameters, the demand for extra field workers is unpredictable.

Slip op. at 6. These comments indicate that sod producers can, within reasonable limits, predict how many workers they will need during the "high season" and the "low season." The particular tasks that these workers may perform each day may not be predictable, but the need for a certain number of workers at certain times of the year may be predicted with reasonable certainty.

A sod authority states that:

Sod harvesting, however, is done only as long as it takes to fill that days' orders. With mechanization, the speed of harvesting has been increased. This * * * makes the scheduling of sod harvesting unpredictable * * *. [T]he timing of sod harvesting is critical. It must be done quickly, and usually in the morning, late afternoon, or on a cloudy day * * *. It must be done when the soil moisture is about 0.3 bars matric potential. Excess water will retain the heat from respiration, due to microorganisms, and results in cumbersome sod handling. It can take less than an hour for a pallet of sod to perish if the producer is not carefully monitoring the sod before and during harvest.

This indicates that harvesting generally is completed in much less than a day, freeing those workers to perform other tasks.

One of the few authorities who has published a description of the labor requirements of sod production found:

Farms having more than 100 acres were of sufficient size to require several laborers

throughout the production process. Therefore, once these growers found a reliable employee, they generally offered full time employment at a reasonable wage to ensure employment. [Commercial Turfgrass-Sod Production in Alabama, Alabama Agricultural Experiment Station, Auburn University, Gale A. Buchanan, Director, Bulletin 529, August 1981, pg 30].

USDA believes that sod producers do not limit workers to specific tasks, rather, workers are utilized to perform various tasks. Because producers need reliable employees, producers generally hire such workers on a full time basis as part of their regular work complement. This suggests that producers do not rely on large numbers of temporary workers to perform tasks such as sod harvesting.

Some harvesting machines cut, roll, and palletize the sod in one operation, while others require two manual laborers as "stackers". USDA believes that the stackers are usually part of the regular employee complement. One authority describes a typical harvest operation:

> Throughout the morning, additional orders to be cut that day are taken to the sod harvest crew * * *. Harvest * * * seldom takes all day. When the stackers are finished with the harvest, they clean the harvester and take empty pallets to the harvest field for use the next day. Then they *return to the production crew* at their regular hourly rate of pay. (Emphasis added). [Turfgrass Sod Production, U. of California, Publication 21451, Stephen T. Cockerham, Superintendent of Agricultural Operations for the University of California, Riverside, 1988, pg 62].

USDA concludes that sod producers do not recruit an additional workforce each time an order is placed by a customer, particularly when the work must be done only in the morning or later afternoon. Instead, USDA believes sod producers make reasonably accurate forecasts, which can be made 60 days in advance of need, of the number of workers needed for a regular work complement adequate for their anticipated harvesting labor demands as well as other activities. This complement may be reduced during any historically slack period according to past experience. The members of the regular employee complement are not limited to certain specific jobs, but rotate among different jobs according to current need. Thus, for example, if not busy with the labor associated with harvesting activities, a worker could be engaged in weeding, picking up rocks, moving irrigation systems, etc. Conversely, workers normally engaged in other activities may be utilized for harvesting in the event of unusually heavy consumer demand.

Because sod is not harvested manually, the ability to accelerate harvesting activity is limited by the capacity of the equipment available. The number of workers required to harvest sod is limited by the number of machine sod cutters available. In the event the total orders exceed the capacity of the mechanical harvesters, there is no indication that sod growers revert to the practice of hand cutting sod. Thus, the availability of an additional labor force would be of no value, and the harvesting of sod does not create a critical and unpredictable labor demand.

Many commenters stated fluctuating consumer demand made it impossible to forecast harvest requirements even from one day to the next. USDA believes that this condition, rather than creating a demand for a labor force on short notice, requires sod producers to maintain the necessary equipment and regular employee complement sufficient to meet anticipated consumer demand. Otherwise, the sod industry would have to have a pool of unemployed laborers on constant standby ready to work on a day to day basis. USDA does not believe that sod products have operated in that manner in the past, nor is the SAW program, which is not remedial, intended to enable them to do so in the future.

For these reasons, USDA concludes that the harvesting of sod does not create critical and unpredictable labor demands.

Many commenters indicated that they had employed undocumented workers in the past and have come to rely on such workers for much of their labor needs. As indicated clearly in the legislative history of the Act, the SAW program is not remedial and was not intended to legalize all undocumented alien agricultural workers.

Many commenters cited the need for irrigation as an example of a condition which caused critical and unpredictable labor demands. An official of the American Sod Producers Association claimed that:

> It is my understanding that an entire sod field can be destroyed in hours or days from the point of seeding to harvest. Sod is extremely susceptible to the effects of too much or not enough rain and numerous varieties of weed, disease and insects. If the required field labor is not available to address these needs immediately, sod crops are lost.

USDA recognizes that many plants, including some sod, may drown or scald if inundated. However, such a criterion would be too broad to determine inclusion within the definition of seasonal agricultural services. USDA believes that if Congress had wanted such a universal criterion to be used they would have simply said that "all crops" should be included. Moreover, USDA believes that under generally accepted farm management practices, such a flooding condition should only occur under extreme conditions or in the case of inadequate drainage or water management on a farm. In either case, damage which may occur in a matter of hours is not likely to be significantly alleviated regardless of labor availability.

The need for irrigation is quite varied and more difficult to analyze. There are many different types of irrigation systems whose labor requirements are quite varied. Irrigation during the establishment phase of sod production is customary and USDA does not believe that a prudent farmer would plant seed or sprigs unless he was prepared to irrigate. However, as explained above, the timing of the planting is not critical. Thus, the irrigation of new plantings is neither critical nor unpredictable. The pre-harvest irrigation of sod is similarly predictable and the consequences of not doing so is not critical to the plants. If the grower is unable to perform the pre-harvest irrigation, he has the opportunity to delay his harvest schedule. In the arid regions of the nation irrigation is performed on a regular and ongoing basis. Thus, the need for irrigation, while it could become critical, is not unpredictable in much of the nation. In some areas, irrigation due to a lack of rain can be expected less than a year. USDA recognizes that in some parts of the nation an unpredictable need for irrigation could develop as a result of drought. Such a condition may be met by several types of irrigation systems which do not require an additional labor force, by the use of the regular work complement, and by the rearrangement of other work schedules to accommodate the need to irrigate. The ability to irrigate may not be limited by the labor supply but the equipment available. USDA notes that following the record drought of 1988, which Congress deemed a national emergency for agriculture, only four commenters noted a crop loss; one of one percent, two of five percent (one of whose losses were new seedlings), and one of 21 percent. One of these commenters expained that the drought forced him to layoff workers rather than create a need for an additional work force on short notice:

> [T]his summer lost 25 or 30 acres of sod because we couldn't irrigate enough. I couldn't afford to keep on the workers I let go just to do irrigating; there just wouldn't have been enough for them to do between moving

pipes * * *. I had to let the [4] part timers and two of the [9] full-timers go because of the drought. There just wasn't enough harvesting work to keep them. Even the crew I did keep I had to make work for * * *. The only reason I didn't let more of them go was because I was afraid I'd never be able to get them back.

The experience of this commenter suggests that even with the prospect of some crop loss, the need for irrigation may not always be economically justified when compared to wage costs. In such cases the need for labor cannot be reasonably held to be critical.

After carefully evaluating all of the above as well as all other comments received, USDA concludes that the irrigation requirements of the sod industry do not create a critical and unpredictable labor demand.

Some commenters stated that sod is highly perishable after harvest and must be installed within a few hours to two days of the time it is removed from the field. USDA recognizes this statement to be correct, however, the installation of harvested sod is not performed on agricultural lands and does not meet the definition of "field work".

Twenty-seven commenters asserted they would not have access to the H–2A Temporary Agriculture Worker program unless sod was considered tc be an "other perishable commodity." There is not connection betweeen the H–2A program and "perishable commodities". Moreover, sod producers can and do utilize the H–2A program to meet their labor needs.

After thorough review of labor demands with respect to sod field activities from planting through harvesting, the comments received, the authoritative sources contained in the administrative record, and the record of *Morales v. Lyng*, USDA has determined that sod field work is not subject to critical and unpredictable labor demands. Thus, USDA has determined that sod does not qualify for inclusion as an "other perishable commodity."

Regulatory Impact

The Assistant Secretary for Economics has reviewed this rule in accordance with Executive Order No. 12291 and has determined that it is not a major rule. Under the framework of the Act, the Immigration and Naturalization Service (INS) will use this proposed rule to assist it in determining which special agricultural workers will be admitted into the United States for temporary residence. Thus, the primary benefits of this proposed rule are internal to the operation of the United States government.

This action, in and of itself, will not have a significant effect on the economy and will not result in a major increase in costs or prices for consumers, individuals, Federal, state, or local government agencies, or geographic regions; or have a significant effect on competition, employment, investment, productivity, innovation, or the ability of United States based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

This rule reexamines whether sod meets the definition of "other perishable commodities" for purposes of clarifying the term "seasonal agricultural services" as it relates to sod. The rule does not contain any compliance or reporting requirements, or any timetables. The rule will assist the INS in determining the special agricultural workers to be admitted for temporary residence. Thus, the rule, in and of itself, will have no significant effect upon small entities.

Paperwork Reduction Act

This rule does not require additional procedures or paperwork not already required by law. Therefore, the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3502, *et seq.*) are inapplicable.

National Environmental Policy Act

This rule will not have an impact upon the environment.

Good Cause for Making Rule Effective Less Than 30 Days After Publication

In its October 6, 1988, order, the United States District Court for the Northern District of Illinois in *Morales v. Lyng*, ordered the Secretary to publish this final rule by November 28, 1988. On November 23, 1988, the court extended this deadline to December 15, 1988. On the basis of this order, good cause is found to make this rule effective less than 30 days after publication in the **Federal Register.**

List of Subjects in 7 CFR Part 1d

Immigration, Rural labor.

Accordingly, Part 1d—Rural Labor—Immigration Reform and Control Act of 1986—Definitions is retained as promulgated.

Done at Washington, DC, this 13th day of December, 1988.

Richard E. Lyng,

Secretary of Agriculture.

[FR Doc. 88–28948 Filed 12–14–88; 8:45 am]

BILLING CODE 3410–01–M

FARM CREDIT ADMINISTRATION

12 CFR Parts 611, 612, 618 and 620

Organization; Personnel Administration; General Provisions; Disclosure to Shareholders

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration (FCA) Board adopts final regulations amendment 12 CFR Parts 611, 612, 618, and 620 which implement certain provisions of the Agricultural Credit Act of 1987 (1987 Act), Pub. L. 100–233. The amendments to Parts 611 and 618 are conforming changes which implement the statutory amendments that eliminated the Farm Credit District boards. Other amendments to Part 611 add regulations regarding eligibility of candidates for bank and association director positions; standards for the director election process; mergers of System institutions; stockholder reconsideration of previously approved mergers; contents of disclosure statements in connection with stockholder votes on the transfers of Farm Credit Bank (FBC) authorities to Federal land bank associations (FLBAs); and other procedures and provisions for disclosure requirements relating to mergers and reorganizations. Finally, regulations are added to Part 620 regarding disclosure requirements for candidates for bank directors.

EFFECTIVE DATE: These regulations shall become effective after the expiration of 30 days from publication during which either or both Houses of the Congress are in session. Notice of effective date will be published.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: On February 16, 1988, the FCA Board published an Advance Notice of Proposed Rulemaking requesting public comments on the implementation of the new authorities for institutions to reorganize contained in the 1987 Act (53 FR 4416). On June 6, 1988, the FCA Board published for comment proposed regulations to implement 1987 Act provisions regarding the election of

directors and candidate disclosure statements; transfers of lending authorities from FCBs to FLBAs; special reconsideration of mergers that occurred between December 23, 1985, and January 6, 1988; merger and reorganization proposals required by the 1987 Act; and, the new or amended disclosure and procedural requirements related to merger and reorganization proposals for banks and associations (53 FR 20637).

Included among the proposed regulations was a regulation which implemented section 411 of the 1987 Act, which requires FLBAs and production credit associations (PCAs) that share substantially the same territory to submit merger proposals to their stockholders. The FCA Board, taking into consideration the comments received on that regulation, determined that in light of the statutory deadlines applicable to section 411 mergers, there was a compelling need to adopt the final regulation related to those authorities as quickly as possible, since any delay could impede compliance with the statutory deadlines. Accordingly, on October 5, 1988, the FCA Board adopted a final regulation, 12 CFR 611.1145, which implements the section 411 merger authorities (53 FR 39079).

The FCA received comments on the remainder of the regulations from the Farm Credit Corporation of America (FCCA) on behalf of its member institutions, the FCB and Bank for Cooperatives (BC) of Texas, the Springfield FCB and BC, a senator on behalf of the PCA and FLBA of the Fourth District, the South Atlantic PCA, the Association Coordination Committee of the Third Farm Credit District, and the North Coast FLBA and North Coast PCA. All of the comments were analyzed and considered before adoption of the final rule by the FCA Board. After the expiration of the comment period, FCA also received additional comments from 1 bank and more than 30 associations that were specifically directed at the appropriate requirements for the official names of associations that have both short-term and long-term lending authority. These associations are referred to in these regulations as Agricultural Credit Associations (ACAs).

A. Eligibility for Membership on Bank and Association Board and Subsequent Employment

Section 611.310(a) of the proposed regulations would provide that no person is eligible for membership on the board of directors of a bank or association who has been, within 1 year preceding the date the term of office begins, a salaried officer or employee of any Farm Credit institution. The FCCA commented that regulatory prohibitions against subsequent service are only appropriate when a person holds a position in which they are afforded the ability to subsequently secure the second position. Therefore, the FCCA recommended that the regulation include a 1-year prohibition against a senior officer of an institution becoming a director of such institution or a director of an institution from becoming an officer or employee of the same institution. In addition, the FCCA recommended that the regulation include a 1-year prohibition against a director of a bank becoming an officer of an affiliated association. The FCCA expressed the view that the regulation should not prohibit a person who has served as an officer or employee of an institution in one district from serving as a director of an institution in another district. The FCCA argued that it was not reasonable to presume that persons would conduct their activities for an institution in one district in a way that would be designed to promote their subsequent election to the board of directors of an institution in another district. The FCCA also stated that such subsequent election would be subject to numerous factors totally out of the control of an officer of an institution in a different district. Finally, the FCCA believed that there should be no regulatory prohibition, or waiting period, for any nonsenior officer who subsequently becomes a director of an institution.

The FCA Board disagrees with the position of the FCCA that there is no sound reason to apply regulatory prohibitions to all officers and employees of institutions and to apply the prohibition beyond district boundaries. The underlying policy in the regulation continues to reflect statutory requirements that previously applied to members of the board of directors of Farm Credit Districts. These requirements were contained in section 5.1 of the Act prior to its repeal by the 1987 Act. While this section was repealed in connection with the elimination of the district boards, there is no published legislative history indicating that Congress intended to refute the underlying policy bases for this prohibition. Taking into consideration these previous statutory requirements, the FCA Board determined that it would be in the best interests of all Farm Credit institutions and their stockholders to preserve these requirements in order to promote the highest standards of conduct for officers and directors of Farm Credit institutions. These restrictions are necessary to minimize the potential for not only real, but also apparent, conflicts of interest that can arise when an officer or employee of a Farm Credit institution seeks to become a director of an institution, or when a director of an institution seeks to become an officer or employee of such institution. The FCA Board also believes that retention of these prohibitions is especially important during this critical transitional period during which significant reorganizations are taking place within the System.

The FCA Board agrees with the recommendation of the FCCA that a director of an FCB should be prohibited from subsequently serving as an officer or director of an association with which the FCB has a discount or agent relationship. The FCA Board agrees that there could be a significant potential for abuse if a bank director were able to obtain a position as an officer or employee of an association over which such director could have exerted considerable influence as a bank director. Accordingly, the final regulation has been amended to include this requirement.

The FCCA recommended that § 611.310(a) be expanded to prohibit a director of a bank or association from subsequently serving as an officer of a service corporation. The FCCA believes that such a prohibition would be consistent with the prohibition against the directors of banks or associations from serving as officers of other banks or associations. This comment raises a broader question as to the appropriate regulatory limitations for membership on the boards of directors of service corporations, and specifically whether the prohibitions in § 611.310 should be applicable to officers, employees, and directors of service corporations and what, if any, exceptions should be provided. The FCA Board determined that it would not be appropriate to amend this regulation to expand its applicability to service corporations in the absence of additional public comments on the specific issues raised by the FCCA and the broader question suggested by the comment. The FCA Board will address this issue during its normal regulatory review process and will propose, for public comment, amendments to the regulations as appropriate.

The FCCA observed that while § 611.310 contains many of the provisions previously contained in section 5.1 of the Act, it does not include the previous statutory prohibition

against officers or employees of FCA serving as directors of banks. The FCA Board notes that these regulations do not include such provisions since there are other Federal statutes and regulations which have restrictions on post-employment activities governing all Federal employees, including employees of the FCA. These authorities include 18 U.S.C. 207, 5 U.S.C. Appendix, and 5 CFR Part 737. FCA implementing regulations are contained in 12 CFR Part 601. In addition, section 5.8 of the Act contains restrictions on the post-employment activities of members of the FCA Board. The FCA will in the course of its normal regulatory review process, determine whether modifications or additions to those regulations are necessary and appropriate.

The FCCA recommended that § 611.310 be amended to prohibit a convicted felon or person who is mentally incompetent from becoming a director of a bank or association. The FCCA also recommended that this section be amended to clarify items which were left unclear in the proposed regulation and in repealed section 5.1 of the Act. Specifically, the FCCA sought clarification of when a person "becomes" legally incompetent and when a person is "finally" convicted of a felony. In addition, the FCCA expressed a view that § 611.310 is inconsistent in part with the section 5.65(d)(1) of the Act. The FCCA observed that while § 611.310(b) prohibits a person convicted of a felony from continuing to serve as a director, section 5.65(d)(1) would permit a person convicted of a felony involving dishonesty or a breach of trust to serve as a bank director, with the prior written consent of the FCA. The FCCA stated that the FCA regulations must acknowledge the existence of a statutory exception to the intended general rule that no convicted felon serves as a bank director.

The FCA Board disagrees with the FCCA's interpretation of section 5.65 of the Act. Prior to the enactment of section 5.65 of the Act, section 5.1 of the Act expressly prohibited a person from serving on a district board if the person had been convicted of a felony or adjudged liable in fraud. This express prohibition, which applied only to members of a district board, would have prohibited a person from being elected to such position if that person had been previously convicted, or would have prohibited such a person from continuing to serve on a board if such board member had been subsequently convicted.

Section 5.65 was enacted by the 1987 Act in connection with the establishment of the Farm Credit System Insurance Corporation. This section provides that it is unlawful, except with the prior written consent of the FCA, for any person convicted of any criminal offense involving dishonesty or a breach of trust to serve as a director, officer, or employee of any insured System bank. This section further provides that if any bank willfully violates that prohibition, such insured bank shall be subject to a penalty of not more than $100 per day during which time the violation occurs. Section 5.65 applies not only to directors of institutions but also to their officers and employees, and imposes a penalty, not on the offending official, but rather on the institution.

By the adoption of 12 CFR 611.310(b), the FCA Board has determined that it will not provide its consent to the service of any convicted felon on the board of directors of a bank or association and this prohibition will apply for any felony conviction, including those involving dishonesty or a breach of trust. The FCA Board believes that this regulatory provision, which is similar to the one previously contained in section 5.1 of the Act, must be continued to ensure the integrity of and public confidence in the operations of Farm Credit institutions.

As a technical matter, the FCA Board concurs with the suggestion of the FCCA that § 611.310(b) be amended to clarify that a convicted felon is ineligible to be elected to a board. In addition, the FCA Board agrees that the use of the term "finally" for convictions should be deleted, consistent with the terminology used in section 5.65 of the Act. This will eliminate any possible ambiguity as to whether a person may run for election or continue to serve as a director following a conviction but prior to the exhaustion of all appeals. Once a person has been convicted, § 611.310 would prohibit such person from being elected or continuing to serve as a director. Such person's eligibility could only be returned if the conviction were overturned and the person subsequently acquitted or the charges dropped. The FCA Board agrees that there is some lack of specificity as to when a person "becomes" legally incompetent but that lack of specificity is inherent in the fact that there are numerous ways in which legal incompetence can be determined under the various State laws. The FCA Board does not believe it is necessary to clarify this provision at this time in the absence of any specific problems involving its interpretation.

B. Impartiality in the Election of Directors

Section 611.320 requires each bank and association to adopt policies and procedures which assure that elections of broad members are conducted in an impartial manner. The FCCA commented that it was unfair to expose an institution to civil money penalties or other legal actions for unfair electoral processes occurring despite the institution's reasonable effort to assure impartiality. Accordingly, the FCCA recommended that this section be amended to only require institutions to adopt policies and procedures "necessary to provide reasonable assurance that elections of board members are conducted in an impartial manner." The FCA Board agrees that institutions cannot be held accountable if parties beyond the control of the institution engage in unfair electoral processes. However, this regulation addresses the requirement that the institution must have policies, procedures and controls in place that, if adhered to, will assure that elections are conducted in an impartial manner. To clarify this point, the final regulation has been amended to require institutions to adopt policies and procedures "that are designed to assure that" the elections of board members are conducted in an impartial manner. The FCA will review those policies and procedures in the course of its normal examination process to determine if the regulatory requirements have been met. If, in the course of an election, an institution fails to adhere to or implement its policies and procedures, the FCA will consider any appropriate actions.

The FCCA also inquired why paragraphs (b) and (c) of § 611.320 are applicable to all Farm Credit institutions, including service corporations, while paragraphs (a), (d) and (e) are only applicable to banks and associations. The FCCA commented that all these paragraphs should be applicable to all Farm Credit institutions. The FCA Board agrees with the FCCA comment and notes that this omission was a technical error in the proposed regulation. As noted by the FCCA, § 611.320 replaces provisions previously contained in § 612.2200, which was applicable to all Farm Credit institutions including service corporations. The final regulation has been amended accordingly.

C. Confidentiality in the Election of Directors

Section 611.330 requires banks and associations to adopt policies and

procedures that assure confidentiality in the election of board members and prohibits the use of signed or otherwise voter-identifying ballots or proxy ballots. The FCCA commented that the regulation should clarify what must be held confidential. The FCCA also pointed out that the language of the Act regarding confidentiality of voting applies only to "lending institutions of the Farm Credit System," and not other institutions.

The FCA Board agrees with the FCCA's comment that the regulation should clarify what types of information and materials generated in the election process must be kept confidential. To address this issue the final regulation has been amended to specify the required scope of policies and procedures designed to maintain the confidentiality of the election process.

The FCA Board concurs with the observation of the FCCA that section 4.20 of the Act only addresses the confidentiality requirement for "lending institutions." However, the FCA Board, in the exercise of its regulatory responsibility, determined that a similar confidentiality requirement should be applicable to all Farm Credit institutions, including FLBAs which are not direct lenders, and service corporations. The Board believes that the stockholders of all institutions, whether those institutions lend or not, are entitled to the same level of confidentiality in the exercise of their voting franchise.

The FCCA also expressed the view that § 611.330 should provide for the release of election related materials in the event that an election is contested. The FCA Board notes that § 611.330(d) authorizes the FCA to require an institution to release election related materials. The principal circumstance under which this requirement would be imposed would be in the event an unsuccessful candidate contested an election by notifying the FCA. In light of the FCCA comment, the final regulation has been amended to specifically note that election materials may be released for review in the event of a contested election.

The North Coast FLBA and North Coast PCA commented that the prohibition against signed proxy statements in paragraph (b) was not consistent with the provision of paragraph (c) which permits a stockholder to revoke a proxy prior to balloting at a stockholders' meeting. The FCA Board understands the difficulty that arises in reconciling the statutory prohibition against the use of signed ballots with the need for stockholders to be able to revoke proxies, and the need to identify stockholders in those situations where votes are weighed according to the stockholders equity ownership. Section 611.330 (b) and (c) set out procedures that will comply with the Act and still permit institutions to ascertain that votes are cast only by persons eligible to do so. To preserve a stockholder's right to withdraw a proxy vote, in accordance with section 611.330(c), the institution will have to retain all proxy ballots unopened until the stockholders who attend the annual meeting are given an opportunity to withdraw any proxy ballots that have been mailed.

D. Security in the Election of Directors

Section 611.340 requires banks and associations to adopt policies and procedures relating to the security of election-related material, and a required retention period for records, ballots, and other materials. The FCCA reiterated its comment made with respect to § 611.320 regarding the applicability of these requirements to all Farm Credit institutions, not just banks and associations. The FCA Board agrees with the comment of the FCCA for the reasons stated in response to the same comment regarding § 611.320, and the final regulation was amended to provide for its applicability to all Farm Credit institutions.

Section 611.340 requires each institution to adopt policies and procedures that assure the security of ballots, proxy ballots, and records in the election of board members. The FCCA commented that the scope of coverage of this provision may be too narrow and may not include other election-related material such as "envelopes marked as part of the voting process." While it is clearly the intent of this provision to include all election records and related materials, the FCA Board is concerned that, as evidenced by the FCCA comment, this provision could be read too narrowly. Accordingly, the final regulation has been amended to require that policies and procedures address the security of "all records and materials related to the election of board members, including, but not limited to, ballots, proxy ballots, and other related materials."

Section 611.340(c) requires institutions to safeguard ballots and proxy ballots prior to and subsequent to an election. In addition, this section requires election records to be retained until the end of the director's term of office. The FCCA commented that the retention period was excessive, and recommended that the retention period be reduced to 1 year. The FCA Board disagrees that the retention period should be reduced. The essential purpose of the retention period is to ensure that during any time a director is in office the institution or the FCA will have access to the election materials to resolve any questions that arise regarding the election of such director. The FCA Board also notes that the FCA used these procedures and this retention period when the FCA was responsible for conducting elections for district boards. While there is some recordkeeping and storage burden imposed, the FCA Board believes that this burden is minimal when compared with the benefits derived from having access to materials in the event of a challenge to procedures involved in the election of a board member.

Section 611.340(d) requires each institution to verify the validity of ballots before a public announcement is made of the election results. The FCCA inquired as to the scope of the verification requirement imposed in the regulation. The FCCA commented that verification should be a function of the tellers committee and that unless an election is challenged, no other party should be permitted to review the ballots. The FCCA also requested that the regulation be clarified to ensure that banks are not involved in association elections.

The FCA Board agrees that the only parties responsible for verifying the results of the election should be the tellers committee or a similar group, as provided for in the election procedures of the institution. To clarify this point, the final regulation has been amended to specifically require the institution to have election procedures which provide for the establishment of a tellers committee or other designated group of persons who are responsible for validating ballots and proxies and tabulating election results. The final regulation has also been reworded to clarify that each institution and its officers, directors, and employees are prohibited from making any public announcement regarding the results of an election before the tellers committee or other designated group has verified the results of the election. In response to the FCCA's final comment, the FCA Board notes that the regulation does not provide a basis for a bank to be involved in an association's election process and therefore no further amendment to the regulation is necessary.

E. General Statement on the Farm Credit System Organization

Part 611, Subpart D, contains only one section, § 611.400, which describes the organization of the Farm Credit

institutions in general terms. The proposed regulations would delete that section, which does not have any substantive effect, as part of a general reorganization of FCA regulations designed to eliminate duplicative, unnecessary, or redundant materials. The FCCA commented that § 611.400 should be retained since it provides a "more understandable and complete brief statement of the System's integral nature than any other single provision in the Act or regulations." The FCA Board does not agree with the need to retain this section or any other sections in the FCA regulations which serve no legitimate regulatory purpose. It is noted that there are various official and unofficial documents published by Farm Credit institutions and the FCA that contain general statements regarding the organization and operation of Farm Credit institutions. Those types of publications are informative and useful in providing the public with a general overview of the operations of Farm Credit institutions. The FCA Board believes there is no need to include those types of general provisions in the regulations since they have no substantive effect.

F. Transfers of Authorities From Banks to Associations

Sections 611.500–611.525 set forth the procedures and the approval and voting requirements for the transfer of certain authorities from FCBs to FLBAs under section 7.6 of the Act. The FCCA commented that most issues relating to transfers of lending authorities are common to sections 7.6 and 7.8 of the Act and section 411 of the 1987 Act and should be treated under a single comprehensive regulation. The North Coast expressed the contrary viewpoint, believing that the transfers of authorities under the various sections of the Act are dissimilar and should not be treated under the same regulation. The FCA Board continues to believe that these two types of asset transfers must be treated differently. The transfers and assumptions under section 7.6(a) of the Act are voluntary actions on the part of the stockholders of both the banks and associations that are parties to the transactions, while the transfers under section 7.8 of the Act and section 411 of the 1987 Act are required as the result of a merger between an FLBA and a PCA. Sections 611.500–611.525 prescribe the procedures to be followed and the disclosures required when transfers of lending authorities are voted on by stockholders in the absence of merger activity.

Both the FCCA and North Coast noted that the proposed regulation assumes that when lending authority is transferred from a bank to an association that assets will also be transferred. The FCA Board notes that neither the Act nor the proposed regulation mandates a transfer of assets in connection with a transfer of lending authority. The FCA Board believes that the decision to transfer assets at the time lending authority is transferred is a matter that should be negotiated between the banks and associations involved, taking into consideration their respective needs and operating capabilities. To eliminate any confusion on this point, § 611.515(b)(6) and § 611.520 (a) and (b) have been amended to clarify this issue.

The FCCA expressed the view that § 611.505 should incorporate standards for FCA review and approval of proposals to transfer lending authority. Similar comments were made by the FCCA in responding to the FCA Board's Advance Notice of Proposed Rulemaking. Rather than include evaluative criteria in the regulations, the FCA Board continues to believe that each transaction should be evaluated according to the specific circumstances presented. As discussed in greater detail in response to the same comment regarding § 611.1010, this position is consistent with procedures used for many years in approving other types of corporate reorganizations.

The FCCA noted that § 611.510 authorizes each institution's stockholders to vote on the proposed transfer of authority "in accordance with the institutions' bylaws." The FCCA commented that the regulations should specify that when an association votes as a stockholder of the bank, it casts a number of votes equal to the number of the association's stockholders. The FCCA pointed out that these are the requirements contained in sections 5.17(a)(2), 7.0, and 7.12(a)(3) of the Act. The proposed regulation was silent on the issue of whether or not weighted voting is used in these circumstances and did not specify the voting requirements for association stockholders. The FCA Board agrees that the statutory requirements applicable to such votes clearly provide for weighted voting by associations, and to avoid any ambiguity the FCA Board has amended the final regulation to expressly restate those statutory requirements.

The FCCA suggested that the regulations regarding the transfer of authorities from banks to associations should address the question of approval at the bank level of loans to association directors and of certain large loans based on a percentge of association capital. The FCA Board disagrees with the need for a new regulation to address this issue since 12 CFR 614.4470 currently specifies the approval requirements for director loans, employee loans, and certain large loans, and is applicable to all associations. The FCCA also suggested that the regulations should recognize the impact of transferred lending authority on the capital adequacy of the institutions involved. The FCA Board agrees that the effects of the proposed transaction on the capital adequacy of the institutions should be disclosed. The disclosure of such effects is provided for by the requirements of § 611.515(b) (3), (6), (10) and (12), and other regulations.

The FCA Board adopted two technical amendments recommended by the FCCA which provide for the adoption of resolutions "approving", rather than "proposing", the transfer of authorities, and require the bank and association to forward to the FCA a certified record of the stockholder vote rather than a certified copy of the adopted resolution.

The FCA Board disagrees with two other technical comments offered by the FCCA. The FCCA stated that regulations should require representations and warranties respecting the quality of any assets transferred to an FLBA. The FCA Board notes that the regulations do require the disclosure of the quality of any assets transferred but do not require any warranties regarding the quality of such assets. The extent and nature of warranties or representations, if any, regarding the quality of assets, must be agreed to by the parties in the plan of transfer. The FCA Board agrees that if warranties are given regarding the quality of assets, such warranties must be disclosed. Accordingly, § 611.520(b) was amended to include this requirement. The FCCA was also concerned that the regulation does not clearly establish that the board of directors of either the bank or the association could rescind the transfer under § 611.520. The FCA Board believes the context of the regulation in its entirety, and the specific language in question, make it clear that when either party rescinds its resolution of approval under the circumstances specified in the regulation the transfer will not be consummated. However, to eliminate any ambiguity regarding this point, the final regulation has been amended to specifically provide that the recision of a resolution by the bank or the association will void the transfer.

G. General Authorities and Requirements Related to Bank Mergers, Consolidations and Charter Amendments

Section 611.1000 sets forth general requirements for the contents of bank charters and general authorities for obtaining amendments to charters. Section 611.1000(c) provides that the FCA may make changes to bank charters as may be necessary or expedient to implement the provisions of the Act. The FCCA commented that paragraph (c) should be revised to conform to the provisions of sections 1.3(b) and 3.0(a) of the Act, which provide that the authority of the FCA to amend charters may only be exercised in a manner "not inconsistent with the provisions of the Act."

It is noted that the specific statutory language which was advocated for inclusion by the FCCA has been deleted from the statute by the Agricultural Credit Technical Corrections Act of 1988, Pub. L. 100–399. However, the deletion of this statutory language does not affect the specific authorities of the FCA to amend bank charters which are contained elsewhere in the Act. For instance, section 5.17(a)(2) of the Act authorizes the FCA Board, after consultation with the boards of directors of the banks involved, to require two or more banks to merge if the FCA Board has determined that any one of such banks has failed to meet its outstanding obligations.

The FCA Board agrees that the FCA is only authorized to exercise functions provided for in the Act and is not empowered to take any action which is inconsistent with the Act. That limitation on FCA's powers is an implicit requirement in every section of the regulations governing FCA action and for that reason was not restated in the proposed regulation. However, in order to eliminate any concern regarding this matter the FCA Board amended the final regulation to include an appropriate limiting phrase in paragraph (c) to ensure that there is no misunderstanding regarding the authority of the FCA to amend charters of banks.

H. Bank Charter Amendment Procedures

Section 611.1010 sets forth the procedures to be followed in order for a bank to obtain amendments to its charter. Section 611.1010(a) lists the types of amendments that can be obtained to a charter of a bank. The FCCA commented that the regulation should include a fourth item providing for "any other change that is properly the subject of a bank charter." The FCA Board agrees with this comment and the final regulation has been amended accordingly.

Section 611.1010(b) requires a bank seeking a charter amendment to submit an appropriate resolution of its board of directors, together with supporting documentation, to the FCA for preliminary approval. The FCCA commented that, as a technical matter, some charter amendments are not subject to stockholder approval and therefore this section should be clarified to provide that the submission to the FCA shall be "for preliminary or final approval, as the case may be." The FCA Board agrees with the need for this technical change and the final regulation has been amended accordingly.

Section 611.1010(c) provides for FCA review and approval of requests for charter amendments. The FCCA commented that the regulation should specifically require the FCA to "expeditiously" review materials and provide for "prompt" notice of any reasons for disapproval. In addition, the FCCA recommended that this section set forth the standards used by the FCA in reviewing the proposal. The FCA Board concurs with the intent expressed in the first comment but does not believe a specific amendment to the regulation is necessary. The FCA makes every effort to process charter amendments and any other documents requiring FCA action as expeditiously as possible and in accordance with any applicable statutory deadline. With regard to the second comment, the FCA Board does not agree with the need for, and does not see any benefit to be derived from, attempting to set forth specific standards for the review and approval of charter amendment applications. As a general matter, the FCA is charged with the administration of the Act and with promoting the safe and sound operations of Farm Credit institutions. In addition, the Act empowers the FCA to exercise certain specific authorities relating to the operations of Farm Credit institutions. It would not be possible or practical for the FCA to try to delineate all of the considerations that are involved in reviewing applications for charter amendments. Any attempt to do so would only create the false impression that the list was exhaustive. Rather, the FCA provides clear guidance to institutions regarding the requirements for obtaining specific types of charter amendments through detailed regulations regarding the contents of required documents relating to such matters as mergers and territorial adjustments. For these reasons, the FCA Board believes that no change to the regulation is necessary or appropriate.

Section 611.1010(d) sets forth the requirements for stockholder approval of certain bank charter amendments. The FCCA made the same comment regarding voting requirements as was made with respect to § 611.510. For the same reasons set forth with regard to that section, the FCA Board agrees with the comment and has amended the final regulation accordingly.

I. Requirements for Merger or Consolidation of Banks

Section 611.1020 implements the provisions of sections 7.0 and 7.12 of the Act which provide for mergers and consolidations of banks. The FCCA stated that the regulation should be clarified "to provide for a section 7.12 merger of the Farm Credit Bank in one district with a merged Farm Credit Bank/bank for cooperatives in another district." The FCA Board disagrees with the need for the suggested change since § 611.1020(a) is merely an introductory provision which restates the statutory authorities under which bank mergers can occur and does not describe what types of mergers are authorized under the Act.

Section 611.1020(b) provides that banks proposing to merge or consolidate shall submit to the FCA the same documents that are required by 12 CFR 611.1122(a)–(e) and 611.1123, for mergers of associations. The FCCA stated that several of the requirements in the referenced sections applicable to associations would not apply to bank mergers, such as the requirement for FCB approval. To resolve the discrepancies, the FCCA recommended that the regulation be amended to require that the documents submitted in connection with the bank mergers shall be "substantially similar in format and content" to the documents itemized by regulations governing association mergers. The FCA Board agrees that there may be some provisions of the referenced sections relating to the bank review and approval of the association merger documents which are not applicable in the case of a bank merger. However, the documents submitted in connection with bank mergers must comply with the express requirements of those regulations rather than being "substantially similar" to the documents required by the regulations. The FCA Board notes that the ambiguity in the proposed regulations was caused by the inadvertent reference to § 611.1122(a)–(e), rather than § 611.1122(a) and (e). Accordingly, the FCA Board amended the final regulation to correct this

technical error, and in addition, to clarify that in reading those referenced sections, the term "bank" shall be substituted for the term "association."

Section 611.1020(d) sets forth the procedures for obtaining final approval of a bank merger and the required documents to be submitted to the FCA, including the requirement for submission of copies of the articles of association for the bank. The FCCA commented that the statutory provisions governing banks, unlike those governing associations, do not include references to articles of associations. The FCA Board agrees with the FCCA comment and has amended the final regulation to delete this requirement.

J. Board of Directors of an Agricultural Credit Bank

Section 611.1030 provides for the establishment of a board of directors of an agricultural credit bank (ACB), which is a bank formed by the consolidation of a Farm Credit Bank and a bank for cooperatives. The FCCA commented on the use of the term ACB and also made the same comment regarding the use of the term "agricultural credit association (ACA)." The FCCA assumed that the references to ACBs and ACAs were only generic references and did not require institutions to actually use those terms. Several other commenters expressed concern that the required use of a corporate name that did not permit immediate recognition of these entities as institutions of the Farm Credit System would negate much of prior years' public relations efforts to create name identification, as well as incur the cost of changing trademarks and other corporate identifications. The FCCA recommended that merged associations should have the option to use as their official name either "Farm Credit Services" together with an appropriate geographical designation, "Farm Credit Association" with an appropriate geographical designation, or some other appropriate name utilizing the word "association."

The FCCA correctly noted that the references to "agricultural credit association" and "agricultural credit bank" in these regulations, and in other regulations promulgated by the FCA to date, were used in order to ensure that one can identify the various regulatory requirements applicable to different institutions. It would be impossible to know whether a regulatory provision regarding, for instance, limitations on the terms of a loan, was applicable to PCAs, FLBAs or an association resulting from the merger of a PCA and FLBA unless the regulation used different names to identify which associations were subject to that provision.

Thus, these regulations do not, by their terms, establish any requirements for the official names of associations. However, during the comment period on these regulations, the FCA Board has been required to review, for preliminary approval, certain proposed mergers of PCAs and FLBAs. Several of these merger proposals provided that the resulting association would be referred to as a "Farm Credit Association." The FCA Board advised these associations that the name "Farm Credit Association" could not be used since the inevitable use of the acronym "FCA" would be confused with the name of the agency. Since the Board did not have the opportunity to develop a comprehensive proposal regarding the official names of institutions in light of the 1987 Amendments, the FCA Board advised the merging associations that, consistent with these proposed regulations, they should use the name "agricultural credit association." Now, based on a thorough evaluation of this issue and the many public comments it has received, the FCA Board has addressed the questions regarding official names of banks and associations in a comprehensive manner.

With the exception of the provisions of section 413 of the 1987 Act regarding the National Bank for Cooperatives, the 1987 Act and the Act do not expressly require any of the various types of banks and associations to use a specific name in its official title. However, prior to the 1987 Act, the Act referred to each of the different banks and associations by using specific names such as "production credit association," "Federal land bank association," and "bank for cooperatives." Based on these statutory references, the FCA, in granting charters to institutions, has required that the official names of institutions include the appropriate name used in the statute. Thus, for instance, associations chartered under Title II of the Act were required to use production credit association as part of their official name.

Until a few years ago, banks and associations transacted business using only their official names to identify themselves. Then, an effort was undertaken to develop a common identifying name that could be used by any bank or association which would identify the institution's affiliation with other Farm Credit institutions. The name selected for this purpose was "Farm Credit Services." That name eventually came into use to a greater or lesser extent among institutions throughout the country. The use of "Farm Credit Services" appears to have been particularly popular among associations operating under joint management because it enabled the two associations to be identified by a single name. FCA advised institutions that it did not object to an institution identifying itself through the use of this trade name, but that the use of the name in communications and official documents would have to be accompanied by the official name of the institution.

Enactment of the 1987 Act, particularly the provisions authorizing the merger of unlike banks or associations, has caused the FCA to reevaluate its policies regarding the official names of institutions. This reevaluation was especially necessary in light of the growing public acceptance of the term "Farm Credit Services." The Board has concluded that institutions should have the maximum degree of flexibility possible in proposing official names for their institution and should not have to use trade names that are more commonly accepted than their official names. At the same time, the official name of an institution should always be one that can be readily identified by the public as belonging to an institution affiliated with the System. In addition, there must be a simple way for the public and the FCA to be able to identify the name as belonging to one of the various types of institutions regulated by the FCA. For instance, one must be able to know whether a bank can lend to cooperatives, like a bank for cooperatives, or whether an association can only make short-term loans, like a PCA.

The FCA Board has determined that each of these concerns can be addressed through a policy regarding official names that combines the authority to use historically accepted names with the emerging acceptance of the term "farm credit," together with an appropriate use of acronyms. This policy contains the following elements. The FCA Board will issue charters for institutions which contain the statutorily sanctioned names "production credit association," "Federal land bank association," "bank for cooperatives" and "Farm Credit Bank." If an institution requests an official name that does not incorporate one of those terms, the official name must include the acronym for the appropriate term after the name. For instance, the Production Credit Association of North Central Jersey could request a change in its name to "Farm Credit Services of North Central Jersey, PCA." The Board will also issue charters for institutions that contain the

name "agricultural credit bank," for a bank formed by the merger of an FCB and BC, the name "agricultural credit association," for an association formed by the merger of a PCA and FLBA, and the name "Federal land credit association" for an FLBA that has direct lending authority. If such an institution requests an official name that does not include the appropriate term, the name must be followed by the arconym "ACB," "ACA" or "FLCA." For instance, and FLBA that has acquired direct lending authority could use names such as "Farm Credit of Central City, FLCA," or "Federal Land Bank Association of Central City, FLCA."

As discussed above, the FCA Board has adopted this policy position at this time, which will be expressed in a formal policy statement, because of the numerous mergers and other reorganization proposals that are pending. The FCA has never promulgated specific regulations governing the names of institutions in the past since such matters have been addressed on an individual basis in connection with specific request for approvals. However, the Board is considering whether it would be beneficial to adopt comprehensive regulations in this matter which would provide general guidance to institutions. In the course of reviewing this matter, the Board will consider any views it receives from interested parties on the need for regulations regarding this topic.

K. Creation of New Associations

Section 611.1040 sets forth the requirements for the creation of new associations, including PCAs, FLBAs and ACAs. The FCCA commented that this section implies that ACA's do not have the authority to make long-term real estate loans and recommends that the regulation be amended accordingly.

Section 611.1040 merely identifies the procedural requirements necessary for obtaining charters for associations and is not an attempt to specify the various powers, duties, and authorities of those associations, which are matters addressed throughout other FCA regulations. For instance, the specific lending powers of associations, including ACAs, are addressed in a proposed regulation approved by the FCA Board on September 28, 1988 (53 FR 44438). However, to eliminate any ambiguity regarding the interpretation of § 611.1040, a technical amendment was adopted in the final regulation which deletes the reference to the authorities of ACAs.

L. Requirements for Mergers or Consolidations

The proposed regulation would amend § 611.1122(e) by requiring the inclusion of additional materials in the disclosure statement distributed to stockholders in connection with mergers. The FCCA questioned why 3-year financial projections should be mandatory, since it would be likely that there would be factors beyond the control of institutions that could have a material impact on those projections. The FCCA commented that if such projections are mandated, the agency should provide instructions regarding their preparation and, in addition, should provide a "safe harbor" rule which would protect an institution if the statement was prepared with a reasonable basis and was disclosed in good faith.

The FCA Board agrees with the FCCA comment and notes that the inclusion of 3-year financial projections in the disclosure statement distributed to stockholders was a technical error in the proposed regulation. The 3-year financial projections were not intended to be included under § 611.1122(e). They were intended to be supplemental material submitted to the affiliated banks and to the FCA as an aid in the approval of the merger proposal. The final regulation has been amended accordingly.

The FCA Board disagrees with the FCCA suggestion that the regulations governing the preparation of financial projections include a "safe harbor" rule to protect institutions in the event they may want to include this information in disclosure statements distributed to stockholders. As stated above, financial projections are required as additional material to be used by affiliated banks and the FCA to aid in the review and approval of merger proposals, not as disclosure documents to be distributed to stockholders. The FCA Board recognizes that other Federal regulators permit the inclusion of forward-looking financial information in stockholder disclosures, if prepared in accordance with rules governing their preparation and presentation. The Board is concerned that very little benefit, but much harm, could result from the inclusion of prospective financial statements in stockholder disclosures in such an unsettled and dynamically changing System environment as the current one, no matter how "reasonable" the assumptions or other basis used to prepare and present such projections. However, the Board believes the suggestion merits further study and will consider any comments or recommendations it receives on this subject during its normal regulatory review process and will propose amendments to the regulations as appropriate.

M. Merger or Consolidation Agreements

The proposed regulations included amendments to § 611.1123 regarding the content of association merger agreements. Section 611.1123(a)(9) requires merger and consolidation agreements to include the capitalization plan and capital structure of the new institution and a statement that such plan would comply with all FCA regulations and be approved by the stockholders of the institution. The FCCA commented that the regulation appears to contemplate that the institution's capitalization plan, i.e., the board and management strategy for complying with the capital regulations, must be included in the bylaws and submitted for stockholder approval. The FCCA asserted that this is contrary to the requirements of section 4.3A of the Act, which does not require capitalization plans be included as part of the bylaws. The FCCA stated that section 4.3A only requires that the bylaws will "enable the institution to meet the capital adequacy standards." The FCCA asserted that an institution's capitalization plan is a key element of its business strategy and that requiring the institution's stockholders to approve the plan would be "intolerable."

The FCA Board agrees with the FCCA's comment that the Act does not require the institution to include its capitalization plan in the institution's bylaws and amended the final regulation to delete this requirement. However, the bylaws must comply with capitalization bylaw regulations at 12 CFR 615.5220–5240. The final regulation continues to require that the merger agreement include the capitalization plan of the resulting entity. This requirement is necessary to ensure that the parties to a merger agree on the capitalization plan which will be used by the institution to achieve its minimum capital standards. The FCA Board believes that the stockholders of the institutions involved in a merger must be provided access to this information in connection with their review of the disclosure documents to determine their position with respect to the merger. This regulation does not in any way alter the prerogative of the board of the new institution to make adjustments to its capitalization plan as it deems appropriate.

Section 611.1122(g) of the proposed regulations sets forth the procedures necessary to ensure that stockholders

can exercise their right to reconsider a vote. The FCCA commented that this section would have the effect of enabling the FCA to independently determine on what date a merger would be effective, and that such authority is not consistent with the provisions of section 7.9(b)(5) of the Act. That section provides that if a petition for reconsideration is not filed within 30 days following the notification of the merger vote, the merger shall be effective in accordance with the date specified in the plan of merger. The FCA Board agrees that the proposed regulation was subject to the interpretation advanced by the FCCA. Since that was not the intent of the regulation, it has been amended to address the concern. The intent of the proposed regulation was to ensure that the stockholders would be afforded the opportunity to file motions for reconsideration and to enable the FCA to process the documents and grant the final approval after the expiration of the reconsideration period. The proposed regulation was not intended to imply that the FCA could establish any effective date for a merger. However, there are instances in which the necessary documentation is not provided to the FCA in time to permit a final approval before the proposed effective date. The regulation must provide for this situation by enabling the FCA to delay the effective date when necessary. The FCA Board has amended § 611.1122(g) and added a new paragraph (k) which address these issues by providing that the effective data of a merger or consolidation shall be a date which is not less than 50 days after the date of mailing of the notification of results of the stockholder vote. This 50-day period takes into consideration the statutory 30-day waiting period, a period of 5 days from the date the notification is mailed to provide for delivery, and 15 days for FCA's reviews of the documents. If no petition to reconsider the vote is filed within 35 days after the date of mailing of the notification to stockholders, the merger or consolidation shall be effective upon final approval by the FCA on the date specified in the merger agreement, or at such later date as may be required by the FCA to grant final approval. For the same reasons, the FCA Board has amended § 611.505 (d) and (e) to provide the same requirements with respect to the effective dates for transfers of lending authority between FCBs and FLBAs.

Section 611.1123(c) authorizes stockholders to file a petition to reconsider a vote and further provides that if such petition is approved by the FCA, a special stockholders meeting will be held to conduct the reconsideration vote. The FCCA sought a clarification of the extent of the "FCA's approval" of a stockholder petition and commented that such approval should be limited to determining whether the petition complies with statutory requirements. The FCA Board agrees that the FCA approval set forth in the proposed regulations is limited to determining whether the petition meets the requisite statutory standards and did not intend to expand such approval to other areas. In light of the FCCA comment, the FCA Board amended the final regulation to provide that FCA review of a stockholder petition is for the purpose of determining whether the petition complies with the requirements of section 7.9 of the Act.

Section 611.1123(c) provides that if a proposed merger is disapproved upon reconsideration by the majority of the stockholders of any one of the institutions that is a constituent to the merger, the merger shall not take place. The FCCA stated that this provision is inconsistent with section 7.9 of the Act. In support of its position, the FCCA stated that section 7.9(b)(4) of the Act provides that a majority of stockholders voting, in person or by written proxy, may disapprove a previously approved merger. The FCA Board notes that it was not intended that the proposed regulation establish a different standard than is specified in the statutes and has amended the final regulation to clarify this point.

The FCCA also commented that § 611.1123(c) purports to authorize all stockholders to vote on a reconsideration vote rather than limiting such voting to "stockholders eligible to vote." The FCA Board does not agree that this is a reasonable interpretation of the regulation. There are references to stockholder votes in numerous FCA regulations and in most instances the regulations do not repeat the words "stockholders eligible to vote." There is no need to continually restate this phrase because the Act and the bylaws of the institutions specify the voting eligibility requirements for stockholders. This section is not designed to, nor does it, confer eligibility to vote on stockholders who are not authorized to vote under the Act or the bylaws of the institutions.

The FCCA commented that the proposed regulations do not clarify what the effective date of a merger would be if a reconsideration vote were held and the merger were approved upon reconsideration. In response to this comment, the Board notes that since the parties proposing the merger are responsible for proposing a merger date, it is assumed that they would also be responsible for proposing a second effective date for the merger after a reconsideration vote. For this reason, this matter was not specifically addressed in the proposed regulation. However, in light of the FCCA comment, the Board determined that this matter should be specifically addressed in the regulation. Accordingly, the final regulations include a new § 611.1122(k) which provides that if a petition for reconsideration is timely filed, the constituent institutions shall agree on a second effective date to be used in the event the merger or consolidation is approved on reconsideration. To ensure that the FCA has an opportunity to review the documents and grant final approval, the regulation further provides that such an effective date shall be not less than 15 days after the date of the reconsideration vote.

The FCCA commented that § 611.1123(c) does not clarify that only stockholders eligible to vote on a merger can be eligible to sign a reconsideration petition. The FCCA noted that the statute also does not clarify this point and requested that the FCA use its regulatory authority to address this concern. As discussed earlier, the FCA believes it is clear that when the statute and regulations refer generally to an event that requires stockholder approval, those statutory or regulatory authorities do not confer eligibility to vote on stockholders who are not otherwise eligible under the Act or the bylaws of the institution. Similarly, it would be incongruous to permit a stockholder to sign a petition for reconsideration if such stockholder were not eligible to vote on the merger or the reconsideration of the merger vote. However, the FCA Board believes that there may be some ambiguity regarding this question and has amended the final regulation to clarify that the petition must be signed by 15 percent of the stockholders who are eligible to vote of one or more of the constituent institutions.

N. Territorial Adjustments

Section 433 of the 1987 Act permits the stockholders of an FLBA or PCA whose chartered territory adjoins the territory of an FCB that the association is not affiliated with to petition the FCA to incorporate the petitioning association into the territory of the adjoining FCB. The FCA did not propose regulations governing this process because the statutory provisions are clear and the

FCA's existing regulation § 611.1124 adequately addresses the requirements for transfers of territory. Section 611.1124 sets forth the requirements and procedures to be followed in order for associations to modify charters for the purpose of tranferring territories to other associations. In its comments, the Farm Credit Bank of Texas (Texas FCB) agreed that the requirements of section 433 of the 1987 Act are clear, and that § 611.1124 provides guidance for voluntary reassignment of an association to an adjoining FCB. However, the Texas FCB suggested that the FCA should clarify the extent to which the individual requirements of § 611.1124 apply to section 433 reassignments, and recommended a number of clarifying amendments to § 611.1124.

The FCA Board agrees that not all of the provisions of § 611.1124 apply to section 433 reassignments. The FCA Board notes, however, that the opportunity for an association to petition for a section 433 reassignment is a temporary one that will end on January 6, 1989. In light of this abbreviated timeframe, the FCA has provided requesting associations with specific instructions which clarify the applicability of the § 611.1124 requirements to section 433 reassignments. The FCA took into consideration the recommendation of the Texas FCB and other parties in developing those instructions.

O. Special Reconsideration of Mergers

Sections 611.1190 and 611.1191 provide for the reconsideration of the voluntary mergers and consolidations of associations that occurred after December 23, 1985 and prior to January 6, 1988. The proposed regulations provide that a reconsideration can be initiated by a stockholder petition or by the adoption of a resolution by the existing association board of directors. Petitions can provide for either the withdrawal of one or more predecessor associations from the current association, or for the general reorganization of an existing association that was formed by the merger of three or more predecessor associations. Director resolutions can provide for the adoption of a general reorganization of the existing association.

Section 611.1192 establishes that petitions must be signed by at least 15 percent of the voting stockholders of the existing association who were stockholders of each of the predecessor associations that seek to withdraw, or by 5 percent of the total number of voting stockholders of the existing association if the petition seeks a general reorganization of the existing association that was formed by three or more predecessor associations. In their comments, the FCCA and South Atlantic PCA agreed that the board of directors should be authorized to adopt a resolution proposing a general reorganization, but expressed the view that no statutory basis exists for allowing 5 percent of the stockholders to seek a general reorganization of the existing association. The South Atlantic PCA went on to state its concern regarding the disruption to operations and added expense that would result from these special reconsideration petitions. The Fourth District PCA and FLBA commented that the 5 percent initiative was an arbitrary expansion of the specific criteria provided in the Act.

The FCA Board does not agree with the commenters that no basis exists for allowing 5 percent of the stockholders to seek a general reorganization of the existing association. The FCA has general rulemaking authority to ensure that the overall intent of the statute is given effect. Toward that end, the FCA Board has determined that it is appropriate to provide a mechanism by which the expression of a substantial interest among the stockholders of an existing association to reorganize their association can be realized. The FCA Board believes that if a substantial interest for reorganization exists among an existing association's stockholders, a petition of 5 percent of the total voting membership would give a more cost-effective and less disruptive mechanism for allowing the realization of that interest than by requiring the stockholders to file numerous petitions for the individual withdrawal of many associations from the merged associations. It is also noted that this 5 percent threshold only applies to an association formed by the merger of three or more associations. In those instances, the number of shareholders who have to sign such a petition would approximate the number of shareholders who have to sign a petition for the withdrawal of an association using the 15 percent requirement. The FCA Board also notes that a proposal to withdraw or reorganize, whether initiated by a 5 percent petition, a 15 percent petition, or the adoption of a resolution by the board of directors, can only be consummated if it is agreed to by a majority of the stockholders who would be served by the separating or reorganizing association.

Section 611.1192(c) requires each petition to describe the manner in which the existing association will be reorganized and the territory in which each proposed separate association would operate. The FCCA suggested that the regulation should more clearly indicate what flexibility there is for petitions to create a new territory that is different from the territory of a predecessor association. The FCA Board believes that the present language addresses this concern by placing no limits on the flexibility that a petitioning group of stockholders has in proposing the new territories for the associations that would result from a reorganization of the entire association. However, the Board agrees that the regulation should clarify that, consistent with the intent of section 7.9 of the Act, when an association withdraws from a merged association, it will have the same territory it had prior to the merger.

Section 611.1192(d) requires a special reconsideration petition to be certified and forwarded to the FCA within 5 working days of its receipt by the association. The South Atlantic PCA expressed the view that since § 611.1193 requires the petition to be accompanied by the stockholder information statement and other documentation, 5 days is not sufficient time to complete the process. The FCA Board agrees with this concern, which resulted from the requirement in § 611.1193 that the petition be accompanied by the disclosure materials at the time it is filed with the FCA. To address this matter, § 611.1193 has been amended to provide that the association shall have 60 days after the filing of the petition to submit the disclosure materials and other documentation to the FCA for approval. The Board made a conforming change to § 611.1195 relating to the date of the stockholder vote.

Section 611.1192(e) provides that no petition will be considered by the FCA if filed later than 1 year from the effective date of the regulations. The South Atlantic PCA has assumed that the non-statutory initiatives included in the regulations on special reconsideration would also be limited to the 1-year period. The assumption made by the South Atlantic PCA is correct—no petitions would be considered by the FCA Board under Subpart O after the 1-year period. The FCA Board notes, however, that Subpart O only refers to special reorganization petitions or resolutions related to mergers or consolidations that occurred after December 23, 1985 and before January 6, 1988, and that the opportunity for association boards of directors to submit reorganization proposals to the FCA for review and approval in anticipation of stockholder votes is

neither limited nor removed by § 611.1192(e).

Section 611.1194 sets forth the procedures for FCA review and approval regarding special reconsideration requests. The FCCA commented that the FCA should incorporate standards for FCA review and approval. Rather than include evaluative criteria in the regulations, the FCA Board continues to believe that each transaction should be evaluated according to the specific circumstances presented. For the reasons set forth in response to the same comment regarding § 611.1010, the FCA Board believes that no change to the regulation is necessary or appropriate. The FCCA also commented that the term "promptly" be inserted to appropriately clarify each phase of the notification process. The FCA Board agrees with the intent expressed by the FCCA, but does not believe that a specific amendment to the regulation is required. The FCA makes every effort to process requests for approval and any other documents requiring FCA action as expeditiously as possible and subject to applicable statutory requirements.

Section 611.1195 sets forth the requirements for stockholder votes related to special reconsideration petitions or resolutions. The Fourth District PCA and FLBA and the FCCA expressed the view that Congress imposed a more stringent voting requirement for special reconsideration votes, which would require that a majority of all of the stockholders eligible to vote must approve the reconsideration, not just a majority of the stockholders voting on the proposal. The FCCA based its view on the fact that the specific language of the Act regarding the voting requirements on special reconsideration is somewhat different from the language used elsewhere in the Act concerning other stockholder votes. The FCA Board agrees with this comment and has amended the final regulation accordingly.

Section 611.1197 of the proposed regulations provides that the notice of meeting to consider and act upon petitions must be accompanied by an information statement that shall be prepared by the existing association with the assistance of the petitioners, or at their discretion, by the petitioners. The Fourth District PCA and FLBA, the FCCA, and the South Atlantaic PCA commented that this section was unclear as to who would have the ultimate responsibility to prepare the notice and information statement. Each suggested that the existing association should have the responsibility or, at least, the right to finally review and approve the documents before their submission to the FCA. The South Atlantic PCA expressed the view that the costs associated with conducting a stockholder meeting, such as the preparation of notices and disclosure materials, should be borne by the petitioners.

The FCA Board agrees with the commenters that the regulations should clarify who has ultimate responsibility and accountability for the notice, information statement and plan of reorganization submitted to the FCA for approval. However, the FCA Board recognizes that potential conflicts could surface between the existing association and the petitioning stockholders since a withdrawal action initiated by petitioners may not be supported by the board of directors of the existing association. For this reason, the FCA Board believes that the rights and interests of both parties must be treated as fairly and equitably as possible, while permitting petitioning stockholders their right to reconsider association mergers completed between December 24, 1985 and January 5, 1988. Accordingly, the FCA Board has determined that the petitioning stockholders must select a proposed initial board of directors who will be responsible for signing the notice, information statement, and plan of reorganization submitted to the FCA for approval. Additionally, the existing association must provide whatever assistance the petitioners may request to develop the aforementioned documents and to assure completeness and accuracy. Section 611.1193(a), and § 611.1197 have been amended to incorporate these requirements.

Regarding the issue of who should pay the costs incurred in connection with a special reconsideration, the FCA Board believes that the stockholders of the resulting association(s) should bear these expenses in those circumstances where a reconsideration vote is approved. However, in those situations where the reconsideration is disapproved, the FCA Board believes that the expenses involved must be borne by the existing association. The Board understands that the enactment of section 7.9 was motivated in part by a concern that shareholders of some former associations may have been unduly influenced to approve a merger proposal during the affected time period and that those shareholders should be given an opportunity to fully reconsider their earlier votes. The FCA Board believes that the only way to give full effect to this right is for shareholders to be able to initiate a petitioning action without having to bear the expenses of the vote if the proposal to withdraw is defeated. The FCA Board also believes the existing association should view the payment of expenses noted above as the cost of doing business to retain the benefits it already enjoys. Additionally, the existing association will benefit materially if the predecessor association does not withdraw because it will have the opportunity to provide credit services to the borrowers of the predecessor association. Accordingly, § 611.1196 has been revised in its entirety to provide that, unless the parties to a reconsideration agree otherwise, the costs shall be borne by the existing association if the reconsideration is disapproved, or by the resulting association if the reconsideration is approved. In addition, a technical correction has been made in § 611.1193(b)(5) to include the provision relating to the notice of meeting that was previously contained in § 611.1196.

Section 611.1197 sets forth the requirements for an information statement to be prepared in conjunction with a special reconsideration petition. The FCCA suggested that the statement enumerating the advantages and disadvantages required by § 611.1197(b)(3) should address "anticipated" advantages and "potential" disadvantages. The FCCA also stated that the regulation should clarify whether each of the areas of advantages and disadvantages specified in the regulation must be addressed in the disclosure documents. The FCA Board agrees that the addition of descriptive modifiers such as "anticipated" and "potential" would enhance the understanding of the regulation's requirements and has amended the final regulation accordingly. In response to the FCCA's second comment, the FCA Board notes that the list of potential advantages and disadvantages was not intended to be exhaustive or mandatory, but only illustrative. The final regulation has been amended to clarify this point.

Section 611.1198 provides for the development of a plan of reorganization that shall accompany a petition for special reconsideration under Subpart O, and enumerates the requirements of the reorganization plan, including a provision for the distribution of assets and liabilities of the existing association and a description of the basis upon which the distribution is to be made. The FCCA and the South Atlantic PCA suggested that the regulation should be amended to provide more specific

guidance concerning the manner in which assets and liabilities will be valued and distributed, and the manner in which the parties should negotiate areas of dispute. The Board disagrees with the need for regulations addressing these concerns. As with the case of a merger, valuation methods and allocations of assets are matters that must be agreed to by the parties to the transaction. However, unlike a regular merger proposal, the Act gives the stockholders of petitioning associations the right to reconsider past mergers. If the existing association and the petitioning stockholders are unable or unwilling to agree to the essential terms for the reconsideration, the FCA Board may be required to determine whether one of the parties is attempting to preclude the other from exercising its statutory rights. The FCA Board hopes that this situation does not arise and encourages all parties to cooperate in giving maximum effect to the intent of Congress.

P. Disclosure Statement Requirement for Bank Director Candidates

Section 620.30 establishes the requirements for the preparation and distribution of disclosure statements regarding candidates for election to the board of directors of a bank. The FCCA commented that this section should be amended to clarify that it applies only to directors elected by stockholders, and not to the outside director elected by the other members of the board. The FCA Board agrees that this point should be clarified and has amended the final regulation accordingly. However, the FCA Board would encourage the elected directors of an institution to obtain the same type of information specified in § 620.30 regarding candidates for the outside director(s) position to assist them in selecting the best possible candidate for that position.

Q. Contents of Disclosure Statements

Section 620.31 sets forth the requirements for the contents of disclosure statements submitted to stockholders in connection with the election of bank directors. The FCCA agreed with the intent of the proposed regulation to make the disclosure requirements for bank director candidates consistent with existing disclosure requirements for association director candidates. To achieve that end, the FCCA commented that proposed § 620.31(d) does not include a provision comparable to § 620.3(j)(3)(i)(C). The FCA Board notes that the proposed regulation is consistent with § 620.3(j) since that section was amended on February 5, 1988 to delete the provision referenced by the FCCA (53 FR 3334). The FCCA also commented that proposed § 620.31(e)(1) is not consistent with § 620.3(k)(1) because it does not require disclosure related to "any corporation or business association of which (the candidate) was a senior officer at or within 2 years before the time of such filing," which provision is contained in the comparable § 620.3(k)(1). This was an inadvertent omission from the proposed regulation, and the final regulation has been amended to include this provision. The FCCA also commented that the proviso in proposed § 620.31(d)(2), which exempts from certain disclosure requirements directors who resign or whose term of office expires, would not be applicable to the disclosure statements required by this section. The FCA Board agrees that the proviso would not be operative within the context of the disclosure requirement contained in this regulation, and the final regulation has been amended to delete this inoperative language.

List of Subjects in 12 CFR Parts 611, 612, 618, and 620

Accounting, Agriculture, Archives and records, Banks, banking, Conflict of interests, Insurance, Organizations and functions (Government agencies), Reporting and recordkeeping requirements, Rural areas, Technical assistance.

For the reasons stated in the preamble, Parts 611, 612, 618 and 620 of Chapter VI, Title 12, of the Code of Federal Regulations are amended as follows:

PART 611—ORGANIZATION

1. The authority citation for Part 611 continues to read as follows:

Authority: Secs. 1.3, 1.13, 2.0, 2.10, 3.0, 3.21, 4.12, 4.15, 5.0, 5.9, 5.10, 5.17, 7.0–7.13; 12 U.S.C. 2011, 2031, 2071, 2091, 2121, 2142, 2183, 2203, 2221, 2243, 2244, 2252, 2279a–2279f–1; secs. 411 and 412 of Pub. L. 100–233.

Subpart A—[Removed and Reserved]

2. Part 611, Subpart A, consisting of § 611.100, is removed and reserved.

3. Part 611, Subpart C, consisting of §§ 611.310 through 611.340, is added to read as follows:

Subpart C—Election of Directors

Sec.

Subpart C—Election of Directors

§ 611.310 Eligibility for membership on bank and association boards and subsequent employment.

(a) No person shall be eligible for membership on a bank or association board who is or has been, within 1 year preceding the date the term of office begins, a salaried officer or employee of any bank or association in the System.

(b) No bank or association director shall be eligible to continue to serve in that capacity and his or her office shall become vacant if after election as a member of the board, he or she becomes legally incompetent or is convicted of a felony or held liable in damages for fraud.

(c) No bank director shall, within 1 year after the date when he or she ceases to be a member of the board, serve as a salaried officer or employee of such bank, or any association with which the bank has a discount of agent relationship.

(d) No director of an association shall, within 1 year after he or she ceases to be a member of the board, serve as a salaried officer or employee of such association.

§ 611.320 Impartiality in the election of directors.

(a) Each System institution shall adopt policies and procedures that are designed to assure that the elections of board members are conducted in an impartial manner.

(b) No employee or agent of a System institution shall take any part, directly or indirectly, in the nomination or election of members to the board of directors of a System institution, or make any statement, either orally or in writing, which may be construed as intended to influence any vote in such nominations, or elections. This paragraph shall not prohibit employees or agents from providing biographical and other similar information or engaging in other activities pursuant to policies and procedures for nominations and elections. This paragraph does not affect the right of an employee or agent to nominate or vote for directors of an institution in which the employee or agent is a voting member.

(c) No property, facilities, or resources of any System institution shall be used by any candidate for nomination or election or by any other person for the benefit of any candidate for nomination or election, unless the same property,

facilities, or resources are simultaneously available and made known to be available for use by all declared candidates.

(d) No director, employee, or agent of a System institution shall, for the purpose of furthering the interests of any candidates for nomination or election, furnish or make use of records that are not made available for use by all declared candidates.

(e) No System institution shall distribute or mail either directly or at the expense of the institution, any campaign materials for director candidates. Institutions shall request biographical information from all declared candidates who certify that they are eligible, restate such information in a standard format, and distribute or mail it with ballots or proxy ballots.

§ 611.330 Confidentiality in the election of directors.

(a) Each System institution shall adopt policies and procedures that assure that all information regarding how or whether individual stockholders have voted and all materials such as ballots, proxy ballots, election records, and other relevant documentation related to the votes of stockholders shall be held in strict confidence. Such information and materials shall not be disclosed to any person, except as required by the Farm Credit Administration in the event an election is contested, or otherwise.

(b) Except as provided in this paragraph, System institutions shall not use ballots or proxy ballots that must be signed by the stockholder or that contain an identifying character or mark that can be used to identify how an individual stockholder's vote is cast. Institutions may adopt procedures which require the stockholders to sign or otherwise verify their eligibility to vote on an envelope which contains a marked ballot in a sealed envelope. Institutions may also use signed proxy statements or eligibility certificates which will accompany a ballot or instructions on how to vote the proxy in a separate sealed envelope. Where the identity of the voting stockholders is necessary to determine the voting weight of ballots, the institution shall use a form of identity code on the ballot and shall require that the votes are tabulated by an independent party.

(c) When an institution receives a ballot by mail or at a meeting, the vote of such stockholder shall be final. When proxy voting is permitted, a stockholder voting by proxy may revoke the proxy prior to balloting at the stockholders meeting.

§ 611.340 Security in the election of directors.

(a) Each System institution shall adopt policies and procedures that assure the security of all records and materials related to the election of board members including, but not limited to, ballots, proxy ballots, and other related materials.

(b) Bank and association procedures shall assure that ballots and proxy ballots are provided only to stockholders who are eligible to vote.

(c) Ballots and proxy ballots shall be physically safeguarded before the time of distribution or mailing to voting stockholders and after the time of receipt by the banks and associations until disposal. Ballots, proxy ballots, and election records shall be retained until the end of the term of office of the director and promptly destroyed thereafter.

(d) The election procedures of each institution shall provide for the establishment of a tellers committee or other designated group of persons which shall be responsible for validating ballots and proxies and tabulating election results. An institution and its officers, directors and employees shall make no public announcement of the results of an election before the tellers committee or other designated persons have validated the results of the election.

§ 611.400 [Removed]

§ 611.1020 [Redesignated as § 611.400]

4. Part 611 is amended by revising the heading of subpart D, removing existing § 611.400, revising the heading of § 611.1020 of Subpart F and redesignating it as new § 611.400 of Subpart D to read as follows:

Subpart D—Rules for Compensation of Board Members

§ 611.400 Compensation of Bank Board members.

5. Part 611, Subpart E, consisting of §§ 611.500 through 611.525, is revised to read as follows:

Subpart E—Transfer of Authorities

Sec.

Subpart E—Transfer of Authorities

§ 611.500 General.

Each Farm Credit Bank or Agricultural Credit Bank is authorized, in accordance with § 7.6 of the Act, to transfer certain authorities to Federal land bank associations. The regulations in this subpart set forth the procedures and voting and approval requirements applicable to such transfers.

§ 611.501 Procedures.

(a) The boards of directors of a bank and an association which seek to transfer authorities may adopt appropriate resolutions approving such transfer and providing for the submission of such a proposal to their respective stockholders for a vote.

(b) The resolutions accompanied by the following information shall be submitted to the Farm Credit Administration for review and approval:

(1) Any proposed amendments to the charters of the institutions;

(2) A copy of the transfer plan as required under § 611.520 of this part;

(3) An information statement that complies with the requirements of § 611.515;

(4) The proposed bylaws of the bank and the association, as applicable; and

(5) Any additional information the boards of directors wish to submit in support of the request or that the Farm Credit Administration requests.

§ 611.505 Farm Credit Administration review.

(a) Upon receipt of the board of directors resolution and the accompanying documents, the Farm Credit Administration shall review the request and either deny or give its preliminary approval to the request.

(b) If the request is denied, written notice stating the reasons for the denial shall be transmitted to the chief executive officer of the bank and the association who shall promptly notify their respective boards of directors.

(c) Upon approval of the proposed transfer of authorities by the stockholders as provided in § 611.510, the secretary of the bank and the secretary of the association shall forward to the Farm Credit Administration a certified record of the results of the stockholder votes.

(d) Each institution shall notify its stockholders not later than 30 days after the stockholder vote of the final results of the vote. If no petition for reconsideration is filed with the Farm Credit Administration in accordance with § 611.525, the transfer shall be effective on the date specified in the transfer plan, or at such later date as may be required by the Farm Credit Administration to grant final approval. Notice of final approval shall be transmitted to the institutions involved.

(e) The effective date of a transfer shall be a date which is not less than 50

days after the notification of the results of the stockholder vote. If a petition for reconsideration is filed within 35 days after the date of mailing of the notification of stockholder vote, the constituent institutions shall agree on a second effective date to be used in the event the transfer is approved on reconsideration. The second effective date shall not be not less than 15 days after the date of the reconsideration vote.

§ 611.510 Approval procedures.

(a) Upon receipt of approval of a resolution by the Farm Credit Administration, the bank and the association shall call a meeting of their voting stockholders. Each institution shall notify each stockholder that the resolution has been filed and that a meeting will be held in accordance with the institution's bylaws. The stockholders meeting of the bank and the association shall be held within 60 days of receipt of the approval from the Farm Credit Administration.

(b) The notice of meeting to consider and act upon the directors' resolution shall be accompanied by an information statement that complies with the requirements of § 611.515.

(c) The proposal shall be approved if agreed to by:

(1) A majority of the stockholders of the bank voting in person or by proxy, with each association entitled to cast a number of votes equal to the number of its voting stockholders;

(2) A majority of the stockholders of the association voting, in person or by proxy;

(3) the Farm Credit Administration.

§ 611.515 Information statement.

(a) The bank and association shall prepare an information statement which will inform stockholders about the provisions of the proposed transfer of authorities and the effect of the proposal on the bank and the association.

(b) The information statement for each institution involved shall contain the following materials as applicable to the institution:

(1) A statement either on the first page of the materials or on the notice of the stockholders meeting, in capital letters and boldface type, that:

THE FARM CREDIT ADMINISTRATION HAS NEITHER APPROVED NOR PASSED UPON THE ACCURACY OR ADEQUACY OF THE INFORMATION ACCOMPANYING THE NOTICE OF MEETING OR PRESENTED AT THE MEETING AND NO REPRESENTATION TO THE CONTRARY SHALL BE MADE OR RELIED UPON.

(2) A description of the material provisions of the plan under § 611.520 and the effect of the transaction on the institution, its stockholders, and the territory to be served.

(3) A statement enumerating the potential advantages and disadvantages of the proposed transfer including, but not limited to, changes in operating efficiencies, one-stop service, branch offices, local control, and financial condition.

(4) A summary of the provisions of the charter and bylaws following the transfer that differ materially from the charter or bylaws currently existing.

(5) A brief statement by the board of directors of the institution setting forth the board's opinion on the advisability of the transfer.

(6) A presentation of the following financial data:

(i) An audited balance sheet and income statement and notes thereto of the bank or the association, as applicable, for the preceding 2 fiscal years.

(ii) If the transfer of authority includes any material transfer of assets, a balance sheet and income statement of the bank and the association showing its financial condition before the transfer of authority and a pro forma balance sheet and income statement for the bank or association, as applicable, showing its financial condition after the transfer. The statements shall meet the following conditions:

(A) Such financial statements shall be presented in columnar form, showing the financial condition as of the end of the most recent quarter of the institution, and operating results since the end of the last fiscal year through the end of the most recent quarter of the institution.

(B) If the request is made within 90 days after the end of the fiscal year, the institution's financial statements shall be as of the most recent fiscal yearend.

(C) If the request is made within 45 days after the end of the most recent quarter, the institution's financial statements shall be as of the end of the quarter preceding the quarter just ended.

(D) If the request is made more than 45 days after the end of the most recent quarter, the institution's financial statements shall be as of the end of that quarter.

(E) The financial statements must be accompanied by appropriate notes, describing any assets being transferred and including data relating to nonperforming loans and related assets, allowance for loan losses, and current year-to-date chargeoffs.

(F) The amount and nature of start-up costs estimated to be associated with the transfer.

(7) A description of the type and dollar amount of any financial assistance that has been provided to the bank or the association, as applicable, during the past year; the conditions on which the financial assistance was extended, the terms of repayment or retirement, if any; and, the liability for repayment of this assistance by the bank or the association if the transfer were approved.,

(8) A statement as to whether the bank or the association, as applicable, would require financial assistance during the first 3 years of operation, the estimated type and dollar amount of the assistance, and terms of repayment or retirement, if known.

(9) A statement indicating the possible tax consequences to stockholders and whether any legal opinion, ruling or external auditor's opinion has been obtained on the matter.

(10) A presentation of the association's interest rate and fee programs, interest collection policy, capitalization plan and other factors that would affect a borrower's cost of doing business with the association.

(11) A description of any event subsequent to the date of the last quarterly report, but prior to the stockholder vote, that would have a material impact on the financial condition of the bank or the association.

(12) A statement of any other material fact or circumstances that a stockholder would need in order to make an informed and responsible decision, or that would be necessary in order to provide a disclosure that is not misleading.

(13) A form of written proxy, together with instructions on its purpose, use and authorization by the stockholder. The proxy instructions must ensure the secrecy of the stockholder's ballot if the stockholder votes by proxy.

(14) A copy of the plan of transfer provided for in § 611.520 of this part.

(c) No bank or association director, officer, or employee shall make any untrue or misleading statement of a material fact, or fail to disclose any material fact necessary under the circumstances to make statements made not misleading, to a stockholder of the association in connection with a transfer under this subpart.

§ 611.520 Plan of transfer.

The transfer of authorities and assets, as appropriate, shall occur pursuant to a written plan which shall be agreed to by the bank and the association involved. The written plan shall include the following:

(a) An explanation of the value of the equity ownership as of the last monthend held by stockholders of the bank and the association and the impact, if any, of the transfer on the value of that equity.

(b) If the plan provides for a transfer of assets, a description of the terms and conditions upon which such transfer will occur, including, but not limited to, any warranties or representations regarding the value of such assets.

(c) A description of how the association would obtain loan funds after the transfer.

(d) A statement on how the expenses connected with the transfer are to be borne by the affected parties.

(e) A statement of any conditions which must be satisfied prior to the effective date of the transfer, including but not limited to approval by stockholders and approval by the Farm Credit Administration.

(f) A statement that prior to the effective date of the transfer the board of directors of the bank or the association may rescind its resolution and void the transfer, with the concurrence of the Farm Credit Administration, on the basis that:

(1) The information disclosed to stockholders contained material errors or omissions;

(2) Material misrepresentations were made to stockholders regarding the impact of the transfer;

(3) Fraudulent activities were used to obtain the stockholders' approval; or,

(4) An event occurred between the time of the vote and the transfer that would have a significant adverse impact on the future viability of the association.

(g) A designation of those persons who have authority to carry out the plan of transfer, including the authority to execute any documents necessary to perfect title, on behalf of the bank and the association.

§ 611.525 Stockholder reconsideration.

(a) Stockholders have the right to reconsider the approval of the transfer provided that a petition signed by 15 percent of the stockholders of either institution involved in the transfer is filed with the Farm Credit Administration within 35 days after the date of mailing of the notification of the final results of the stockholder vote required under § 611.505(d) and such petition is approved by the Farm Credit Administration.

(b) A special stockholders meeting shall be called by the institution to vote on the reconsideration following the Farm Credit Administration's approval of a stockholder petition to reconsider the transfer. If a majority of stockholders of any institution involved in the transfer votes against the transfer, the transfer is not approved.

6. Part 611, Subpart F, consisting of §§ 611.1000 through 611.1040, is revised to read as follows:

Subpart F—Bank Mergers, Consolidations and Charter Amendments

Sec.

Subpart F—Bank Mergers, Consolidations and Charter Amendments

§ 611.1000 General authority.

(a) An amendment to a bank charter may relate to any provision that is properly the subject of a charter, including, but not limited to, the name of the bank, the location of its offices, or the territory served.

(b) The Farm Credit Administration may make changes in the charter of a bank as may be requested by that bank and approved by the Farm Credit Administration pursuant to § 611.1010 of this part.

(c) The Farm Credit Administration may, in accordance with the provisions of the Act, make changes in the charter of a bank as may be necessary or expedient to implement the provisions of the Act.

§ 611.1010 Bank charter amendment procedures.

(a) A bank may recommend a charter amendment to accomplish any of the following actions:

(1) A merger or consolidation with any other bank or banks operating under Title I or III of the Act;

(2) A transfer of territory with any other bank operating under the same title of the Act;

(3) A change to its name or location;

(4) Any other change that is properly the subject of a bank charter;

(b) Upon approval of an appropriate resolution by the bank board, the certified resolution, together with supporting documentation, shall be submitted to the Farm Credit Administration for preliminary or final approval, as the case may be.

(c) The Farm Credit Administration shall review the material submitted and either approve or disapprove the request. The Farm Credit Administration may require submission of any supplemental materials it deems appropriate. If the request is for merger, consolidation, or transfer of territory, the approval of Farm Credit Administration will be preliminary only, with final approval subject to a vote of the bank's stockholders.

(d) Following receipt of the Farm Credit Administration's written preliminary approval, the proposal shall be submitted for approval to the voting stockholders of the bank. A proposal shall be approved if agreed to by a majority of the stockholders of each bank voting, in person or by proxy, at a duly authorized stockholder meeting with each association entitled to cast a number of votes equal to the number of the association's voting shareholders.

(e) Upon approval by the stockholders of the bank, the request for final approval and issuance of the appropriate charter or amendments to charter for the banks involved shall be submitted to the Farm Credit Administration.

§ 611.1020 Requirements for mergers or consolidations of banks.

(a) As authorized under sections 7.0 and 7.12 of the Act, a bank may merge or consolidate with one or more banks operating under the same or different titles of the Act.

(b) Where two or more banks plan to merge or consolidate, the banks shall jointly submit to the Farm Credit Administration the documents itemized in §§ 611.1122(a)(1)–(4), (6), (7), 611.1122(e), and 611.1123. In interpreting those sections, the word "bank" shall be read for the word "association."

(c) No bank director, officer, or employee shall make any untrue or misleading statement of a material fact, or fail to disclose any material fact necessary under the circumstances to make statements made not misleading, to any stockholder of the bank in connection with a bank merger or consolidation.

(d) Upon approval of a proposed bank merger or consolidation by the stockholders of each constituent bank, the following documents shall be submitted from the constituent banks to the Farm Credit Administration for final approval and issuance of the appropriate charters or amendments to charter:

(1) A certified copy of the stockholders' resolution, on which the stockholders cast their votes, from each constituent bank;

(2) A certification of the stockholder vote from the corporate secretary of each bank or from an independent third party;

(3) An Agreement of Merger or Consolidation duly executed by those authorized to sign on behalf of each constituent bank.

§ 611.1030 Board of directors of an Agricultural Credit Bank.

Each Agricultural Credit Bank formed by the consolidation of a Farm Credit Bank and a bank for cooperatives shall elect a board of directors of such number, for such term, in such manner, and with such qualifications, as may be required in its bylaws, except that at least one member shall be elected by the other directors, which member shall not be a director, officer, employee, or stockholder of a System institution. In electing such directors each association shall be entitled to cast a number of votes equal to the number of its voting stockholders.

§ 611.1040 Creation of new associations.

Any application for the issuance of a charter to a new production credit association or Federal land bank association shall meet the requirements of sections 2.0 or 2.10, respectively, of the Act. Any application for the issuance of a charter for an agricultural credit association shall meet the requirements of section 2.0 of the Act.

Subpart G—Mergers, Consolidations, and Charter Amendments of Associations

7. Section 611.1122 is amended by redesignating paragraphs (a)(5) and (a)(6) as paragraphs (a)(6) and (a)(7) and paragraphs (e)(11) through (e)(16) as paragraphs (e)(16) through (e)(21); adding new paragraphs (e)(11) through (e)(15); revising paragraph (g); and by adding new paragraphs (a)(5) and (k) to read as follows:

§ 611.1122 Requirements for mergers or consolidations.

* * * * *

(a) * * *

(5) Two signed copies of the continuing or proposed Articles of Association;

* * * * *

(e) * * *

(11) A management discussion and analysis of the financial condition and results of operation for the past 2 fiscal years for each constituent institution. This requirement can be satisfied by including the materials contained in the management discussion and analysis of each institution's most recent annual report.

(12) A discussion of any material changes in financial condition of each constituent institution from the end of the last fiscal year to the date of the interim balance sheet provided.

(13) A discussion of any material changes in the results of operations of each constituent institution with respect to the most recent fiscal-year-to-date period for which an income statement is provided.

(14) A discussion of any change in the tax status of the new institution from those of the constituent institutions as a result of merger or consolidation. A statement on any adverse tax consequences to the stockholders of the institution as a result of the change in tax status.

(15) A statement on the proposed institution's relationship with an independent public accountant, including any change that may occur as a result of the merger or consolidation.

* * * * *

(g) Upon approval of a proposed merger or consolidation by the stockholders of the constituent associations, a certified copy of the stockholders' resolution shall be forwarded to the Farm Credit Administration. Each constituent association shall notify its stockholders not later than 30 days after the stockholder vote of the final results of the vote. If no petition is filed with the Farm Credit Administration to reconsider the vote, upon final approval by the FCA, the merger or consolidation shall be effective on the date specified in the merger agreement or at such later date as may be required by the Farm Credit Administration to grant final approval. Notice of final approval shall be transmitted to the associations and a copy provided to the affiliated bank.

* * * * *

(k) The effective date of a merger or consolidation shall be a date which is not less than 50 days after the date of mailing of the notification of the results of the stockholder vote. If a petition for reconsideration is filed within 35 days after the date of mailing of the notification of the stockholder vote, the constituent institutions shall agree on a second effective date to be used in the event the merger or consolidation is approved on reconsideration. The second effective date shall be not less than 15 days after the date of the reconsideration vote.

8. Section 611.1123 is amended by redesignating paragraph (a)(9) as paragraph (a)(11), adding new paragraphs (a)(9) and (a)(10), and by adding paragraph (c) to read as follows:

§ 611.1123 Merger or consolidation agreements.

(a) * * *

(9) The capitalization plan and capital structure for the new institution and a statement that the capitalization plan shall comply with applicable FCA regulations.

(10) Provision for the employee benefits plan, its subsequent continuation or adaptation by the board of directors of the proposed institution following the merger or consolidation.

* * * * *

(c) Stockholders have the right to reconsider the approval of the merger provided that a petition signed by 15 percent of the stockholders eligible to vote of one or more of the constituent institutions is filed with the Farm Credit Administration within 35 days after the date of mailing the notification of the final results of the stockholder vote required under § 611.1122(g). The Farm Credit Administration will review the petition to determine whether it complies with the requirements of section 7.9 of the Act. Following a determination that the petition complies with the applicable requirements, a special stockholders meeting shall be called by the institution to reconsider the vote. If a majority of the stockholders voting, in person or by proxy, of any one of the constituent institutions that is a party to the merger vote against the merger, the merger shall not take place.

9. Subpart O, consisting of §§ 611.1190 through 611.1198, is added to read as follows:

Subpart O—Special Reconsideration of Mergers

Sec.

Subpart O—Special Reconsideration of Mergers

§ 611.1190 General.

The regulations in this Subpart O implement the provisions of the Agricultural Credit Act of 1987 relating to special reconsideration of voluntary mergers and consolidations that occurred after December 23, 1985 and prior to January 6, 1988. The regulations establish the procedures for petitions, disclosures, and stockholder votes for reconsideration of such mergers and consolidations and, if approved by stockholders, for the establishment of

separate associations. The regulations shall apply to any request to reorganize an association that was created by merger or consolidation and became effective during the period, December 24, 1985 to January 5, 1988. For the purposes of this part, the term "merger" includes a merger or consolidation. The regulations in this subpart are applicable only to those associations that were created by the merger of two or more associations after December 23, 1985 and before January 6, 1988.

§ 611.1191 Petitions and resolutions.

(a) The voting stockholders of an association who were stockholders of a predecessor association may seek to have the stockholders reconsider their association's participation in such merger by filing a petition for reconsideration with the Farm Credit Administration. The purpose of the petition shall be either:

(1) The withdrawal of one or more predecessor associations from the existing association; or

(2) The general reorganization into two or more separate associations of the existing association that was formed by the merger of three or more predecessor associations.

(b) The board of directors of an association may adopt a resolution proposing the general reorganization of the association into two or more separate associations and the submission of such proposal to the stockholders for a vote.

§ 611.1192 Requirements for petitions.

(a) In order for a petition to be acted upon, the petition must be signed by 15 percent or more of the voting stockholders of the existing association who were stockholders of each of the predecessor associations that seeks to withdraw from the existing association, or 5 percent of the total number of voting stockholders of the existing association if the petition seeks to reorganize the existing association that was formed by the merger of three or more associations.

(b) Each petition shall include the signature, printed name and the full address of each voting stockholder on the petition. If the petition proposes the withdrawal of one or more predecessor associations, the association shall certify that the signatures on the petition are the signatures of persons who were voting stockholders of such predecessor associations and that such persons continue to have their farming operations in the territory that was served by the predecessor association. If the petition proposes the reorganization of the entire association, the association shall certify that the signatures are from voting stockholders of the association.

(c) The petition shall describe the manner in which the existing association will be reorganized and the territory in which each proposed separate association would operate. In the case of a withdrawal of an association, the withdrawing association shall have the same chartered territory it had prior to the merger.

(d) The certification process shall be completed and the petition forwarded to the Farm Credit Administration within 5 working days of the date of its receipt by the association. The filing date of a petition or resolution shall be the date the petition or resolution is received by the FCA.

(e) No petition will be considered by the Farm Credit Administration if filed later than (*1 year after the effective date of this section*).

§ 611.1193 Filing date—additional materials.

(a) The persons who are designated as directors of the initial board(s) of directors of the resulting association(s) shall prepare the additional materials provided for in this section. The existing association shall provide such assistance to the initial board(s) as the initial board(s) shall reasonably request in the preparation of these additional materials. Not later than 60 days after the filing of a petition or resolution, the initial board(s) shall transmit the additional materials provided for in this section to the Farm Credit Administration.

(b) The additional materials submitted in connection with a petition or resolution shall include the following:

(1) The proposed charter for each of the separate associations and the proposed effective date of the withdrawal or reorganization;

(2) A statement of the reasons for the proposed reorganization of the existing association or the proposed withdrawal of one or more associations from the existing association;

(3) A copy of the reorganization plan as required under § 611.1198 of this part;

(4) An information statement that complies with the requirements of § 611.1197.

(5) A notice of meeting to act upon the petition or resolution.

(6) Any additional information that the petitioning stockholders or the board of directors wishes to submit in support of its request or that the Farm Credit Administration requests.

§ 611.1194 Farm Credit Administration Review.

(a) Upon receipt of the petition or resolution and the accompanying documents, the Farm Credit Administration shall review the request and either deny or give its approval to the request.

(b) If the request is denied, written notice stating the reasons for the denial shall be transmitted to the chief executive officer of the association who shall notify the board of directors and the stockholders of such denial.

(c) Upon approval of the proposed withdrawal or reorganization by the stockholders as provided for in § 611.1195, the secretary of the association shall forward to the Farm Credit Administration a certification of the stockholder vote and a signed copy of the Articles of Association.

(d) On receipt of the certification and Articles of Association as required in paragraph (c) of this section, the Farm Credit Administration shall issue charters or amended charters as are necessary to reflect the territory to be served by the resulting associations.

§ 611.1195 Stockholder vote.

(a) Upon approval of a petition or resolution by the Farm Credit Administration, the association shall call a meeting of its voting stockholders. The association shall notify each stockholder that a petition or resolution has been filed and that a meeting will be held in accordance with the association's bylaws. The stockholders meeting shall be scheduled for a date which is no later than 60 days after the date the Farm Credit Administration gives preliminary approval.

(b) In the case of a petition to withdraw from the existing association, ballots shall be sent to each stockholder of a existing association who would be a stockholder of one of a separate association. The petition, as it applies to each such separate association, shall be approved, by stockholders who vote in person or by proxy, if agreed to by a majority of the stockholders who would be served by the separate association.

(c) Approval of the resolution or petition to reorganize the entire association into two or more associations shall require the affirmative vote of a majority of the stockholders voting, in person or by proxy, of the existing association.

§ 611.1196 Payment of expenses.

(a) The expenses associated with the consideration of a petition or resolution will be borne as provided for in this section unless an agreement that

othewise designates how these expenses will be paid has been agreed to by the parties, in which case that agreeement will prevail.

(b) The expenses associated with the consideration of a petition or resolution to reorganize the existing association into two or more associations will be borne by the existing association.

(c) The expenses associated with the consideration to withdraw a predecessor association from the existing association will be borne as follows:

(1) If the petition is approved, the resulting association will pay the expenses associated with the petition and vote.

(2) If the petition is disapproved, the existing association will pay the expenses associated with the petition and vote.

§ 611.1197 Information statement.

(a) An information statement shall be prepared which discloses certain information regarding the existing association and (1) each association that is proposed to be withdrawn from the existing association, or (2) each association that would result from the total reorganization of the existing association.

(b) The information statement shall be certified as true, complete and accurate by the persons designated as directors of the initial boards(s) of directors of the resulting association(s) and shall contain the following materials:

(1) A statement either on the first page of the materials or on the notice of the stockholders' meeting, in capital letters and bold face type, that:

THE FARM CREDIT ADMINISTRATION HAS NEITHER APPROVED NOR PASSED UPON THE ACCURACY OR ADEQUACY OF THE INFORMATION ACCOMPANYING THE NOTICE OF MEETING OR PRESENTED AT THE MEETING AND NO REPRESENTATION TO THE CONTRARY SHALL BE MADE OR RELIED UPON.

(2) A description of the material provisions of the reorganization plan and the effect of the reorganization on each proposed association, their stockholders, and the territory to be served.

(3) A statement enumerating the anticipated advantages and potential disadvantages of the proposed reorganization which may include, but are not limited to, changes in operating efficiencies, one-stop service, branch offices, local control, financial condition, etc.

(4) A summary of the provisions of the charter and bylaws of the proposed association that differ materially from the charter or bylaws of the existing association.

(5) A brief statement by the board of directors of the existing association setting forth the board's opinion on the advisability of the separation or reorganization.

(6) A presentation of the following financial data:

(i) An audited balance sheet and income statement and notes thereto of the existing association for the preceding 2 fiscal years.

(ii) A balance sheet and income statement of the existing association showing its financial condition before the separation or reorganization and the pro forma balance sheet and income statement of each proposed association showing its financial condition which meet the following conditions:

(A) The financial statements of the existing and each proposed association (collectively, "constituent financial statements") shall be presented in columnar form, showing the financial condition as of the end of the most recent quarter of the existing association, and operating results since the end of the last fiscal year through the end of the most recent quarter of the existing association.

(B) If the request is made within 90 days after the end of the fiscal year, the constituent financial statements shall be based on the most recent fiscal yearend financial statements of the existing association.

(C) If the request is made within 45 days after the end of the most recent quarter, the constituent financial statements shall be based on the financial statements of the existing association as of the end of the quarter preceding the quarter just ended.

(D) If the request is made more than 45 days after the end of the most recent quarter, the constituent financial statements shall be based on the financial statements of the existing association as of the end of that quarter.

(E) The financial statements must be accompanied by appropriate notes, including data relating to nonperforming loans and related assets, allowance for loan losses, and current year-to-date chargeoffs.

(7) A description of the type and dollar amount of any financial assistance that has been provided to the existing association during the past year; the conditions on which the financial assistance was extended; the terms of repayment or retirement, if any; and the liability for repayment of this assistance by the existing and proposed associations if the withdrawal or reorganization were approved.

(8) A statement as to whether the proposed association would require financial assistance during the first 3 years of its operation as a new association, the estimated type and dollar amount of the assistance, and terms of repayment or retirement, if known.

(9) A statement indicating the possible tax consequences to stockholders and to the proposed associations, and whether any legal opinion, ruling or external auditor's opinion has been obtained on the matter.

(10) A presentation of each proposed association's interest rate and fee programs, interest collection policy, capitalization plan and other factors that would affect a borrower's cost of doing business with the association.

(11) A description of any event subsequent to the date of the last quarterly report, but prior to the stockholder vote, that would have a material impact on the financial condition of each proposed association as of its effective date.

(12) A statement of any other material fact or circumstance that a stockholder would need in order to make an informed and responsible decision, or that would be necessary in order to provide a disclosure that is not misleading.

(13) A form of written proxy, together with instructions on its purpose, use and authorization by the stockholder. The proxy instructions must ensure the secrecy of the stockholder's ballot if the stockholder votes by proxy.

(14) A copy of the plan of reorganization provided for in § 611.1198 of this part.

(c) No bank or association director, officer, or employee shall make any untrue or misleading statement of a material fact, or fail to disclose any material fact necessary under the circumstances to make statements made not misleading, to a stockholder of the association in connection with a reorganization under this subpart.

§ 611.1198 Plan of reorganization.

(a) The withdrawal of an association or other reorganization under this subpart shall occur pursuant to a written plan. There shall be a written plan of reorganization for each association to be withdrawn from an existing association or each association to be created by the complete reorganization of an existing association.

(b) A written plan shall include, but not be limited to, all of the following provisions:

(1) The proposed Articles of Association which shall contain the following:

(i) The proposed name and headquarters of the association.

(ii) The territory to be served by the association.

(iii) The purposes for which the association is being formed.

(iv) The powers and authorities to be exercised by the association in carrying out its functions under Title II of the Act.

(v) A statement which shall provide that the corporate existence of the association shall commence upon issuance of its charter by the Farm Credit Administration and shall continue until dissolved in accordance with the Act.

(vi) The signatures of those persons who choose to establish the association and a statement signed by each such person establishing eligibility to borrow from the association in which such person will become a stockholder.

(2) As an attachment to the Articles of Association, the proposed bylaws of the new association.

(3) An explanation of the value of the equity ownership as of the last monthend held by stockholders of the existing association who would be served by the proposed association.

(4) A statement on the formula for the retirement and transfer of stock, participation certificates and equities held by stockholders of the existing association who would become stockholders of the proposed association, and the issuance of an equivalent amount of stock, participation certificates and equities by the proposed association to its stockholders.

(5) A provision for the distribution of assets and liabilities of the existing association and a description of the basis upon which the distribution is to be made to the proposed association.

(6) A statement on how the expenses connected with the reorganization are to be borne by the affected parties in accordance with § 611.1196.

(7) The names of the persons who will serve as the initial board of directors until the first annual meeting of stockholders following the reorganization. Any director of an existing association who is eligible to serve as a director of the proposed association may be designated as a member of the initial board of directors for a period not to exceed his or her current term, after which he or she must stand for reelection.

(8) A statement of any conditions which must be satisfied prior to the effective date of the proposed reorganization, including but not limited to, approval by stockholders and issuance of a charter by the Farm Credit Administration.

(9) A statement that prior to the effective date of the reorganization, the petitioning stockholders may withdraw their petition or the board of directors of the existing association may rescind its resolution, with the concurrence of the Farm Credit Administration, on the basis that:

(i) The information disclosed to stockholders contained material errors or omissions;

(ii) Material misrepresentations were made to stockholders regarding the impact of the reorganization;

(iii) Fraudulent activities were used to obtain the stockholders' approval; or,

(iv) An event occurred between the time of the vote and the reorganization that would have a significant adverse impact on the future viability of the proposed association.

(10) A designation of those persons who have authority to carry out the plan of reorganization, including the authority to execute any documents necessary to perfect title, on behalf of the proposed association.

PART 612—PERSONNEL ADMINISTRATION

10. The authority citation for Part 612 continues to read as follows:

Authority: Secs. 5.9, 5.17; 12 U.S.C. 2243, 2252.

Subpart B—Standards of Conduct for Directors, Officers and Employees

11. Section 612.2200 is removed and reserved.

§ 612.2200 [Removed and reserved]

PART 618—GENERAL PROVISIONS

12. The authority citation for Part 618 continues to read as follows:

Authority: Secs. 1.5, 1.11, 1.12, 2.2, 2.4, 2.5, 2.12, 3.1, 3.7, 4.12, 4.13A, 4.25, 4.29, 5.9, 5.10, 5.17; 12 U.S.C. 2013, 2019, 2020, 2073, 2075, 2076, 2093, 2122, 2128, 2182, 2200, 2211, 2218, 2243, 2244, 2252.

13. Subpart D consisting of § 618.8100, and Subpart E consisting of § 618.8160 are removed and reserved.

Subpart D—[Removed and reserved]

Subpart E—[Removed and reserved]

PART 620—DISCLOSURE TO SHAREHOLDERS

14. The authority citation for Part 620 is revised to read as follows:

Authority: Secs. 5.17, 5.19; 12 U.S.C. 2252, 2254; sec. 424 of Pub. L. 100–233.

15. Subpart D, consisting of §§ 620.30 through 620.32, is added to read as follows:

Subpart D—Bank Director Disclosure Requirements

Sec.

Subpart D—Bank Director Disclosure Requirements

§ 620.30 Disclosure statement for bank director candidates.

Each bank shall adopt policies and procedures that assure that a disclosure statement is prepared by each candidate for election by the stockholders to the bank board. The banks shall provide a form providing for the information required and distribute or mail copies of completed and signed disclosure statements to stockholders with the election ballots. No person may be a candidate for bank director who does not make the disclosures required by this subpart.

§ 620.31 Contents of disclosure statements.

Disclosure statements shall include the following information:

(a) A statement of the institution's policies, if any, on loans to and transactions with directors of the bank.

(b) Candidate's name, residential address, business address if any, citizenship, business experience during the last 5 years including principal occupation and employment during the last 5 years, a list of any business entities on whose board of directors the candidate serves and state the principal business in which the entities are engaged, and any information pertinent to the creation of a nepotistic relationship upon election to the bank board.

(c) Transactions other than loans. The disclosure statement should describe briefly any transaction or series of transactions other than loans that occurred since the last annual meeting between the bank and the candidate, any member of the immediate family of such person, or any organization with which such person is affiliated, the nature of the person's interest in the transaction, and the terms of the transaction. No information need be given where the purchase price, fees, or charges involved were determined by competitive bidding or where the amount involved in the transaction (including the total of all periodic

payments) does not exceed $5,000, or the interest of the person arises solely as a result of his or her status as a stockholder of the institution and the benefit received is not a special or extra benefit not available to all stockholders.

(d) Loans to director candidates.

(1) To the extent applicable, state that the bank has had loans outstanding during the last full fiscal year-to-date to the candidate, his or her immediate family members, and any organizations with which such persons are affiliated that:

(i) Were made in the ordinary course of business;

(ii) Were made on the same terms, including interest rate, amortization schedule, and collateral, as those prevailing at the time for comparable transactions with other persons.

(2) To the extent applicable, state that no loan to a candidate, or to any organization affiliated with the candidate, or to any immediate family member who resides in the same household as the candidate or in whose loan or business operation the candidate has a material financial or legal interest, involved more than the normal risk of collectibility;

(3) If the conditions stated in paragraphs (d) (1) and (2) of this section do not apply to the loan(s) of the candidates or organizations specified therein with respect to such loans, state:

(i) The name of the candidate to whom the loan was made or to whose relative or affiliated organization the loan was made;

(ii) The largest aggregate amount of each indebtedness outstanding at any time during the last fiscal year;

(iii) The nature of the loan(s);

(iv) The amount outstanding as of the latest practicable date;

(v) The reasons the loan does not comply with the criteria contained in this section;

(vi) If the loan does not comply with this section, the rate of interest payable on the loan and the repayment terms;

(vii) If the loan does not comply with this section, the amount past due, if any, and the reason the loan is deemed to involve more than a normal risk of collectibility.

(e) Involvement in certain legal proceedings. The disclosure statement should describe any of the following events that occurred during the past 5 years and that are material to an evaluation of the ability or integrity of the candidate:

(1) A petition under the Federal bankruptcy laws or any State insolvency law was filed by or against, or a receiver, fiscal agent, or similar officer was appointed by a court for the business or property of the candidate, or any partnership in which the candidate was a general partner at or within 2 years before the time of such filing, or any corporation or business association of which the candidate was a senior officer at or within 2 years before the time of such filing;

(2) The candidate was convicted in a criminal proceeding or is a named party in a pending criminal proceeding (excluding traffic violations and other misdemeanors);

(3) The candidate was the subject of any order, judgment, or decree, not subsequently reversed, suspended, or vacated, by any court of competent jurisdiction, permanently or temporarily enjoining or otherwise limiting the candidate from engaging in any type of business practice.

§ 620.32 Prohibition against incomplete, inaccurate, or misleading disclosure.

No employee or director or candidate for director of the bank shall make any disclosure to stockholders with respect to an election that is incomplete, inaccurate, or misleading. When any such person makes disclosure, that, in the judgment of the Farm Credit Administration is incomplete, inaccurate, or misleading, whether or not such disclosure is made pursuant to this subpart, the Farm Credit Administration may direct such institution or person to make such additional or corrective disclosure as is necessary to provide stockholders with full and fair disclosure.

Dated: December 8, 1988.

David A. Hill,

Secretary, Farm Credit Administration Board.

[FR Doc. 88-28760 Filed 12-14-88; 8:45 am]

BILLING CODE 6705-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Monensin

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 Elanco Products Co. providing for safe and effective use of a Type A medicated article containing monensin in manufacturing a Type C feed. The feed will be used as a supplement to the total ration to improve the feed efficiency of mature reproducing beef cows.

EFFECTIVE DATE: December 15, 1988.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Center for Veterinary Medicine (HFV-126), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5247.

SUPPLEMENTARY INFORMATION: Elanco Products Co., a Division of Eli Lilly & Co., Lilly Corporate Center, Indianapolis, IN 46285, is sponsor of NADA 95-735. The NADA currently provides for use of a Type A medicated article containing 60 grams of monensin (as monensin sodium) per pound in manufacturing Type C medicated feeds for the following production claims: (1) Improved feed efficiency for feedlot cattle fed in confinement for slaughter (50 to 360 milligrams of monensin per head per day), and (2) increased rate of weight gain for pasture cattle—slaughter, stocker, feeder, and dairy and beef replacement heifers weighing more than 400 pounds (50 to 200 milligrams of monensin per head per day). The firm has filed a supplemental NADA providing for addition of a third production claim to the labeling of the Type A article. The supplement would permit manufacture of a Type C medicated feed (25 to 400 grams per ton) which when used to supplement (50 to 200 milligrams of monensin per head per day) the total ration of reproducing beef cows, will improve their feed efficiency.

The supplemental NADA is approved and 21 CFR 558.355 is amended by adding a new paragraph (f)(3)(vi) to reflect the approval. The basis for the 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 carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch

(address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

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 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

2. Section 558.355 is amended by adding a new paragraph (f)(3)(vi) to read as follows:

§ 558.355 Monensin.

* * * * *

(f) * * *

(3) * * *

(vi) *Amount per ton.* Monensin, 25 to 400 grams.

(*a*) *Indications for use.* Improved feeding efficiency for mature reproducing beef cows receiving supplemental feed.

(*b*) *Limitations.* Thoroughly mix the appropriate amount of Type A medicated article or Type B medicated feed with grain and roughage to provide a supplemental feed having a final concentration of 25 to 400 grams of monensin per ton. The final concentration should be contained in a minimum of 1 pound of feed. Either hand-feed or mix into the total ration. Feed continuously at a rate of not less than 50 nor more than 200 milligrams per head per day. During the first 5 days of feeding, cattle should receive no more than 100 milligrams per head per day.

* * * * *

Dated: December 5, 1988.

Robert C. Livingston,

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

[FR Doc. 88–28796; Filed 12–14–88; 8:45 am]

BILLING CODE 4160–01–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2610

Payment of Premiums; Interest Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Interim rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's interim regulation on Payment of Premiums, which was published on June 30, 1988 (53 FR 24906). Appendix B to the interim regulation contains a table setting forth the interest rates that are required by statute to be used in valuing a plan's vested benefits for purposes of determining the amount of the premium due to the PBGC. This amendment adds to that table the interest rate applicable to plan years beginning in December 1988.

EFFECTIVE DATE: December 15, 1988.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Senior Counsel, Office of the General Counsel (Code 22500), Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, DC 20006; telephone 202–778–8823 (202–778–8859 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Section 9331 of the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100–203, amended section 4006 of the Employee Retirement Income Security Act of 1974 ("ERISA") to establish a two-part premium structure for single-employer plans, *i.e.*, a flat rate per capita assessment and a variable rate assessment based on a plan's unfunded vested benefits, effective for plan years beginning on or after January 1, 1988. Under amended ERISA section 4006(a)(3)(E)(iii)(II), the interest rate use in valuing a plan's vested benefits for purposes of determining the amount of the plan's unfunded vested benefits must equal 80% of the annual yield on 30-year Treasury securities for the month preceding the month in which the plan year begins.

The Pension Benefit Guaranty Corporation's (the "PBGC's") interim regulation on Payment of Premiums (53 FR 24906 (June 30, 1988)) implements these new premium rules. Under § 2610.23(b)(1) of the regulation, the interest rate for valuing vested benefits is determined by reference to the annual yield for 30-year Treasury constant maturities as reported in Federal Reserve Statistical Release G.13 and H.15. The required interest rate for a given "premium payment year" (the plan year for which the premium is being paid) is 80% of this rate for the calendar month preceding the calendar month in which the premium payment year begins. As a convenience, the PBGC established an Appendix B to the interim regulation containing a table setting forth the required interest rates for premium payment years beginning in January 1988 and thereafter.

The PBGC is amending Appendix B to add the required interest rate for premium payment years beginning in December 1988. Appendix B to the interim regulation does not prescribe the required interest rates for valuing vested benefits. These rates are prescribed by section 4006(a)(3)(E)(iii)(II) of ERISA and § 2610.23(b)(1) of the regulation. The purpose of Appendix B is merely to collect and to republish these rates in a convenient place. Thus, the interest rates in Appendix B are informational only. Accordingly, the PBGC finds that notice of and public comment on this amendment would be unnecessary and contrary to the public interest. See 5 U.S.C. 553(b). For these same reasons, the PBGC also finds that good cause exists for making these amendments effective immediately. See 5 U.S.C. 553(d)(3).

The PBGC has determined that this amendment is not a "major rule" within the meaning of Executive Order 12291, because it will not have an annual effect on the economy of $100 million or more; nor create a major increase in costs or prices for consumers, individual industries, or geographic regions, nor have significant adverse effects on competition, employment, investment, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects 29 CFR Part 2610

Employee Benefit Plans, Pension Insurance, and Pensions.

In consideration of the foregoing, Appendix B to Part 2610 of Chapter XXVI of Title 29, Code of Federal Regulations, is hereby amended as follows:

PART 2610—PAYMENT OF PREMIUMS

1. The authority citation for Part 2610 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1306, 1307, as amended by sec. 9331, Pub. L. 100–203, 101 Stat. 1330.

2. Appendix B to Part 2610 is amended by adding to the table of interest rates therein a new entry to read as follows. The explanatory text is republished for the convenience of the reader and remains unchanged.

APPENDIX B—INTEREST RATES FOR VALUING VESTED BENEFITS

The following table lists the required interest rates to be used in valuing a plan's vested benefits under § 2610.23(b) and in calculating a plan's adjusted vested benefits under § 2610.23(c)(1):

For premium payment years beginning in—	Required interest rate [1]
• • • • •	
December 1988	7.22

[1] The required interest rate listed above is equal to 80% of the annual yield for 30-year Treasury constant maturities, as reported in Federal Reserve Statistical Release G.13 and H.15, for the calendar month preceding the calendar month in which the premium payment year begins.

Issued in Washington, DC, on this 13th day of December, 1988.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 88-28990 Filed 12-14-88; 8:45 am]

BILLING CODE 7708-01-M

29 CFR Part 2621

Limitation on Guaranteed Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment to the Limitation on Guaranteed Benefits regulation contains the maximum guaranteeable pension benefit that may be paid by the Pension Benefit Guaranty Corporation under Title IV of the Employee Retirement Income Security Act of 1974 ("ERISA") to a plan participant in a covered single-employer pension plan that terminates in 1989. Section 4022(b)(3) of ERISA provides that the maximum benefit guaranteeable by the PBGC is based on the contribution and benefit base determined under section 230 of the Social Security Act. An increase in the contribution and benefit base increases the dollar amount of the maximum guaranteeable benefit. This amendment is needed to include the dollar amount of the increased maximum guaranteeable benefit for 1989 in the regulation.

EFFECTIVE DATE: January 1, 1989.

FOR FURTHER INFORMATION CONTACT: Renae R. Hubbard, Special Counsel, Office of the General Counsel, Code 22500, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006, 202-778-8850 (202-778-8859 for TTY and TTD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The regulation of the Pension Benefit Guaranty Corporation ("PBGC") entitled Limitation on Guaranteed Benefits (29 CFR Part 2621) describes the limitations on benefits guaranteed by the PBGC in terminating single-employer pension plans covered under Title IV of the Employee Retirement Income Security Act of 1974, *as amended* ("ERISA"). One of the limitations, set forth in section 4022(b)(3) of ERISA, is a dollar ceiling on the amount of the monthly benefit that may be paid by the PBGC. Subparagraph (B) of section 4022(b)(3) provides that the amount of monthly benefit payable in the form of a life annuity beginning at age 65 shall not exceed

$750 multiplied by a fraction, the numerator of which is the contribution and benefit base (determined under section 230 of the Social Security Act) in effect at the time the plan terminates and the denominator of which is such contribution and benefit base in effect in calendar year 1974 [$13,200].

In the Social Security Amendments of 1977, special increases were added to the contribution and benefit base. However, the amended Social Security Act specifically states that, for the purpose of section 4022(b)(3)(B) of ERISA, the contribution and benefit base for each year after 1976 will be the base that would have been determined for each year if the law in effect immediately before the amendment had remained in effect without change. 42 U.S.C. 430(d) (1982).

The PBGC has been notified by the Social Security Administration that the contribution and benefit base for 1989 that is to be used to calculate the PBGC maximum guaranteeable benefit is $35,700. Accordingly, the formula under section 4022(b)(3)(B) of ERISA and 29 CFR 2621.3(a)(2) is: $750 multiplied by $35,700/$13,200. Thus, the maximum benefit guaranteeable by the PBGC in 1989 will be $2,028.41 per month in the form of a life annuity commencing at age 65. If a benefit is payable in a different form or begins at a different age, the maximum guaranteeable amount will be the actuarial equivalent of $2,028.41 per month.

Appendix A to Part 2621 lists the maximum guaranteeable benefit payable by the PBGC to participants in single-employer plans that have terminated in each year from 1974 through 1988. This amendment updates Appendix A for plans that terminate in 1989.

Because the maximum guaranteeable benefit is determined according to the formula in section 4022(b)(3)(B) of ERISA, and this amendment makes no change in its method of calculation but simply lists the 1989 maximum guaranteeable benefit amount for the public's knowledge, general notice of proposed rulemaking is not required. Moreover, because the 1989 maximum guaranteeable benefit is effective, under the statute, at the time that the Social Security contribution and benefit base is effective, *i.e.*, January 1, 1989, and is not dependent on the issuance of this regulation, the PBGC finds that good cause exists for making this amendment effective less than 30 days after publication (5 U.S.C. 553).

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291, because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, or innovation.

Because no general notice of proposed rulemaking is required for this regulation, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

List of Subjects in 29 CFR Part 2621

Employee benefit plans, Pension insurance, and Pensions.

In consideration of the foregoing, Part 2621 of Subchapter C, Chapter XXVI, Title 29, Code of Federal Regulations, is hereby amended as follows:

PART 2621—LIMITATION ON GUARANTEED BENEFITS

1. The authority citation for Part 2621 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b.

2. Appendix A to Part 2621 is amended by adding a new entry in chronological order to read as follows. The introductory text is reproduced for the convenience of the reader and remains unchanged.

Appendix A to Part 2621—Maximum Guaranteeable Monthly Benefit

The following table lists by year the maximum guaranteeable monthly benefit payable in the form of a life annuity commencing at age 65 as described by § 2621.3(a)(2) to a participant in a plan that terminated in that year:

Year	Maximum guaranteeable monthly benefit
• • • • •	
1989	2,028.41

Issued at Washington, DC, this 8th day of December, 1988.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 88-28863 Filed 12-14-88; 8:45 am]

BILLING CODE 7708-01-M

29 CFR Part 2676

Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal; Interest Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's regulation on Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal (29 CFR Part 2676). The regulation prescribes rules for valuing benefits and certain assets of multiemployer plans under sections 4219(c)(1)(D) and 4281(b) of the Employee Retirement Income Security Act of 1974. Section 2676.15(c) of the regulation contains a table setting forth, for each calendar month, a series of interest rates to be used in any valuation performed as of a valuation date within that calendar month. On or about the fifteenth of each month, the PBGC publishes a new entry in the table for the following month, whether or not the rates are changing. This amendment adds to the table the rate series for the month of January 1989.

EFFECTIVE DATE: January 1, 1989.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Attorney, Office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, DC 20006; 202-778-8820 (202-778-8859 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The PBGC finds that notice of and public comment on this amendment would be impracticable and contrary to the public interest, and that there is good cause for making this amendment effective immediately. These findings are based on the need to have the interest rates in this amendment reflect market conditions that are as nearly current as possible and the need to issue the interest rates promptly so that they are available to the public before the beginning of the period to which they apply. (*See* 5 U.S.C. 533(b) and (d).) Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

The PBGC has also determined that this amendment is not a "major rule" within the meaning of Executive Order 12291 because it will not have an annual effect on the economy of $100 million or more; or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 29 CFR Part 2676

Employee benefit plans and pensions.

In consideration of the foregoing, Part 2676 of Subchapter H of Chapter XXVI of Title 29, Code of Federal Regulations, is amended as follows:

PART 2676—VALUATION OF PLAN BENEFITS AND PLAN ASSETS FOLLOWING MASS WITHDRAWAL

1. The authority citation for Part 2676 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1399(c)(1)(D), and 1441(b)(1).

2. In § 2676.15, paragraph (c) is amended by adding to the end of the table of interest rates therein the following new entry:

§ 2676.15 Interest.

* * * * *

(c) *Interest rates.*

For valuation dates occurring in the month—	The values of i_k are—															
	i_1	i_2	i_3	i_4	i_5	i_6	i_7	i_8	i_9	i_{10}	i_{11}	i_{12}	i_{13}	i_{14}	i_{15}	i_n
January 1989	.09625	.0925	.0875	.0825	.0775	.07125	.07125	.07125	.07125	.07125	.065	.065	.065	.065	.065	.06

Issued at Washington, DC, on this 8th day of December 1988.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 88-28862 Filed 12-15-88; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD8-88-17]

Anchorage Grounds; Lower Mississippi River

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard believes that due to the critical revetment work conducted by the Corps of Engineers and the subsequent loss of deep draft anchorage space in Upper Sunshine Anchorage, the enlargement of Lower Sunshine Anchorage and La Place Anchorage is needed to increase anchorage space. The Coast Guard is amending the anchorage regulations on the Lower Mississippi River by enlarging Lower Sunshine Anchorage upriver 0.1 mile and enlarging La Place Anchorage upriver 0.4 mile.

Extending the two anchorages will provide for much needed deep draft anchorage space and is in the best interest of navigation safety.

EFFECTIVE DATE: January 17, 1989.

FOR FURTHER INFORMATION CONTACT: LTJG J.D. Irino, Project Officer, Commander, Eighth Coast Guard District (oan), Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130-3396, Tel. (504) 589-4686.

SUPPLEMENTARY INFORMATION: On September 20, 1988, the Coast Guard published a notice of proposed rulemaking in the **Federal Register** for these regulations (53 FR 36470). Interested persons were requested to submit comments and one comment was received.

Drafting Information

The drafters of these regulations are LTJG J.D. Irino, Project Officer, c/o Commander, Eighth Coast Guard District Aids to Navigation Branch, and CDR J.A. Unzicker, Project Attorney, Eighth Coast Guard District Legal Office.

Discussion of Comments

This regulation is issued pursuant to 33 U.S.C. 471 as set out in the authority citation for all of Part 110. A letter of no objection was received from the Bureau

of Mines of the Department of the Interior on the notice of proposed rulemaking. They commented that mineral resources would not be impacted by the proposed rule.

Economic Assessment and Certification

The changes to the regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. This regulation will extend Lower Sunshine Anchorage and La Place Anchorage. The added length is not expected to have any significant effect on navigation, and, therefore, it is determined that the impact will be minimal.

Since the impact of this change is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

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

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Final Regulations

In consideration of the foregoing, the Coast Guard is amending Part 110 of Title 33, Code of Federal Regulations as follows:

PART 110—[AMENDED]

1. The authority citation for Part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 2030, 2035 and 2071; 49 CFR 1.46 and 33 CFR 1.05–1(g).

2. Section 110.195(a) (21) and (25) are revised to read as follows:

§ 110.195 Mississippi River below Baton Rouge, LA, including South and Southwest Passes.

(a) * * *

(21) *La Place Anchorage.* An area 0.7 mile in length along the left descending bank of the river, 600 feet wide, extending from mile 134.7 to mile 135.4 above Head of Passes.

* * * * *

(25) *Lower Sunshine Anchorage.* An area 1.0 mile in length along the left descending bank of the river, 800 feet wide, extending from mile 165.0 to mile 166.0 above Head of Passes.

* * * * *

Dated: December 5, 1988.

A.E. Henn,

Captain, U.S. Coast Guard, Acting Commander, 8th Coast Guard District.

[FR Doc. 88–28856 Filed 12–14–88; 8:45 am]

BILLING CODE 4910–14–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1270

Regulations Implementing the Presidential Records Act

AGENCY: National Archives and Records Administration (NARA).

ACTION: Final rule.

SUMMARY: This rule implements the provisions of the Presidential Records Act of 1978 (Pub. L. No. 95–591, 92 Stat. 2523–27, as amended by Pub. L. No. 98–497, 98 Stat. 2287), codified at 44 U.S.C. 2201–07. As required by the Act, this rule contains:

1. Provisions for advance public notice and description of any Presidential records determined by the Archivist of the United States to have insufficient administrative, historical, informational, or evidentiary value to warrant their continued preservation.

2. Provisions for providing notice to a former President when materials to which access would otherwise be restricted are to be made available in accordance with 44 U.S.C. 2205(2) in response to judicial process, to an incumbent President, or to Congress.

3. Provisions for notice to the former President when disclosure of a document may adversely affect the former President's rights or privileges.

4. Provisions for establishing procedures for consultation between the Archivist and appropriate Federal agencies concerning materials which may be subject to 5 U.S.C. 552(b)(7).

This rule implements only the statutory scheme established by the Presidential Records Act, and does not establish policies or procedures governing the assertion of or response to any constitutionally based privileges that may be asserted by an incumbent or former President.

EFFECTIVE DATE: December 15, 1988.

FOR FURTHER INFORMATION CONTACT: Gary L. Brooks or Christopher Runkel, Legal Services Staff, (202) 523–3618.

SUPPLEMENTARY INFORMATION: NARA published a notice of proposed rulemaking on October 12, 1988 (53 FR 39747). No comments were received on the proposed rule. Accordingly, the proposed rule is adopted without change in this final rule.

This rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small business entities.

List of Subjects in 36 CFR Part 1270

Presidential records.

For the reasons set forth in the preamble, Chapter XII of Title 36 is amended by adding a new Part 1270 to Subchapter E to read as follows:

PART 1270—PRESIDENTIAL RECORDS

Subpart A—General Provisions

Subpart B—Actions Taken on Behalf of Former Presidents

Subpart C—Disposal of Presidential Records

Subpart D—Access to Presidential Records

Subpart E—Presidential Records Compiled for Law Enforcement Purposes

Authority: The Presidential Records Act of 1978, Pub. L. 95–591, 92 Stat. 2523–27, as amended by the National Archives and Records Administration Act of 1984, Pub. L. 98–497, sec. 107(b)(7), 98 Stat. 2287 (1984) (codified at 44 U.S.C. 2201–07).

Subpart A—General Provisions

§ 1270.10 Scope of part.

These regulations implement the provisions of the Presidential Records Act of 1978, Pub. L. No. 95–591, 92 Stat. 2523–27, as amended by Pub. L. No. 98–497, sec. 107(b)(7), 98 Stat. 2287 (1984) (codified at 44 U.S.C. 2201–07), by setting forth the policies and procedures governing preservation, protection, and

disposal of, and access to Presidential and Vice-Presidential records created during a term of office of the President or Vice President beginning on or after January 20, 1981. Nothing in these regulations is intended to govern procedures for assertion of, or response to, any constitutionally based privilege which may be available to an incumbent or former President.

§ 1270.12 Application.

(a) These regulations apply to all Presidential records created during a term of office of the President beginning on or after January 20, 1981.

(b) Vice-Presidential records shall be subject to the provisions of this part in the same manner as Presidential records. The Vice President's duties and responsibilities, with respect to Vice-Presidential records, shall be the same as the President's duties and responsibilities with respect to Presidential records. The Archivist's authority with respect to Vice-Presidential records shall be the same as the Archivist's authority with respect to Presidential records, except that the Archivist may, when he determines it to be in the public interest, enter into an agreement with a non-Federal archival repository for the deposit of Vice-Presidential records.

§ 1270.14 Definitions.

For the purposes of this Part—

(a) The terms "documentary material", "Presidential records", "personal records", "Archivist", and "former President" have the meanings given them by 44 U.S.C. 2201 (1)–(5), respectively.

(b) The term "agency" has the meaning given it by 5 U.S.C. 551(1) (A)–(D) and 552(f).

(c) The term "Presidential archival depository" has the meaning given it by 44 U.S.C. 2101(1).

(d) The term "Vice-Presidential records" means documentary materials, or any reasonably segregable portion thereof, created or received by the Vice President, his immediate staff, or a unit or individual of the Office of the Vice President whose function is to advise and assist the Vice President, in the course of conducting activities which relate to or have an effect upon the carrying out of the constitutional, statutory, or other official or ceremonial duties of the Vice President. The term includes documentary materials of the kind included under the term "Presidential records."

(e) The term "filed" means the date something is received in the office of the official to whom it is addressed.

Subpart B—Actions Taken on Behalf of Former Presidents

§ 1270.20 Designation of person or persons to act for former President.

(a) A President or former President may designate some person or persons to exercise, upon death or disability of the President or former President, any or all of the discretion or authority granted to the President or former President by chapter 22 of Title 44, United States Code.

(b) When a President or former President designates a person or persons to act for him pursuant to paragraph (a) of this section, this designation shall be effective only if the Archivist has received notice of the designation before the President or former President dies or is disabled.

(c) The notice required by paragraph (b) of this section shall be in writing, and shall include the following information:

(1) Name(s) of the person or persons designated to act for the President or former President;

(2) The current addresses of the person or persons designated; and

(3) The records, identified with reasonable specificity, over which the designee(s) will exercise discretion or authority.

§ 1270.22 When Archivist may act for former President.

In those instances where a President has specified, in accordance with 44 U.S.C. 2204(a), restrictions on access to Presidential records, but has not made a designation under § 1270.20 of this subpart, the Archivist shall, upon the death or disability of a President or former President, exercise the discretion or authority granted to a President or former President by 44 U.S.C. 2204.

Subpart C—Disposal of Presidential Records

§ 1270.30 Disposal of Presidential records by incumbent President.

A President may, while in office, dispose of any Presidential records which in his opinion lack administrative, historical, informational, or evidentiary value if one of the following two sets of requirements is satisfied:

(a)(1) The President has obtained the written views of the Archivist concerning the proposed disposal; and

(2) The Archivist states in his written views to the President that he does not intend to request, with respect to the President's proposed disposal of Presidential records, the advice of the Committees on Rules and Administration and Governmental Affairs of the Senate, and the Committees on House Administration and Government Operations of the House of Representatives because he does not consider—

(i) The records proposed for disposal to be of special interest to the Congress; or

(ii) Consultation with the Congress concerning the proposed disposal to be in the public interest; or

(b)(1) The President has obtained the written views of the Archivist concerning the proposed disposal;

(2) The Archivist states in his written views either—

(i) That the records proposed for disposal may be of special interest to the Congress; or

(ii) That consultation with the Congress concerning the proposed disposal is in the public interest; and

(3) The President submits copies of the proposed disposal schedule to the Committees on Rules and Administration and Governmental Affairs of the Senate and the Committees on House Administration and Government Operations of the House of Representatives at least 60 calendar days of continuous session of Congress in advance of the proposed disposal date. For the purpose of this section, continuity of session is broken only by an adjournment of Congress *sine die*, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the days in which Congress is in continuous session.

§ 1270.32 Disposal of Presidential Records in the custody of the Archivist.

(a) The Archivist may dispose of Presidential records which he has appraised and determined to have insufficient administrative, historical, informational, or evidentiary value to warrant their continued preservation.

(b) When Presidential records are scheduled for disposal pursuant to paragraph (a) of this section, the Archivist shall publish a notice of this disposal in the **Federal Register** at least 60 days before the proposed disposal date.

(c) The notice required by paragraph (b) of this section, shall include the following:

(1) A reasonably specific description of the records scheduled for disposal; and

(2) A concise statement of the reason for disposal of the records.

(d) Publication in the **Federal Register** of the notice required by paragraph (b) of this section shall constitute a final agency action for purposes of review

under chapter 7 of Title 5, United States Code (5 U.S.C. 701–06).

Subpart D—Access to Presidential Records

§ 1270.40 Identification of restricted records.

(a) If a President, prior to the conclusion of his term of office or last consecutive term of office, as the case may be, specifies durations, not to exceed 12 years, for which access to certain information contained in Presidential records shall be restricted, in accordance with 44 U.S.C. 2204, the Archivist or his designee shall identify the Presidential records affected, or any reasonably segregable portion thereof, in consultation with that President or his designated representative(s).

(b) The Archivist shall restrict public access to the information contained in those records identified as affected until—

(1) The date on which the former President waives the restriction on disclosure of the record or information contained within;

(2) The expiration of the period of restriction specified under 44 U.S.C. 2204(a) for the category of information under which a certain record, or a portion thereof, was restricted; or

(3) The Archivist has determined that the former President or an agent of the former President has placed in the public domain through publication a restricted record or a reasonably segregable portion thereof, if this date is earlier than either of the dates specified in paragraphs (b)(1) or (2) of this section.

§ 1270.42 Denial of access to public; right to appeal.

(a) Any person denied access to a Presidential record (hereinafter "the requester") because of a determination that the record or a reasonably segregable portion thereof was (1) properly restricted under 44 U.S.C. 2204(a), and (2) not placed in the public domain by the former President or his agent, may file an administrative appeal with the Assistant Archivist for Presidential Libraries (NL), Washington, DC 20408.

(b) Appeals shall be filed no later than 10 working days after the requester receives written notification that access to Presidential records has been denied.

(c) Appeals shall be in writing and shall set forth the reason(s) why the requester believes access to the records sought should be allowed. The requester shall identify the specific records sought.

(d) Upon receipt of an appeal, the Assistant Archivist for Presidential Libraries shall have 30 working days from the date an appeal is filed to consider the appeal and to respond in writing to the requester. The Assistant Archivist's response shall state whether or not the Presidential records requested are to be released and the basis for this determination. The decision of the Assistant Archivist to withhold release of Presidential records is final and not subject to judicial review.

§ 1270.44 Exceptions to restricted access.

(a) Notwithstanding any restrictions on access imposed pursuant to section 2204 or these regulations, and subject to any rights, defenses, or privileges which the United States or any agency or person may invoke, Presidential records shall be made available in the following instances:

(1) Pursuant to subpoena or other judicial process properly issued by a court of competent jurisdiction for the purposes of any civil or criminal investigation or proceeding;

(2) To an incumbent President if the records sought contain information which is needed for the conduct of current business of his office and is not otherwise available;

(3) To either House of Congress, or, to the extent of matter within its jurisdiction, to a Congressional committee or subcommittee if the records sought contain information which is needed for the conduct of business within its jurisdiction and is not otherwise available.

(b) Requests by an incumbent President, a House of Congress, or a Congressional committee or subcommittee pursuant to paragraph (a) of this section shall be addressed to the Archivist. All requests shall be in writing and, where practicable, identify the records sought with reasonable specificity.

(c) Presidential records of a former President shall be available to the former President or his designated representative upon request.

§ 1270.46 Notice of intent to disclose Presidential records.

(a) The Archivist or his designee shall notify a former President or his designated representative(s) before any Presidential records of his Administration are disclosed.

(b)(1) The notice given by the Archivist or his designee shall:

(i) Be in writing;

(ii) Identify the particular records with reasonable specificity;

(iii) State the reason for the disclosure; and

(iv) Specify the date on which the record will be disclosed.

(2) In the case of records to be disclosed in accordance with § 1270.44, the notice shall also:

(i) Identify the requester and the nature of the request;

(ii) Specify whether the requested records contain materials to which access would otherwise be restricted pursuant to 44 U.S.C. 2204(a) and identify the category of restriction within which the record to be disclosed falls; and

(iii) Specify the date of the request.

(c) If, after receiving the notice required by paragraph (a) of this section, a former President raises rights or privileges which he believes should preclude the disclosure of a Presidential record, and the Archivist nevertheless determines that the record in question should be disclosed, in whole or in part, the Archivist shall notify the former President or his representative of this determination. The notice given by the Archivist or his designee shall:

(1) Be in writing;

(2) State the basis upon which the determination to disclose the record is made; and

(3) Specify the date on which the record will be disclosed.

(d) The Archivist shall not disclose any records covered by any notice required by paragraphs (a) or (c) of this section for at least 30 calendar days from receipt of the notice by the former President, unless a shorter time period is required by a demand for Presidential records under § 1270.44.

(e) Copies of all notices provided to former Presidents under this section shall be provided at the same time to the incumbent President.

Subpart E—Presidential Records Compiled for Law Enforcement Purposes

§ 1270.50 Consultation with law enforcement agencies.

(a) For the processing of Presidential records compiled for law enforcement purposes that may be subject to 5 U.S.C. 552(b)(7), the Archivist shall request specific guidance from the appropriate Federal agency on the proper treatment of a record if there is no general guidance applicable, if the record is particularly sensitive, or if the type of record or information is widespread throughout the files.

(b) When specific agency guidance is requested under paragraph (a) of this section, the Archivist shall notify the appropriate Federal agency of the decision regarding disclosure of the specific documents. Notice shall include the following:

(1) A description of the records in question;

(2) Statements that the records described contain information compiled for law enforcement purposes and may be subject to the exemption provided by 5 U.S.C. 552(b)(7) for records of this type; and,

(3) The name of a contact person at NARA.

(c) Agency guidance under this section is not binding on the Archivist. The final determination on whether Presidential records may be subject to the exemption in 5 U.S.C. 552(b)(7) is the Archivist's responsibilty.

Dated: December 2, 1988.

Don W. Wilson,

Archivist of the United States.

[FR Doc. 88-28768 Filed 12-14-88; 8:45 am]

BILLING CODE 7515-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 57

Grants for Residency Training in General Internal Medicine and General Pediatrics

AGENCY: Public Health Service, HHS.

ACTION: Final regulations.

SUMMARY: These final regulations revise the regulations governing the Grants for Residency Training in General Internal Medicine or General Pediatrics, authorized by section 784 of the Public Health Service Act (the Act), to conform the regulations with amendments made by the Omnibus Budget Reconciliation Act of 1981. These amendments added a provision for grants for projects to plan, develop, and operate programs for the training of physicians who plan to teach in general internal medicine or general pediatrics training programs and to provide traineeships or fellowships to participants in such programs. In addition, these final regulations conform the existing regulations with amendments made by the Health Professions Training Assistance Act of 1985, and the Compact of Free Association Act of 1985, as well as other changes which are clarifying and ministerial in nature.

DATE: These regulations are effective December 15, 1988.

FOR FURTHER INFORMATION CONTACT: Donald L. Weaver, M.D., Director, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 4C-25, 5600 Fishers Lane, Rockville, Maryland 20857; telephone number: 301 443-6190.

SUPPLEMENTARY INFORMATION: On May 3, 1988, the Assistant Secretary for Health, Department of Health and Human Services, with the approval of the Secretary, published in the **Federal Register** (53 FR 15710), a Notice of Proposed Rulemaking (NPRM) to amend the existing regulations governing the Grants for Residency Training in General Internal Medicine and General Pediatrics, authorized by section 784 of the Public Health Service Act (the Act). The Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35, amended section 784 by expanding the authority to support projects to plan, develop, and operate a program for the training of physicians who plan to teach in a general internal medicine or general pediatrics training program and to provide for financial assistance in the form of traineeships and fellowships to physicians who are participants in any such program and who plan to teach in a general internal medicine or general pediatrics training program.

In accordance with this provision, the Department proposed to amend the existing regulations by including the following major revisions:

1. Adding the following terms to § 57.3102, entitled "*Definitions.*":

"Faculty development program" means a systematic training program to increase faculty competence in teaching skills and in other areas related to academic responsibility.

"Trainee" means an allopathic or osteopathic general internist or general pediatrician participating in a faculty development training program supported by a grant under section 784 and receiving stipend support from such grant.

2. Adding to § 57.3105, entitled "*Project requirements.*", the following new project requirements for a faculty development program:

(a) Applicants would be required to have a curriculum which emphasizes improvement of teaching skills and techniques, uses both didactic and experimental teaching strategies, and directly applies to general internal medicine and/or general pediatrics.

(b) Training programs of 9 or more months duration would be required to include both a research and administrative component.

(c) Financial assistance to trainees would be required to be limited to a minimum of 3 months (full time) and a maximum of 24 months.

3. Adding to § 57.3106, entitled "*How will applications be evaluated?*", an additional review criterion for the evaluation of the faculty development program to assure that potential applicants have a training program which is consistent with the definition of a "practice of general internal medicine or general pediatrics", as defined under § 57.3102.

As part of a newly implemented policy, the Department recently revised § 57.3106 to remove all non-statutory funding priorities and included in the regulations only those funding priorities that are in the statute. In accordance with this policy, the Department will announce, and solicit public comment on, any special funding factors related to national needs in periodic notices in the **Federal Register**. Further, the removal of the funding priorities previously codified does not necessarily preclude the announcement of all or a part of the funding priorities in a forthcoming **Federal Register** notice.

In addition to the above changes, the NPRM included a number of technical and clarifying changes to conform the regulations with amendements made by Pub. L. 97-35, Pub. L. 99-129, the Health Professions Training Assistance Act of 1985, and Pub. L. 99-239, the Compact of Free Association Act of 1985.

The public comment period on the proposed regulations closed on July 5, 1988. The Department received no comments. Therefore, the amendments set out in the May 3, 1988, NPRM are adopted as proposed.

These final regulations also include an additional technical change to amend the existing regulations by adding the Form PHS application number and the OMB approval number for the application form and insructions in the footnote of § 57.3103, entitled "*Who is entitled to apply for a grant?*" Since this amendment is of a technical nature, the Secretary has determined pursuant to 5 U.S.C. 553 and departmental policy that it is unnecessary and impractical to follow proposed rulemaking procedures.

Regulatory Flexibility Act and Executive Order 12291

These regulations govern financial assistance programs in which participation is voluntary. The rule will not exceed the threshold level of $100 million established in section (b) of Executive Order 12291. For these reasons, the Secretary has determined that this rule is not a major rule under Executive Order 12291 and a regulatory impact analysis is not required. Further, because the rule does not have a significant economic impact on a substantial number of small entities, a regulatory flexibility analysis under the

Regulatory Flexibility Act of 1980 is not required.

Paperwork Reduction Act

The recordkeeping and reporting requirements in § 57.3104 and § 57.3111 for this grant program have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (OMB Approval Number 0915–0060). Section 57.3105 does not require clearance and therefore, the approval number shown at the end of this section text is removed.

List of Subjects in 42 CFR Part 57

Dental health, Education of the disadvantaged, Educational facilities, Educational study program, Emergency medical services, Grant programs-education, Grant programs-health, Health facilities, Health professions, Loan programs-health, Medical and dental schools, Scholarships and fellowships, Student aid.

(Catalog of Federal Domestic Assistance, No. 13.900, Grants for Faculty Development in General Internal Medicine and/or General Pediatrics)

Accordingly, 42 CFR Part 57, Subpart FF is amended as set forth below:

Dated: October 21, 1988.

Robert E. Windom,

Assistant Secretary for Health.

Approved: November 23, 1988.

Otis R. Bowen,

Secretary.

PART 57—GRANTS FOR CONSTRUCTION OF TEACHING FACILITIES, EDUCATIONAL IMPROVEMENTS, SCHOLARSHIPS AND STUDENT LOANS

1. The title of 42 CFR Part 57, Subpart FF is revised to read as follows:

Subpart FF—Grants for Residency Training and Faculty Development in General Internal Medicine and/or General Pediatrics

2. The authority citation for Subpart FF is revised to read as follows:

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690, 63 Stat. 35 (42 U.S.C. 216); sec. 784, Public Health Service Act, 90 Stat. 2315, as amended by 95 Stat. 922–923 and 99 Stat. 540 (42 U.S.C. 295g–4).

3. Section 57.3101 is revised to read as follows:

§ 57.3101 To what projects do these regulations apply?

The regulations of this subpart apply to grants to schools of medicine and osteopathy and pubic or private nonprofit hospitals and other public or private nonprofit entities under section 784 of the Public Health Service Act (42 U.S.C. 295g–4) to assist in meeting the cost of projects—

(a) To plan, develop and operate approved residency training programs in internal medicine and/or pediatrics which emphasize the training of residents for the practice of general internal medicine and/or general pediatrics;

(b) To provide financial assistance (in the form of traineeships and fellowships) to residents who are participants in this type of program, and who plan to practice general internal medicine and/or general pediatrics;

(c) To plan, develop and operate a program for the training of physicians who plan to teach in a general internal medicine and/or general pediatrics training program; and

(d) To provide financial assistance (in the form of traineeships or fellowships) to physicians who are participants in any such program and who plan to teach in a general internal medicine and/or general pediatrics training program.

4. Section 57.3102 is amended by adding the definitions for "faculty development program" and "trainee" in alphabetical order and by revising the definition for "school of medicine and osteopathy" and "State" to read as follows:

§ 57.3102 Definitions.

* * * * *

"Faculty development program" means a systematic training program to increase faculty competence in teaching skills and in other areas related to academic responsibility.

* * * * *

"School of medicine and osteopathy" means a public or private nonprofit school which provides training leading respectively to a degree of doctor of medicine or to a degree of doctor of osteopathy and which is accredited as provided in section 701(5) of the Act.

* * * * *

The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands (the Republic of Palau), the Republic of the Marshall Islands, and the Federated States of Micronesia.

"Trainee" means an allopathic or osteopathic general internist or general pediatrician participating in a faculty development training program supported by a grant under section 784 and receiving stipend support for such grant.

5. Section 57.3103 is revised to read as follows:

§ 57.3103 Who is eligible to apply for a grant?

Any school of medicine or osteopathy, public or private nonprofit hospital or any other public or private nonprofit entity, located in a State, may apply for a grant under this subpart. Each eligible applicant desiring a grant under this subpart shall submit an application in the form and at such time as the Secretary may prescribe.[1]

6. Section 57.3104 is amended by revising paragraphs (a), (d), (e), and (h) and the parenthetical statement at the end of the section text. Paragraph (c) of this section is amended by removing "(j) and (l)" in the parenthical statement and inserting "(10) and (12)" in its place.

§ 57.3104 What activities must be addressed in an application?

* * * * *

(a) A proposal for a project to plan, develop, and operate an approved residency training or faculty development program in internal medicine and/or pediatrics—

(1) Which emphasizes the training of residents for the practice of general internal medicine and/or general pediatrics and faculty for teaching in such programs, and

(2) Which may provide financial assistance to residents and trainees who are participants in the programs and who plan to practice or teach in general internal medicine and/or general pediatrics.

* * * * *

(d) In programs other than faculty development, a description of the type and amount of training to be offered to residents in each year of each residency program in accordance with the requirements of § 57.3105 with special attention to the requirements of § 57.3105(a)(11).

(e) In programs other than faculty development, the number of residents to be enrolled in each program, at each level of training, for each year of the project period.

* * * * *

(h) If stipend support is requested by an applicant to provide a portion of the salary of residents enrolled in the program, documentation showing that income available from alternative sources, including income derived from the services of the residents in the program, will be insufficient to pay their salaries and that grant funds will not be

[1] Application and instructions (Form PHS 6025–1, OMB #0915–0060) may be obtained from the Grants Management Officer, Bureau of Health Professions, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

used to supplant other available funds. Stipend support requested for trainees in the faculty development program must be paid in accordance with established Public Health Service postdoctoral stipend levels.

(Approved by the Office of Management and Budget under control number 0915–0060)

7. Section 57.3105 is amended by designating the introductory paragraph as paragraph (a); by redesignating paragraphs (a) through (n) as paragraphs (l) through (14); in newly redesignated paragraph (10) by redesignating paragraphs (1) through (5) as paragraphs (i) through (v); in newly redesignated paragraph (10)(v) by redesignating paragraphs (i) through (iii) as paragraphs (A) through (C); in newly redesignated paragraph (11) by redesignating paragraphs (1) through (3) as paragraphs (i) through (iii); in newly redesignated paragraph (13) by redesignating paragraphs (1) through (3) as paragraphs (i) through (iii); and in newly redesignated paragraph (13)(ii) by redesignating paragraphs (i) through (iii) as paragraphs (A) through (C); by adding a new paragraph (b); and by removing the parenthetical statement at the end of the section text. In § 57.3105, newly redesignated paragraph (a)(11) is amended by removing "(j)" and inserting "(a)(10)." Additionally, in § 57.3105, the phrase "general internal medicine or" is revised to read "general internal medicine and/or" in newly redesignated paragraphs (a)(3), (a)(5), (a)(6), (a)(10), (a)(10)(iii), (a)(10)(iv), (a)(10)(v)(A), (a)(12), and (a)(13)(ii)(C).

§ 57.3105 Project requirements.

* * * * *

(b) For each faculty development program, a project must:

(1) Have a project director who is employed by the grantee or training institution, has relevant training and experience, and has been approved by the Secretary to direct the project;

(2) Have an appropriate administrative and organizational plan and appropriate faculty, staff and facility resources to achieve the stated objectives;

(3) Have a curriculum which:

(i) Directly applies to general internal medicine and/or general pediatrics,

(ii) Emphasizes improvement of pedagogical skills and techniques for clinical teaching in classroom and ambulatory health care settings, and

(iii) Uses structured didactic and experiential teaching strategies.

(iv) With respect to training programs of 9 or more months duration, the curriculum must also include:

(A) A research component, with a research project to be completed by each trainee, and

(B) An administrative component which addresses the non-teaching roles and functions of faculty;

(4) Systematically evaluate the educational program, including trainees and faculty, the administration of the program, and the degree to which the program and educational objectives are met;

(5) Have as trainees only physicians who teach or plan teaching careers in general internal medicine and/or general pediatrics;

(6) To be eligible for stipend support from grant funds, a trainee must:

(i) Be a general internist or a general pediatrician,

(ii) Intend to teach in a general internal medicine and/or general pediatrics program on a full-time basis,

(iii) Be a full-time participant in the training project for at least 3 months, and

(iv) Receive less than full institutional salary during the period of Federal support of stipends; and

(7) Stipend support from grant funds may be no longer than 24 cumulative months for any trainee.

8. Section 57.3106 is amended by removing the period at the end of the sentence in paragraph (a)(4) and inserting a semicolon and the word "and"; by adding a new paragraph (a)(5); and by revising paragraph (b) to read as follows:

§ 57.3106 How will applications be evaluated?

(a) * * *

(5) For faculty development programs, the applicant must demonstrate the institution's commitment to general internal medicine and/or general pediatrics as defined under § 57.3102.

(b) In determining the funding of applications approved under paragraph (a) of this section, the Secretary shall give priority to applicants that demonstrate a commitment to general internal medicine and general pediatrics in their medical education training programs. However, should specific needs warrant, the Secretary will consider any other special factors relating to national needs as the Secretary may from time to time announce in the **Federal Register**.

9. Section 57.3107 is amended by removing paragraph (d), and by revising paragraph (c) to read as follows:

§ 57.3107 How long does grant support last?

* * * * *

(c) Neither the approval of any application nor the award of any grant shall commit or obligate the United States in any way to make any additional, supplemental, continuation or other award with respect to any approved application or portion of an approved application. For continuation support, grantees must make separate application at such times and in such a form as the Secretary may prescribe.

10. Section 57.3109 is amended by adding a new paragraph (c) to read as follows:

§ 57.3109 For what purposes may grant funds be spent?

* * * * *

(c) Any balance of federally obligated grant funds remaining unobligated by the grantee at the end of a budget period may be carried forward to the next budget period for use as prescribed by the Secretary, provided a continuation award is made. If at any time during a budget period it becomes apparent to the Secretary that the amount of Federal funds provided and made available to the grantee for that period, including any unobligated balance carried forward from prior periods, exceeds the grantee's needs for the period, the Secretary may adjust the amounts provided by withdrawing the excess. A budget period is an interval of time (usually 12 months) into which the project period is divided for funding and reporting purposes.

11. Section 57.3111 is amended by adding the following parenthetical statement at the end of the section text to read as follows:

§ 57.3111 What other audit and inspection requirements apply to grantees?

* * * * *

(Approved by the Office of Management and Budget under control number 0915–0060)

[FR Doc. 88–28885 Filed 12–14–88; 8:45 am]

BILLING CODE 4160–15–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6819]

List of Communities Eligible for the Sale of Flood Insurance, Delaware

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities were required to adopt

floodplain management measures compliant with the NFIP revised regulations that became effective on October 1, 1986. If the communities did not do so by the specified date, they would be suspended from participation in the NFIP. The communities are now in compliance. This rule withdraws the suspension. The communities' continued participation in the program authorizes the sale of flood insurance.

EFFECTIVE DATE: As shown in last column.

ADDRESS: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: P.O. Box 457, Lanham, Maryland 20706, Phone: (800) 638–7418.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646–2717, Federal Center Plaza, 500 C Street, Southwest, Room 416, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding.

In addition, the Director of FEMA has identified the Special Flood Hazard Areas in these communities by publishing a Flood Insurance Rate Map. In the communities listed where a flood map has been published, section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the Special Flood Hazard Area shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance."

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, FEMA, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on these participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance and floodplains.

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, E.O. 12127.

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, the suspension for each listed community has been withdrawn. The entry reads as follows:

§ 64.6 List of eligible communities.

State and community name	County	Community No.	Effective date
Delaware.			
Bethany Beach, Town of	Sussex	105083	Nov. 18, 1988. suspension Withdrawn.
Blades, Town of	Sussex	100031	Do.
Clayton, Town of	Kent	100005	Do.
Little Creek, Town of	Kent	100015	Do.
Rehoboth Beach, City of	Sussex	105086	Do.
Slaughter Beach, Town of	Sussex	100050	Do.
Wyoming, Town of	Kent	100020	Do.

Issued: December 7, 1988.

Harold T. Duryee,

Administrator Federal Insurance Administration.

[FR Doc. 88–28836 Filed 12–14–88; 8:45 am]

BILLING CODE 6718–21–M

DEPARTMENT OF DEFENSE

48 CFR Parts 204, 213, 215, 217, 219, 225, 227, 235, 237, 245, 252, 253, 270, and Appendix T

[Defense Acquisition Circular (DAC) 88–2]

Department of Defense, Federal Acquisition Regulation Supplement; Regulatory and Miscellaneous Amendments

AGENCY: Department of Defense (DoD).

ACTION: Final Rules and interim rules as indicated.

SUMMARY: Defense Acquisition Circular (DAC) 88–2 amends the DoD FAR Supplement (DFARS) with respect to contract reporting, information reporting to the Internal Revenue Service (IRS), contracting with contractors and subcontractors affected by the Intermediate-Range Nuclear Forces (INF) Treaty, Small Purchase Pricing Memorandum; Make-or-Buy Program, threshold for items and work included; field pricing support, options, contracting with small disadvantaged business concerns, small business set-asides, drug-free work force, excess and near-excess foreign currency, rights in technical data, progress payment rate change, advisory and assistance services; Government-Furnished mapping, charting and geodesy (MC&G) property; DD Form 1638, Report of Disposition of Contractor Inventory; revisions to Part 270, use of DD Form 1851. This DAC also includes a copy of a Memorandum of Understanding (MOU) between the Government of the French Republic and the Government of the United States.

EFFECTIVE DATE: December 1, 1988, unless otherwise noted in the

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, Defense Acquisition Regulatory Council, ODASD(P)/DARS, OASD(P&L), c/o OUSD(A)(M&RS), Room 3D139, The Pentagon, Washington, DC 20301–3062, telephone (202) 697–7266.

SUPPLEMENTARY INFORMATION:

A. Background

The DoD FAR Supplement is codified in Chapter 2, Title 48 of the Code of Federal Regulations.

The October 1, 1987 revision of the CFR is the most recent edition of that title. It reflects amendments to the 1986 edition of the DoD FAR Supplement

made by Defense Acquisition Circulars 86–1 through 86–5. Amendments made by DACs 86–6 through 86–16 were published in the **Federal Register** at 53 FR 38171, September 29, 1988, and will be included in the October 1, 1988 revision of the CFR.

B. Public Comments

DAC 88–2, Items I, II, IV Through VII, IX, XI, XIV, XVI, and XVII

Public comments were not solicited with respect to these revisions since such revisions do not alter the substantive meaning of any coverage in the DFARS having a significant impact on contractors or offerors, or do not have a significant effect beyond agency internal operating procedures. However, comments from small entities concerning the affected DoD FAR Supplement coverage will be considered. Please cite DAR Case 88–610D.

DAC 88–2, Item III

An interim rule was published in the **Federal Register** on June 6, 1988 (53 FR 20631), and public comments were solicited. Comments are being considered in formulating a final rule.

DAC 88–2, Item VIII

An interim rule was published in the **Federal Register** on June 6, 1988 (53 FR 20626), and public comments were solicited. Comments were considered in formulating this final rule.

DAC 88–2, Item X

An interim rule was published in the **Federal Register** on September 28, 1988 (53 FR 37763), and public comments were solicited. Comments are being considered in formulating a final rule.

DAC 88–2, Item XII

An interim rule was published in the **Federal Register** on October 28, 1988 (53 FR 43698), and a correction was published on November 7, 1988 (53 FR 44975). Public comments were solicited and are being considered.

DAC 88–2, Item XIII

An interim rule was published in the **Federal Register** on September 14, 1988 (53 FR 35511), and public comments were solicited. Comments are being considered in formulating a final rule.

DAC 88–2, Item XV

A proposed rule was published in the **Federal Register** on May 16, 1988, and public comments were solicited. Comments were considered in formulating this final rule.

DAC 88–2, Item XVIII

This item is for informational purposes and does not contain revisions to the DFARS.

C. Regulatory Flexibility Act

DAC 88–2, Items I, II, IV Through VII, IX, XI, and XVI Through XVIII

Comments were not solicited with respect to these items. The Regulatory Flexibility Act does not apply.

DAC 88–2, Item III

An interim rule was published in the **Federal Register** on June 6, 1988 (53 FR 20631), and public comments were solicited. Comments are being considered in formulating a final rule.

DAC 88–2, Item VIII

An Initial Regulatory Flexibility Analysis in connection with the implementation of sections 1207 and 806 was previously furnished to the Chief Counsel for Advocacy of the U.S. Small Business Administration (SBA) on February 17, 1988, in accordance with 5 U.S.C. 603. A Final Regulatory Flexibility Analysis was deferred pending resolution of comments on the interim portion of the June rule. Upon completion, it will be furnished to the Chief Counsel for Advocacy of the U.S. SBA. Interested parties desiring to obtain a copy of the Final Regulatory Flexibility Analysis upon its completion should contact Mr. Charles W. Lloyd, Executive Secretary, DAR Council, at the address shown above.

DAC 88–2, Item X

An interim rule was published in the **Federal Register** on September 28, 1988 (53 FR 37763), and public comments were solicited. Comments are being considered in formulating a final rule.

DAC 88–2, Item XII

A revised Regulatory Flexibility Analysis is necessary and is being provided to the Chief Counsel for Advocacy of the U.S. Small Business Administration. Interested parties may obtain a copy of the Analysis by submitting a written request to Mr. Charles W. Lloyd, at the address shown above.

DAC 88–2, Item XIII

This rule may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the progress payment rate for small businesses will be increased, the retainage rate on military construction contracts will be lowered, and the basis for a payment on architect-engineer contracts will be increased. An Initial Regulatory Flexibility Analysis has been prepared and submitted to the Chief Counsel for Advocacy of the Small Business Administration (SBA). A copy of the Initial Regulatory Flexibility Analysis may be obtained from Mr. Charles W. Lloyd, Executive Secretary, DAR Council, at the address shown above.

DAC 88–2, Item XIV

This rule does not constitute a significant revision to the DFARS within the meaning of FAR 1.501 and Pub. L. 98–577 because the rule does nothing more than implement OMB policy promulgated in 53 FR 768, January 12, 1988.

DAC 88–2, Item XV

A proposed rule was published in the **Federal Register** on May 16, 1988, and public comments were solicited. Comments were considered in formulating this final rule.

D. Paperwork Reduction Act

DAC 88–2, Items I Through XI, and XIII Through XVII

The Paperwork Reduction Act does not apply because these rules do not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 *et seq.*

DAC 88–2, Item XII

This rule contains information collection requirements within the meaning of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* An information collection clearance request has been submitted to OMB pursuant to 5 CFR 1320.18. Public comments concerning that request will be invited by OMB through a subsequent Federal Register notice.

DAC 88–2, Item XVIII

The Paperwork Reduction Act does not apply because this item is for informational purposes.

List of Subjects in 48 CFR Parts 204, 213, 215, 217, 219, 225, 227, 235, 237, 245, 252, 253, 270, and Appendix T

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

[Defense Acquisition Circular No. 88–2]

December 1, 1988.

Unless otherwise specified, all DoD FAR Supplement and other directive material contained in this Defense

Acquisition Circular is effective December 1, 1988.

Defense Acquisition Circular (DAC) 88–2 amends the DoD Federal Acquisition Regulation Supplement (DFARS) 1988 Edition and prescribes procedures to be followed. The following is a summary of the amendments and procedures.

Item I—Contract Reporting

This DAC contains revisions to DFARS Subpart 204.6 and DD Forms 350 and 1057. Most of the revisions pertain to the data elements that were previously added to Part E of the DD Form 350 for fiscal year 1988. Coverage regarding Distribution of Defense Subcontracts Placed Overseas, formerly at 204.670–4, has been restructured and relocated at 204.674. The clause at 252.204–7005 has also been restructured. With respect to awards of $25,000 and less, revisions have been made to be consistent with the data collected on the DD Form 350 and in the Federal Procurement Data System. This coverage was provided through Departmental channels by Departmental Letter No. 88–29, dated September 2, 1988, and was published as a final rule in the **Federal Register** on September 2, 1988 (53 FR 34090), with an effective date of October 1, 1988.

Item II—Information Reporting to the Internal Revenue Service (IRS)

26 U.S.C. 6041 and 6041A, in part, require payers, including the Federal Government, to report to the IRS certain payments made in the course of business. 26 U.S.C. 6050M requires heads of Federal Executive agencies to report certain contract information to the IRS. FAR coverage, developed to comply with these statutes, was published in the **Federal Register** in FAC 84–40 on October 26, 1988. DFARS 204.6 has been revised and a new Subpart 204.9 has been added to accommodate the FAR and IRS directives. The DFARS coverage was provided through Departmental channels by Departmental Letter No. 88–34, dated October 26, 1988, and was published as a final rule in the **Federal Register** on October 26, 1988, effective November 25, 1988.

Item III—Contracting With Contractors and Subcontractors Affected by the Intermediate-Range Nuclear Forces (INF) Treaty

DFARS 209.103 is revised to prohibit denial of contract or subcontract awards in excess of $25,000 to defense contractors subject to on-site inspection under the Intermediate-Range Nuclear Forces (INF) Treaty solely or in part because of the presence of Soviet inspectors at the defense contractor's facility unless that decision is reviewed by the Senior Procurement Executive of the procuring Department or Agency and approved by the Under Secretary of Defense for Acquisiton. A related clause is added at 252.209–7001. This coverage was provided through Departmental channels by Departmental Letter No. 88–14, dated May 31, 1988, was published as an interim rule in the **Federal Register** on June 6, 1988 (53 FR 20631), and is effective for contracts resulting from solicitations issued on or after June 3, 1988.

Item IV—Small Purchase Pricing Memorandum

The coverage at 213.106(c) and DD Form 1784 are deleted. The coverage, which required a contracting officer to complete a DD Form 1784 to support a conclusion that a fair and reasonable price had been negotiated, unnecessarily duplicates the detailed guidance already provided at FAR 13.106(c).

Item V—Make-or-Buy Programs, Threshold for Items and Work Included

DFARS 215.704 is revised to raise the threshold for inclusion of items or work efforts to make-or-buy programs from $500,000 to $1 million.

Item VI—Field Pricing Support

DFARS 215.805–5(c)(1)(S–70)(A) is revised to set forth clearly the process used when only an audit report is requested by the contracting officer.

Item VII—Options

DFARS 217.204(e) and 235.007(S–70) are added to advise contracting officers of the restrictions in 10 U.S.C. 2352 concerning the term of research and development contracts.

Item VIII—Contracting With Small Disadvantaged Business Concerns

Departmental Letter No. 88–15, dated May 31, 1988, and an interim rule published in the **Federal Register** on June 6, 1988 (53 FR 20626), provided coverage to implement section 1207 of Pub. L. 99–661 and section 806 of Pub. L. 100–180. The coverage revised the DFARS to eliminate the application of the evaluation preference to total small business set-asides. This DAC adopts as a final rule the interim rule published on June 6, 1988, with editorial changes to that rule.

Item IX—Small Business Set-Asides

DFARS 219.508 is revised to clarify the applicability of amendments made to sections 8 and 15 of the Small Business Act by section 921, Pub. L. 99–661. This revision requires that the clause at FAR 52.219–14, which is to be inserted in contracts where any portion of the requirements is to be set aside for small business will be used by DoD also where the set-aside is for small disadvantaged business.

Item X—Drug-Free Work Force

A new Subpart 223.75 is added to set forth DoD policy concerning use of illegal drugs by the American work force as it affects defense contracts, and to provide guidance for use of a contract clause in those acquisitions involving access to classified information or where the contracting officer determines that such a clause is necessary in the interest of national security, health or safety. This coverage was provided through Departmental channels by Departmental Letter No. 88–32, dated September 29, 1988, and was published as an interim rule in the **Federal Register** on September 28, 1988 (53 FR 37763), effective October 31, 1988.

Item XI—Excess and Near-Excess Foreign Currency

DFARS 225.7607 is deleted because the coverage appears in the FAR. DFARS 225.7601 is revised to remove reference to 225.7607 and to provide reference to the OMB Bulletin concerning Excess Foreign Currencies.

Item XII—Rights in Technical Data

DFARS Subpart 227.4 is revised in its entirety. Related clauses in 252.227 are also revised. This coverage was provided through Departmental channels by Departmental Letter No. 88–35, dated October 24, 1988, was published as an interim rule in the **Federal Register** on October 28, 1988 (53 FR 43698), and corrected on November 7, 1988 (53 FR 44975), effective October 31, 1988.

Item XIII—Progress Payment Rate Changes

DFARS Part 232 is revised to change progress payment rates on defense contracts to the levels currently provided in the FAR. This coverage was provided through Departmental channels by Departmental Letter No. 88–30, dated September 16, 1988, and was published as an interim rule in the **Federal Register** on September 14, 1988 (53 FR 35511), effective October 1, 1988.

Item XIV—Advisory and Assistance Services

The current coverage at DFARS Subpart 237.204, 237.205–70, and 235.270 is deleted since FAR 37.2 has been rewritten to implement OMB Circular

A–120, "Guidelines for the Use of Advisory and Assistance Services", dated January 12, 1988. DFARS 237.205 is revised to implement management controls required by DoDD 4205.2, DoD Contracted Advisory and Assistance Services (CAAS), and 237.206 is added to implement requirements of Chapter 131 of 10 U.S.C., section 2212.

Item XV—Government-Furnished Mapping, Charting and Geodesy (MC&G) Property

DFARS 245.3 is revised to ensure control of MC&G property in the possession of Government contractors during performance of a contract, and to provide that such property is properly disposed of at the end of the contract performance period. A related clause is added at 252.245–7000. This coverage was published as a proposed rule in the Federal Register on May 16, 1988 (53 FR 17233).

Item XVI—DD Form 1638, Report of Disposition of Contractor Inventory

DD Form 1638 is revised to make the form compatible with SF 1424, Inventory Disposal Report.

Item XVII—Revisions to Part 270, Use of DD Form 1851

Based on Federal regulatory requirements, DoD policy requires that before computer equipment can be acquired from commercial sources, it must be determined that the requirement cannot be filled through the Automation Equipment Reutilization Program at a greater savings to the Government. Defense Automation Resources Management Manual, DoD 7950.1–M, Chapter 2, Paragraph D, prescribes the use of DD Form 1851 to initiate excess equipment to satisfy known requirements.

The revision to DFARS 270.602 prescribes the use of DD Form 1851, in lieu of DD Form 1419, by DoD contractors for reporting computer equipment requirements to the Defense Automation Resources Information Center (DARIC). The DD Form 1851 replaces the DD Form 1419 for such reporting purposes, although the DD Form 1419 is still used for its orginally intended purpose by the Defense Industrial Plant Equipment Center (DIPEC) as a requisition document. The DD Form 1851 also replaces a previous and no longer authorized version of DD Form 1851 which was used by DoD Components for requirements reporting. The revised version of the DD Form 1851 was designed specifically for requirements reporting and is easier to use than the DD Form 1419, which is not readily adaptable for automated screening. Additionally, the DD Form 1851 does not require extensive authorizations/approvals, can accommodate multiple line items per submission, contains all necessary data elements, and is compatible with DARIC's automated data base.

Item XVIII—Memorandum of Understanding (MOU) Between the Government of the French Republic and the Government of the United States

This DAC contains an MOU between the Government of the French Republic and the Government of the United States.

Adoption of Amendments

Therefore the DoD FAR Supplement is amended as set forth below.

1. The authority for 48 CFR Parts 204, 213, 215, 217, 219, 225, 227, 235, 237, 245, 252, 253, 270, and Appendix T continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

PART 204—ADMINISTRATIVE MATTERS

2. The final rule published on September 2, 1988 (53 FR 34090) is corrected as follows:

204.670–2 [Corrected]

3. On page 34091, section 204.670–2 is corrected in the definition for "Commercial and Government Entity (CAGE) Code", in paragraph (a) by removing the semi-colon after the word "manufacturer" and by adding before the word "or" the words "and published in the Commercial and Government Entity (CAGE) Handbook H4/H8;".

204.670–4 [Corrected]

4. On page 34092, section 204.670–4 is corrected by substituting in the first sentence the word "sections" in lieu of the word "section".

2204.671–3 [Corrected]

5. On page 34092, section 204.671–3 is corrected by adding in the first sentence of paragraph (d)(6) between the word "petroleum"; and the word "products" the words "and petroleum" and by substituting in the second sentence of paragraph (d)(7) between the word "These" and the word "shall" the word "transactions" in lieu of the word "translations".

2204.671–4 [Corrected]

6. On page 34093, section 204.671–4 is corrected by adding in the last sentence of paragraph (c) between the word "coding" and the word "items" the word "of"; and by substituting in the second sentence of paragraph (e) between the word "or" and the word "shall" the acronym "TCO" in lieu of the acronym "TOC"

204.671–5 [Corrected]

7. Beginning on page 34094, section 204.671–5 is corrected by substituting in paragraph (b), in the second sentence of paragraph (iii)(E) under Item B5B the reference in parentheses "253.303–70–DD–2051" in lieu of the reference "53.303–70–DD–2051"; by substituting in paragraph (b), in the first sentence of paragraph (i) under Item B6A between the word "the" and the word "and" the words "United States" in lieu of the abbreviation "U.S."; by adding in paragraph (b), in the fourth sentence of paragraph (i) under Item B6A between the acronym "FIPS" and the number "55–2" the abbreviation "PUB"; by substituting in paragraph (b), in the first sentence of paragraph (i) under Item B6B between the word "the" and the word "and" the words "United States" in lieu of the abbreviation "U.S."; by substituting in paragraph (b) in the title for Item B9, the word "Sale" in lieu of the word "Sales"; by substituting in paragraph (b), in the second sentence of paragraph (i) under Item B12A between the word "action" and the abbreviation "RDT&E" the word "for" in lieu of the word "or"; by substituting in paragraph (b), in paragraph (v) under Item B12B, the reference in parentheses "270" in lieu of the reference "70"; by substituting in paragraph (b), in the last sentence of the paragraph entitled "Code 4" in paragraph (ii) under Item B13 between the word "Codes" and the word "as" the words "A through G" in lieu of the abbreviation "A-G"; by substituting in paragraph (b) in the second sentence of the paragraph entitled "Code 5" in paragraph (ii) under Item B13 between the word "orders" and the word "against" the word "placed" in lieu of the word "place"; by substituting in paragraph (b), in the last sentence of the paragraph entitled "Code 5" in paragraph (ii) under Item B13 between the word "Codes" and the word "as" the words "A through G" in lieu of the abbreviation "A-G"; by substituting in the first sentence of paragraph (c)(4) between the number "7" and the word "Items" the word "complete" in lieu of the word "completer"; by placing in quotation marks in paragraph (c) in the first sentence of paragraph (i) of Code A under Item C4 between the word "as" and the word "if" the words "price competition"; by substituting in paragraph (c) at the end of the second sentence of paragraph (i) of Code A

under Item C4 the word "made" in lieu of the word "make"; by substituting in paragraph (c) in the title of Code E under Item C4 between the word "Catalog" and the word "Market" the word "or" in lieu of the word "of"; by changing in paragraph (c) in paragraph (iv) under Item C8 the reference in parentheses to read "206.270" in lieu of "206.207"; by adding in paragraph (c) in Code 1G under Item C9 between the word "if" and the word "action" the word "the"; by removing in paragraph (c) in Code A under Item C10 between the word "of" and the abbreviation "FAR" the word "the"; by removing in paragraph (c) in Code B under Item C10 between the word "of" and the abbreviation "FAR" the word "the"; by substituting in paragraph (c) in Code B under Item C10 the reference "22.6" in lieu of the reference "22.0"; by substituting in paragraph (c) in Code A under Item C12 between the word "the" and the word "at" the word "clauses" in lieu of the word "provisions"; by substituting in paragraph (c) under Item C13A between the word "end" and the word "as" the word "products" in lieu of the word "product"; by substituting in paragraph (d)(2) between the word "with" and the word "and" the reference "219.301–70" in lieu of the reference "FAR 19.301–70"; by substituting in paragraph (d) in the first sentence of Item D2 between the word "Item" and the word "is" the number "B13" in lieu of the number "B7"; by substituting in paragraph (d) between "Code Z" under Item D3 and Item D4A the title "Item D4, Preference Program" in lieu of the title "D4, Preference Program"; by adding in paragraph (d) in the first sentence of the introductory text of Item D4A between the word "in" and the number "D4C" the word "Item"; by adding in paragraph (d) in the last sentence of Code A under Item D4A between the word "in " and the number "D4C" and word "Item"; by substituting in paragraph (d) in Code C under Item D4A the reference "219.502–3(S–70)" in lieu of the reference "219.502–3(70)"; by adding in paragraph (d) in Code C under Item D4B between the word "to" and the word "as" the words "an SDB firm"; by substituting in paragraph (d) at the end of Code E under Item D4B the reference "219.502–3(S–70)" in lieu of the reference "219.502–3(70)"; by adding in paragraph (d) in Code B under Item D4D between the word "Labor" and the word "Area" the word "Surplus"; by substituting in paragraph (d) at the end of Code B under Item D4D the reference in parentheses "(220.7003)" in lieu of the reference "(FAR 20.7003)"; by substituting in paragraph (d) in the introductory text of Item D4E between the word "coded" and the word "or" the words "C through E" in lieu of the abbreviation "C–E"; by substituting in paragraph (d) in paragraph (i) of Item D4E between the word "coded" and the word "or" the words "C through E" in lieu of the abbreviation "C–3"; by substituting in paragraph (d) in paragraph (ii) of Item D4E between the word "coded" and the word "or" the words "1 through 4" in lieu of the abbreviation "1–4"; by substituting in paragraph (d) in paragraph (iii) of Item D4E between the word "or" and the word "enter" the words "B through G," in lieu of the abbreviation "B–G,"; by adding in paragraph (d) in the introductory text of Item D7 between the word "If" and the number "B13" the word "Item"; and in paragraph (e) between "Code N" under Item E1 and paragraph (f), the title is changed to read "Items E2 through E8" in lieu of the title "Item E2–E8".

204.672–1 [Corrected]

8. On page 34101, § 204.672–1 is corrected by removing the word "each" at the end of the first sentence.

204.672–5 [Corrected]

9. On page 34102, § 204.672–5 is corrected by substituting in pargraph (b) at the end of the first sentence of Line B3 the words " 'United States and Outlaying Areas' as defined in 204.672–4." in lieu of the words "U.S. and outlying areas as defined above."; by substituting in paragraph (b) at the end of the first sentence of Line B4 the words " 'United States and Outlying Areas' as defined in 204.672–4." in lieu of the words "U.S. and outlying areas as defined above."; by substituting in paragraph (b) at the end of the first sentence of Line B5 the words " 'United States and Outlying Areas' as defined in 204.672–4." in lieu of the words "U.S. and outlying areas as defined above." by substituting in paragraph (b) in the first sentence under line B6 between the word "listed" and the word "such" the words "in 204.672–4" in lieu of the word "above"; by substituting in paragraph (b) at the end of the first sentence of Line B6 the words " 'United States and Outlying Areas' as defined in 204.672–4." in lieu of the words "U.S. and outlying areas as defined above."; by substituting in paragraph (c) under Line C1C the words " 'United States and Outlying Areas.' " in lieu of the words "U.S. and outlying areas."; by substituting in paragraph (c)(iii) under Line C2C the words " 'United States and Outlying Areas.' " in lieu of the words "U.S. and outlying areas."; by substituting in paragraph (c)(iii) under Line C3C the words " 'United States and Outlying Areas.' " in lieu of the words "U.S. and outlying areas."; by substituting in paragraph (d) under Line D3 the words " 'United States and Outlying Areas.' " in lieu of the words "U.S. and outlying areas."; by substituting in paragraph (d) in the title for Line D4 between the word "Colleges" and the word "Universities" the word "and" in lieu of the word "or"; by substituting in paragraph (e) in the title for Line E1A between the word "Small" and the word "Set-Aside" the word "Purchase" in lieu of the word "Purchases"; and by substituting in paragraph (e) at the end of the sentence in Line E2B the reference "(see 219.502–3(S–70))" in lieu of the reference "(see 219.502–3(70))".

204.672–6 [Corrected]

10. On page 34104, § 204.672–6 is corrected by adding at the beginning of the first sentence the word "A" and changing the capital "M" to a lower-case "m" for the word "magnetic".

204.673 [Corrected]

11. On page 34104, §§ 204.673–1 through 204.673–4 are correctly added to read as follows:

204.673–1 Purpose.

The DD Form 1547 is the principal source document for maintaining a DoD-wide management information system on profit and fee statistics, as required under DoD Instruction 7730.27, "Reporting of Planned and Negotiated Contract Profit Rates" (see 215.970). The management information system is extensively used within the Office of the Secretary of Defense to serve a wide variety of purposes ranging from evaluating profit and fee policies to responding to information requests received from all branches of the Government, Congress, and the public.

204.673–2 Responsibilities.

The Heads of the Military Departments shall develop the necessary policies, procedures, and internal controls for implementing this reporting system. The contracting officer is responsible for properly preparing the DD Form 1547 and forwarding a copy of it to the designated office within 30 calendar days after the date of contract award. The contracting officer is also responsible for the correction of any errors detected by the system's auditing processes.

204.673–3 Applicability.

For the field contracting offices specified below, a copy of the completed DD Form 1547 shall be forwarded to the office designated for all contract actions

valued $500,000 or more where the contracting officer employed either the Weighted Guidelines Method (215.970), an alternate structured approach (215.971), or the Modified Weighted Guidelines Method (215.972). Offices located outside the United States, its possessions, and Puerto Rico are exempt from this reporting requirement.

(a) *Army.* Contracting officers from all field contracting offices shall forward completed DD Forms 1547 directly to the Office of the Assistant Secretary for Research, Development and Acquisition (SARD–KS), Washington, DC 20310–0600 or through intermediate office shown below:

(1) For Army Materiel Command field contracting offices, send through Army Materiel Command, ATTN: AMCPP–SC, 5001 Eisenhower Avenue, Alexandria, VA 22333–0001; and

(2) For U.S. Army Corps of Engineers contracting offices, send through Office of the Chief of Engineers, HQDA (DAEN–PRP), Washington, DC 20314–1000.

(b) *Navy.* (1) Contracting officers from the contracting offices specified below and all subordinate field offices shall forward completed DD Forms 1547 to the office designated in paragraph (b)(2) of this section:

(i) Naval Air Systems Command;

(ii) Naval Sea Systems Command;

(iii) Space and Naval Warfare Systems Command;

(iv) Naval Facilities Engineering Command;

(v) Naval Supply Systems Command;

(vi) Office of Naval Research;

(vii) Headquarters, United States Marine Corps; and

(viii) Strategic Systems Project Office.

(2) Designated Office: Commander, Naval Supply Systems Command (SUP 024B), Washington, DC 20376.

(c) *Air Force.* (1) Contracting officers from all field contracting offices in the Air Force Systems Command and Air Force Logistics Command shall forward completed DD Forms 1547 to HQ AFLC/LMSC/SORS, Wright-Patterson Air Force Base, Ohio 45433.

204.673–4 Procedures.

(a) All elements of the DD Form 1547 shall be completed by the contracting officer as instructed in 215.970–2, 215.971–3, and 215.972–2.

(b) Completed forms shall be sent to the designated office, as an unclassified document, within 30 days after contract award. Classified information shall not be entered into the management information system on profit. The designated office will perform the necessary audit tests to ensure that the information on the DD Form 1547 is accurate. Use of mechanized or automated systems is desirable.

(c) The designated offices shall transmit the DD Form 1547 information in the manner and format specified in DoD Instruction 7730.27.

(d) The reporting requirements of this part have been assigned RCS: P&L(Q) 1751.

PART 213—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

213.106 [Amended]

12. Section 213.106 is amended by removing paragraph (c).

PART 215—CONTRACTING BY NEGOTIATION

215.704 [Amended]

13. Section 215.704 is amended by substituting the dollar figure "$1 million" in lieu of the dollar figure "500,000".

14. Section 215.805–5 is amended by revising paragraph (c)(1)(S–70)(A), to read as follows:

215.805–5 Field pricing support.

* * * * *

(c)(1)(S–70) * * *

(A) The Plant Representative/Administrative Contracting Officer (Plant Rep/ACO) is the team manager for all contracting officer requests for field pricing support. The contracting officer shall send all requests for field pricing support to the cognizant field contract administration activity; generally, the Plant Rep for the Services and the ACO for DCAS (DLA). An advance copy of the contracting officer's request shall also be sent to the cognizant audit activity. When only an audit report is requested by the contracting officer, the auditor shall treat the advance copy of the contracting officer's request as a signal to begin the audit work. When an audit is completed, the audit activity shall: (*1*) Send the original of the audit report to the Plant Rep/ACO, and (*2*) send an advance copy of the audit report to the contracting officer. To expedite the pricing review process, these requests shall be marked in bold letters on the mailing envelope "**FIELD PRICING REQUEST.**" On urgent requests, provide facsimile numbers in the requests to facilitate sending the complete report.

* * * * *

PART 217—SPECIAL CONTRACTING METHODS

15. Section 217.204 is added to Subpart 217.2, to read as follows:

217.204 Contracts.

(e) The approving authority for actions under FAR 17.204(e) is the Chief of the Contracting Office. This approval authority shall not be delegated.

PART 219—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

16. The interim rule published on June 6, 1988 at 53 FR 20626), and corrected on June 15, 1988 (53 FR 22426) and on June 16, 1988 (53 FR 22609), is adopted as final with the following changes:

17. Section 219.202–5 is amended by revising the first sentence of paragraph (b), by substituting in the first word of the title of the format following paragraph (b) the word "Percentage" in lieu of the word "Premium"; by substituting in Item 2 of the format following paragraph (b) the words "Modification number (if appropriate)" in lieu of the words "Action date"; by removing the text in Item 3 and Items 3 a. through d. and substituting in Item 3 the words "Award date ———."; and by removing paragraph (c), to read as follows:

219.202–5 Data collection and reporting requirements.

* * * * *

(b) The contracting officer shall insert the following format in the contract file for each award of a letter contract, a definitive contract superseding a letter contract, an initial definitive contract, orders under a BOA, and additional work under a new agreement (including options exercised at time of award) * * *.

18. Section 219.508 is amended by adding paragraph (e) to read as follows:

219.508 Solicitation provisions and contract clauses.

* * * * *

(e) The contracting officer shall insert the clause at FAR 52.219–14, Limitations on Subcontracting, in solicitations and contracts, except those awarded using small purchase procedures in FAR Part 13, for supplies, services, and construction, if any portion of the requirement is to be set aside for small business (including small disadvantaged business), or if the contract is to be awarded under FAR Subpart 19.8.

PART 225—FOREIGN ACQUISITION

225.7601 [Amended]

19. Section 225.7601 is amended by revising the last sentence of the definition "Excess Foreign Currency" to read: "Countries in which the United States owns excess foreign currency are

listed in the OMB Bulletin, 'Excess Foreign Currencies', published annually in accordance with OMB Circular A–20. This Bulletin is distributed through agency procedures."; and by revising the last sentence of the definition "Near-Excess Foreign Currency" to read: "Countries in which the United States owns near-excess foreign currency are listed in the OMB Bulletin, 'Excess Foreign Currencies', published annually in accordance with OMB Circular A–20. This Bulletin is distributed through agency procedures."

225.7607 [Removed]

20. Section 225.7607 is removed.

PART 227—PATENTS, DATA, AND COPYRIGHTS

21. The interim rule published on October 28, 1988 (53 FR 43698) and corrected on November 5, 1988 (53 FR 44975) is corrected as follows:

227.471 [Corrected]

22. On page 43700, § 227.471 is corrected by substituting in the last sentence of the introductory text of the definition entitled "Limited rights" between the word "such" and the word "if" the word "persons" in lieu of the word "person".

227.472–1 [Corrected]

23. On pages 43700 and 43701, § 227.472–1 is corrected by substituting at the beginning of the second sentence of paragraph (a) the word "Its" in lieu of the word "It"; and by adding in the third sentence of paragraph (a) between the word "source" and the word "supply" the word "of".

227.472–3 [Corrected]

24. On page 43701, § 227.472–3 is corrected by substituting in the second sentence of the introductory text, between the word "rights," and the word "rights," the word "limited" in lieu of the word "limiting"; by substituting at the beginning of paragraph (a)(1)(iv) the word "Manuals" in lieu of the word "Manual"; and by substituting in paragraph (a)(1)(iv) between the word "any" and the word "contract" the word "Government" in lieu of the word "Governmental".

227.475–2 [Corrected]

25. On page 43706, § 227.475–2 is corrected by substituting in the second sentence of paragraph (b) between the word "all" and the word "(other" the word "items" in lieu of the word "item"; and by substituting in the last sentence of paragraph (b) between the word "delivery" and the word "the" the word "of" in lieu of the word "or".

227.475–3 [Corrected]

26. On page 43706, § 227.475–3 is corrected by substituting at the end of the last sentence the reference "246.708" in lieu of the reference "246.703".

227.481–2 [Corrected]

27. On page 43708, § 227.481–2 is corrected by substituting in the last sentence of paragraph (b)(4) between the word "software" and the word "at" the word "developed" in lieu of the word "development".

PART 235—RESEARCH AND DEVELOPMENT CONTRACTING

28. Section 235.007 is amended by adding paragraph (S–70) following paragraph (g), to read as follows:

235.007 Solicitations.

* * * * *

(S–70) 10 U.S.C. 2352 provides that, subject to availability of funds, contracts for services or for the use of facilities for research or development, or both, may be for a term of not more than five years and may be extended for no more than five years.

PART 237—SERVICE CONTRACTING

237.204 [Amended]

29. Section 237.204 is amended by removing paragraph (S–70) and by redesignating the existing paragraph (S–71) as paragraph (S–70).

30. Section 237.205 is revised to read as follows:

237.205 Management controls.

DoD Directive 4205.2, DoD Contracted Advisory and Assistance Services, contains these procedures.

237.205–70 [Removed]

31. Section 237.205–70 is removed.

237.205–71 [Removed]

32. Section 237.205–71 is removed.

33. Section 237.206 is added to read as follows:

237.206 Requesting office responsibilities.

(b) Departments shall further ensure that when there is a need for the use of the type of services in FAR 37.203, the approval authority for actions greater than $50,000 is not below the SES manager or General or Flag Officer level, except when 0–6 personnel are filling such command or management positions or have subordinate SES personnel.

237.270 [Removed]

34. Section 237.270 is removed.

PART 245—GOVERNMENT PROPERTY

35. Section 245.301 is amended by adding between the definition "Industrial Plant Equipment" and the definition "Other Plant Equipment" the following definition to read as follows:

245.301 Definitions.

* * * * *

"Mapping, Charting and Geodesy (MC&G) Property", as used in this subpart, means geodetic, geomagnetic, gravimetric, aeronautical, topographic, hydrographic, cultural, and toponymic data presented in the form of topographic, planimetric, relief, or thematic maps and graphics; nautical and aeronautical charts and publications; and in simulated, photographic, digital, or computerized formats.

* * * * *

36. Sections 245.310 and 245.310–1 are added to read as follows:

245.310 Providing mapping, charting and geodesy property.

(a) All Government-Furnished Mapping, Charting and Geodesy (MC&G) Property is under the control of the Director, Defense Mapping Agency (DMA). (See DoD Directive 5105.40.)

(b) The clause at 252.245–7000 provides that Government-Furnished MC&G Property shall not be duplicated, copied, or otherwise reproduced for purposes of other than those necessary for performance of the contract.

(c) At the completion of performance of the contract, the contracting officer shall contact HQ DMA (PP), Bldg. 56, U.S. Naval Observatory, Washington, DC 20305–3000, for disposition instructions and then direct the contractor to either destroy or return all DoD-furnished MC&G property not consumed in the performance of the contract. If the material is to be returned to the Government, the contracting officer shall specify the location and means of shipment.

245.310–1 Contract clause.

The contracting officer shall insert the clause at 252.245–7000, Government-Furnished Mapping, Charting and Geodesy Property, in solicitations and contracts when MC&G Property is to be furnished under the contract.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

37. The interim rule published on September 2, 1988 (53 FR 34090) is corrected as follows:

252.204-7005 [Corrected]

38. On page 34104, section 252.204-7005 is amended by substituting in paragraph (a) of the clause at the end of the last sentence the reference "253.303-70-DD-2139." in lieu of the reference "53.303-70-DD-2139."

252.204-7007 [Corrected]

39. On page 34104, section 252.204-7007 is amended by substituting in the introductory paragraph the reference "204.670-3(b)(1)" in lieu of the reference "204.670-3(b)(f)".

40. The interim rule published on June 6, 1988 (53 FR 20626), and corrected on June 15, 1988 (53 FR 22426) and on June 16, 1988 (53 FR 22609), is adopted as final with the following changes:

252.219-7007 [Amended]

41. Section 252.219-7007 is amended by adding at the end of the title the word in parentheses "(Unrestricted)"; and by adding in the title of the clause between the word "CONCERNS" and the date the word in parentheses "(UNRESTRICED)".

42. The interim rule published on October 28, 1988 (53 FR 43698) and corrected on November 5, 1988 (53 FR 44975) is corrected as follows:

252.227-7013 [Corrected]

43. On page 43712, section 252.227-7013 is corrected by substituting in the clause in the unnumbered paragraph between paragraph (e)(4) and paragraph (f) the reference "252.227-7013" in lieu of the reference "252.227-7031"; and by substituting in the clause in paragraph (i)(1) the reference "227.472-1" in lieu of the reference "252.227-472-1".

252.227-7020 [Corrected]

44. On page 43714, section 252.227-7020 is corrected by substituting in the clause in the second sentence of paragraph (b) between the word "any" and the word "to" the word "claim" in lieu of the word "claims".

252.227-7022 [Corrected]

45. On page 43715, section 252.227-7022 is corrected by substituting in the clause in the first sentence between the word "designs," and the word "notes" the word "specifications" in lieu of the word "specification".

252.227-7028 [Corrected]

46. On page 43715, section 252.227-7028 is corrected by substituting in the clause in paragraph (a) between the word "contract" and the word "subcontract" the word "or" in lieu of the word "of".

252.227-7037 [Corrected]

47. On page 43717, section 252.227-7037 is corrected by substituting in the clause in the first sentence of paragraph (f)(2)(iv) between the word "final" and the word "by" the word "disposition" in lieu of the word "deposition".

48. Section 252.245-700 is added to read as follows:

252.245-7000 Government-furnished mapping, charting and geodesy property.

As prescribed in 245.310-1, insert the following clause:

GOVERNMENT-FURNISHED MAPPING, CHARTING AND GEODESY PROPERTY (NOV 1988)

(a) *Definition.* "Mapping, Charting and Geodesy (MC&G) Property", as used in this clause, means geodetic, geomagnetic, gravimetric, aeronautical, topographic, hydrographic, cultural, and toponymic data presented in the form of topographic, planimetric, relief, or thematic maps and graphics; nautical and aeronautical charts and publications, and in simulated photographic, digital, or computerized formats.

(b) MC&G Property shall not be duplicated, or otherwise reproduced for purposes other than those necessary for performance of the contract.

(c) At the completion of performance of the contract, the Contractor, as directed by the Contracting Officer, shall either destroy or return to the Government all Government-Furnished MC&G Property not consumed in the performance of this contract.

(End of clause)

PART 253—FORMS

49. The list of forms following § 253.270 is amended by substituting the listing "253.303-70-DD-1851 DD Form 1851: Automation Equipment Requirement" in lieu of the listing "253.303-70-DD-1784 DD Form 1784: Small Purchase Pricing Memorandum".

PART 270—ACQUISITION OF COMPUTER RESOURCES

50. Section 270.602 is amended by revising the title of the section; by substituting in paragraph (a) between the word "Form" and the word "with" the designation "1851" in lieu of the designation "1419"; by revising paragraph (b); and by adding paragraphs (c) and (d) to read as follows:

270.602 Providing excess computer equipment to DoD contractors.

* * * * *

(b) The ACO shall forward the approved requirements to the Director, Defense Automation Resources Information Center (DARIC), ATTN: DARIC-R, Cameron Station, Alexandria, VA 22304-6100 in accordance with DoD 7950.1-M.

(c) The DARIC shall determine if excess computer equipment which has a potential to meet the requirement is available and the response shall be returned to the activity designated on the DD Form 1851.

(d) Acquisition of excess ADPE shall be in accordance with 245.302-72 and DoD 7950.1-M.

Appendix T to Chapter 2—[Amended]

51. Appendix T is amended by revising T-211, France Memorandum of Understanding, to read as follows:

T-211 France Memorandum of Understanding

Memorandum of Understanding Between the Government of the French Republic and the Government of the United States of America Concerning the Principles Governing Reciprocal Purchases of Defense Equipment

The Government of the United States of America and the Government of the French Republic hereinafter referred to as the Governments:

Noting that a previous agreement dated December 18, 1963 governs their cooperation in the field of research and development,

Noting that no agreement covers harmonization of mutual procurements, although specific compensation agreements bound them in the past,

Wishing to improve the present situation and to strengthen their military capability by a better organization of procurement of equipment meeting their defense needs, while taking into consideration cooperative activities undertaken between European nations within the I.E.P.G. and relationships between Europe and the United States in the field of armaments.

In order to achieve the above aims, the Governments have agreed on the following guidelines to ensure a balanced cooperation in defense equipment research, development, production, and purchasing and associated offset arrangements.

Article I—Principles Governing Reciprocal Defense Purchasing

1. Both Governments agree to achieve and maintain an equilibrium in their exchanges in terms of payments and technological levels to the maximum practicable extent consistent with their national policies.

2. The Governments will jointly determine the defense equipment to which the present MOU is applicable and the desirable level of the equilibrium.

3. Each Government will keep a record of defense equipment procurement from the other country either directly or through its defense industry.

4. Each Government will submit, as practicable, a periodic forecast of defense equipment that it may be able to undertake to procure from the other country or for which the other country may be able to compete. Each Government may propose to the other any particular item of equipment that could

meet the requirement of the other Government.

5. Both Governments will provide appropriate policy to guidance and administrative procedures within their respective defense procurement organizations to achieve and maintain the agreed upon equilibrium.

6. For the implementation of this MOU:

a. Offers will be evaluated without applying price differentials resulting from Buy National Laws (in the United States, the Buy American Act).

b. The Secretary of Defense or Minister of Defense shall, consistent with the law and policies of each country, attempt to obtain exemptions from all applicable customs duties or other restrictions which are designed to limit participation by industries of the other country.

c. It will be neccessary to take into consideration all qualified sources in each other's country in accordance with the policies and criteria of the purchasing office, it being understood that offers will satisfy requirements for performance, quality, delivery and cost.

7. To facilitate production programs set up in implementation of this MOU, the Governments understand that subject to their established policies, procedures, regulations and subject to privately owned proprietary rights, each Government will, so far as it is able, without incurring obligations to others, arrange for release to the other and to its agents, or if necessary, to its defense industries, of information and technology necessary for the purpose of such facilitation, taking into account security regulations.

8. Arrangements and procedures will be established concerning follow-on logistic support for defense material transferred under this MOU. Both governments will make their defense logistic systems and resources available for this purpose as required and mutually agreed.

9. The Governments, through their appropriate representatives, will consult concerning any problem which may inhibit the efficient operation of this arrangement. Such consultations will be conducted on the basis of Article II of this MOU.

Article II—Entry Into Force

1. Representatives of the two Governments will be appointed to determine in detail the implementation procedures of the MOU. Terms of reference will be proposed for an American-French Committee in charge of reciprocal purchases (including rules governing its work).

2. The Under Secretary of Defense for Research and Engineering in coordination with the Assistant Secretary of Defense (ISA), Assistant Secretary of Defense (MRA&L), the Director, Defense Security Assistance Agency and other appropriate Department of Defense Offices, will be responsible in the U.S. Government for the development of implementing procedures under this MOU and for the management of this MOU on a continuing basis.

3. The Director des Affaires Internationales, under the policy guidance of the Delegue General pour l'Armement, will be the responsible authority for the Government of the French Republic for any matter relating to the implementation procedures of this agreement.

Article III—Industry Participation

1. Each Government will be responsible for bringing to the attention of the defense industries within its country, the basic understanding of this MOU, together with appropriate guidance on its implementation. Both Governments will take all necessary steps so that the defense industries comply with the regulations pertaining to security and classified information safeguarding.

2. Implementation of this MOU will involve full industrial participation. Accordingly, the Governments will arrange that their respective procurement and requirements offices will be made familiar with the principles and objectives of this MOU. Notwithstanding the governmental procedures to facilitate implementation, it will be the basic responsibility of industry in each country to isolate, identify, and advise its Government of capabilities and to carry out the supporting actions to bring industrial participation to consummation.

Article IV—Duration

1. This agreement will remain in effect for a ten-year period following its signature unless otherwise agreed by both Governments.

2. If, however, either Government considers it necessary to discontinue its participation under this MOU before the end of the ten-year period, any withdrawal intention must be notified to the other Government six months in advance of its effective date and would be a matter of immediate consultation with the other Government to enable the Governments fully to evaluate the consequences of such termination and in the spirit of cooperation take such actions as necessary to alleviate problems that may result from the termination. In this connection, although the MOU may be terminated by the parties, any contract entered into consistent with the terms of this agreement shall continue in effect, unless the contract is terminated in accordance with its own terms.

Article V—Annexes

Annexes negotiated by the responsible services and approved by the appropriate Government authorities will be part of this agreement.

Article VI—Implementation

The present agreement, in both English and French, will come into effect at the date of signature by both Governments. It will not be disclosed to a third country unless otherwise mutually agreed.

Done in Paris, le 22 mai 1978.

Harold Brown,

For the Government of the United States.

Yvonne Bourges,

For the Government of France.

ANNEX I—IMPLEMENTING PROCEDURES

Implementing procedures to the Memorandum of Understanding between the Government of the United States of America and the Government of the French Republic concerning the principles of cooperation in the field of reciprocal purchases of Defense Equipment.

I. Introduction

On May 22, 1978, the Governments of the United States of America, represented by the Department of Defense (DoD) and the French Republic represented by the Ministry of Defense (MOD) signed a Memorandum of Understanding (MOU) concerning "The Principles Governing Reciprocal Purchases of Defense Equipment." The purpose of this Annex is to set forth the agreed implementing procedures for carrying out the MOU and to establish a Franco-American Committee for Defense Equipment (FACDE).

II. Major Principles

A. Both the DoD and MOD will consider for their defense requirements defense items *and services* developed and produced in the other country. It will be the responsibility of governments and/or industry representatives in each country to obtain information concerning the other country's requirements and prospective purchases and to respond to requests for proposals or offers in accordance with each other's prescribed procurement procedures and regulations. The responsible governmental purchasing agencies in each country will assist sources in the other country to obtain information concerning prospective purchases, necessary qualifications, and appropriate documentation. The responsible governmental purchasing agencies in each country will seek to inform themselves of the defense items and services which might be available from the other to meet specific requirements.

B. Offers will be evaluated without applying price differentials resulting from national laws. Consistent with the law and policies of each country, the Parties will attempt to obtain exemptions from all applicable duties or other restrictions which are designed to limit participation by industries of the other country.

C. Offers will satisfy requirements for cost, schedule, performance, quality, and continued logistics support.

D. In implementing the MOU, the DoD and the MOD will review and, where considered necessary, revise policies, procedures, and regulations to insure that they are consistent with the principles and objectives of this MOU.

E. With respect to Article I, paragraphs 2 and 4 of the MOU cited in paragraph I above, both countries agree that in general the principles of this MOU *will apply to defense purchases of both Governments on the broadest possible basis.* Some items *and services* will be excluded from consideration under this MOU in order to protect the defense mobilization base; because of legally imposed restrictions; or for other reasons to be discussed by the parties from time to time in meetings of the Franco-American Committee.

III. Action

Both countries will, on a reciprocal basis, and to the extent appropriate:

A. Ensure that activities responsible for requirements, research and development, and procurement are familiarized with the principles and objectives of this MOU.

B. Ensure appropriate dissemination of the basic principles of this MOU to the respective defense industries.

C. Assist industries in their respective countries to identify and advise the other government of their capabilities.

D. Review items *and services* as candidates to meet defense requirements. Identify requirements and prospective purchases soon enough to ensure adequate time for their respective industries to participate in the procurement process.

E. Ensure that those items *and services* excluded from consideration under this MOU for reasons of protecting national requirements, such as the maintenance of a defense mobilization base, are limited to a small percentage of total annual defense procurement spending. It is intended that such defense items and services, as well as those items and services that must be excluded from consideration under this MOU because of legally imposed restrictions on procurement from non-national sources, be identified as soon as possible by the MOD and the DoD, and that such defense items and services be kept under review by the Committee established pursuant to paragraph IV below.

F. Make best efforts to assist in negotiating licenses, royalties, and technical information exchanges with their respective industries.

IV. Franco-American Committee for Defense Equipment (FACDE)

The FACDE will consider development, production, procurement, and logistics needs of each country and the likely areas of cooperation and will recommend appropriate measures to facilitate a maintenance of an equilibrium in their exchanges in terms of value and technological levels to the maximum practicable extent consistent with their national policies.

V. Counting Procedures

The purchases to be counted within the framework of the MOU will be identified jointly by DoD and MOD. In principle all defense items and services purchased by DoD and MOD from the other country will be counted within the framework of the MOU as long as such purchases meet the following criteria.

A. Direct purchases by the MOD or DoD, including their respective agencies, from one another.

B. Direct purchases by either the MOD or DoD from the industry of the other country.

D. Purchases by a third country government from the governments of the United States or of France or from industries of the two countries as a direct result of effort of the other country.

E. Purchases resulting from common funded defense programs to which the United States and/or France are contributors, to be credited in proportion to each country's financial contribution to such programs and to work carried out in each country. The extent to which such purchases will be counted within the framework of the MOU will be agreed between MOD and DoD in each case.

F. License fees, royalties and other associated income resulting from orders placed by industry and/or DoD or MOD with a licensed company in the other country.

Types of contracts to be included for purposes of counting will consist of at least the following:

1. Research and development
2. Pre-production
3. Production
4. "Off-the-shelf" procurement
5. License agreements and technical assistance
6. Installation (other than construction)
7. Repair, overhaul and modification
8. Services

Types of contracts to be excluded for purposes of counting will be decided by the FACDE.

Exceptions to the above guidelines will be permitted only as agreed between the Governments as represented by the FACDE.

The following procedures will be used in considering current balances and long term trends of purchases between the two countries:

A. Annual Balances will be calculated based on a January 31 to December 31 time period. Longer term calculations can be made for intervals beginning on the effective date of the agreement to closing dates to be determined.

B. Subject to review and possible refinement by the Committee as indicated in Article VI below, the balance of purchases will be calculated using a single US-French monetary exchange rate for a given period to be applied to purchases by both sides. The details for determining the exchange rate will be formulated by the Committee.

VI. Administration

A. The FACDE will meet as frequently as necessary, but not less than once a year, to implement the agreement. It is intended that the meetings will alternate between Washington and Paris. The FACDE will agree to the basis of, and keep under review, the current balance and long term trends of purchases between the two countries.

B. Each country will designate points of contact at the Ministry of Defense level and in each purchasing service and agency for the transaction of routine business. The points of contact shall be:

1. For the French Ministry of Defense, the Sous-Director des Affaires Internationales pour la Cooperation.

2. For the US Department of Defense, the Deputy Under Secretary of Defense (Acquisition Policy).

C. Quality assurance procedures outlined in Stanag 4107 and 4108 will apply unless other provisions are mutually agreed to on any specific contract. Payment for services provided shall be made in accordance with the national laws and regulations of each country.

D. Audit of contracts will be accomplished in accordance with Annex 2 to the MOU.

VII. Security

A. To the extent that any items, plans, specifications or information furnished in the course of the implementation of this MOU are classified by either Government for security purposes, the other Government shall maintain a similar classification and employ all measures necessary to preserve such security equivalent to those measures employed by the classifying Government throughout the period during which the classifying Government may maintain such classification.

B. The provisions of the General Security of Information Agreement dated 7 September 1977 between the United States Government and the Government of France apply to activities under this MOU.

C. Information that has been provided by the MOD to the DoD in confidence, or produced by the DoD pursuant to a written joint arrangement with the MOD requiring confidentiality, shall either retain its original classification designation or be assigned a United States classification designation that shall ensure a degree of protection against disclosure equivalent to that required by the MOD. To assist in providing the desired protection, the MOD will mark such information furnished to the DoD with a legend indicating that the information is of French Government origin, that the information relates to this MOU, and that the information is furnished in confidence.

VIII. Procedure for Calculation of Exchanges Balance

A. Accounting Periods

The accounting period will be from January 1 to December 31 of each year.

B. Exchange Rate

A single exchange rate will be used to express the payment value for both parties. This rate will be calculated by averaging over the period the monthly means of average daily rates published in New York and Paris by the competent authorities. The exchange rate for the previous period will be submitted to the FACDE prior to the first meeting of each period.

C. Calculation of the Cumulated Balance of Exchanges

To calculate the cumulated exchange balance starting from the effective date of signature of the MOU, the following will be done:

1. Add to the cumulative balance of the preceding period the balance of the current period.

2. Valuate each country's balance in terms of its own currency.

An example of the cumulated balance calculation is shown in the appendix.

D. Balance Approval

To take into account the data obtained after the FACDE meeting it is agreed that the balance may be revised during the next FACDE meeting, at which date it will become definitive.

IX. Implementation

The present annex, English and French versions of which are equally authentic, will

come into effect as of the date on which both parties have signed.

William J. Perry,

For the Government of the United States of America.

Date 18 Dec 80.

H. Martre,

For the Government of the French Republic.

Date 22 Dec 80.

[FR Doc. 88-28733 Filed 12-14-88; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

Taking of Marine Mammals Incidental to Commercial Fishing Operations

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

ACTION: Notice of determination on the importation of Spanish Yellowfin Tuna.

SUMMARY: The Assistant Administrator for Fisheries, NMFS, in consultation with the Department of State, finds that the Government of Spain has not submitted documentation required by the regulations governing the importation of yellowfin tuna from the eastern tropical Pacific Ocean. As a result, yellowfin tuna from Spain may not be imported into the United States.

DATES: The prohibition on importation of Spanish yellowfin tuna is effective December 14, 1988.

FOR FURTHER INFORMATION CONTACT: E. Charles Fullerton, Regional Director, Southwest Region, NMFS (514-213-6196).

SUPPLEMENTARY INFORMATION: In 1984 the Congress of the United States reauthorized the Marine Mammal Protection Act and amended the Act to require that nations, whose vessels fish with purse seines in the eastern tropical Pacific Ocean (ETP), must have a marine mammal protection program and fleet porpoise safety performance comparable to that of the United States. In the ETP, yellowfin tuna are commonly caught in association with porpoise, leading to incidental porpoise mortality in purse seine fishing operations.

On March 18, 1988 (53 FR 8910), the NMFS promulgated interim final rules concerning the importation of yellowfin tuna caught by purse seines in the ETP. Under this rule, any nation which has purse seine vessels greater than 400 tons carrying capacity operating in the ETP, wishing to export yellowfin tuna to the United States must supply documentary evidence that the nation has adopted a regulatory program governing the incidental taking of marine mammals (porpoise) in the fishery which is comparable to the regulatory program of the United States. Each nation must also supply documentation on the incidental taking of marine mammals by its purse seine vessels for 1986 and 1987. Nations which had positive findings in effect on March 18, 1988 and which failed to submit the required documentation by August 17, 1988, were prohibited from exporting yellowfin tuna into the United States after October 15, 1988 (see 53 FR 39743, October 12, 1988).

Spain was not included among the nations whose yellowfin tuna was prohibited entry into the United States at that time because it was not clear under what nation's laws the single Spanish-flag vessel operates. The vessel is based in Ecuador but flies the flag of Spain. If the vessel is operating under the jurisdiction of the marine mammal laws of Ecuador under a formal declaration between Spain and Ecuador, the vessel is considered to be a vessel of Ecuador for the purposes of these regulations. Spain then would not need to submit the information required for ETP tuna purse seine fishing nations. The NMFS has inquired whether a formal agreement exists between the governments of Ecuador and Spain which would make the vessel subject to the marine mammal protection laws of Ecuador while purse seine fishing for tuna. Because no response has been forthcoming, the NMFS concludes that the vessel is operating under the laws of Spain. Therefore, Spain is subject to the requirements to demonstrate it has a marine mammal protection program that is comparable to that of the United States and to submit observer data on the marine mammal mortality performance in its tuna purse seine fishery.

This embargo of yellowfin tuna and yellowfin tuna products from Spain remains in effect until: (1) the Assistant Administrator determines that Spain has submitted the required information which demonstrates that their marine mammal program is comparable to that of the United States and that Spain's fleet meets the marine mammal mortality rate comparison test in effect at the time, (2) the governments of Ecuador and Spain by mutual agreement declare that the vessel is operating under the jurisdiction of Ecuador's marine mammal laws and regulations while fishing in the ETP, or (3) Spain meets the requirements as changed through future rulemaking.

Date: December 12, 1988.

James W. Brennan,

Assistant Administrator for Fisheries.

[FR Doc. 88-28802 Filed 12-14-88; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 53, No. 241
Thursday, December 15, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 88-ASW-48]

Proposed Revision of Transition Area; Lake Charles, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise the transition area located at Lake Charles, LA. The development of a new VOR RWY 33 standard instrument approach procedure to the Chennault Industrial Airpark, utilizing the Lake Charles Very High Frequency Omnidirectional Radio Range/Tactical Air Navigation (VORTAC), has made this proposed revision necessary. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing the new VOR RWY 33 SIAP.

DATE: Comments must be received on or before January 25, 1989.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Docket No. 88-ASW-48, Department of Transportation Federal Aviation Administration, Fort Worth, TX 76193-0530.

The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Bruce C. Beard, Airspace and Procedures Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530; telephone: (817) 624-5561.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 88-ASW-48." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Regional Counsel, 4400 Blue Mound Road, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM'S

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Department of Transportation, Federal Aviation Administration, Forth Worth, TX 76193-0530. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to §71.181 of the Federal Aviation Regulations (14 CFR Part 71) by revising the transition area located at Lake Charles, LA. The development of a new VOR RWY 33 SIAP to the Chennault Industrial Airpark, utilizing the Lake Charles VORTAC, has necessitated this proposed revision. The intended effect of this proposed revision is to provide adequate controlled airspace for aircraft executing the new VOR RWY 33 SIAP. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6D dated January 4, 1988.

The FAA has determined that this 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 a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant 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.

The Proposed Amendment

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

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

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

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

§71.181 [Amended]

2. Section 71.181 is amended as follows:

Lake Charles, LA [Revised]

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Lake Charles Municipal Airport (latitude 30°07'32"N., longitude 93°13'22"W.); and within an 8.5-mile radius of the

Chennault Industrial Airpark (latitude 30°12'37"N., longitude 93°08'35"W), and within 5.0 miles each side of the 335° radial of the Lake Charles VOR (latitude 30°08'29"N, longitude 93°06'20"W.), extending from the 8.5-mile radius area of the Chennault Industrial Airpark to 15 miles northwest of the Chennault Industrial Airpark.

Issued in Fort Worth, TX, on December 2, 1988.

Larry L. Craig,

Manager, Air Traffic Division Southwest Region.

[FR Doc. 88-28840 Filed 12-14-88; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 206

Revision of Valuation Regulations Governing Gas Sales Under Percentage-of-Proceeds Contracts

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Proposed rulemaking.

SUMMARY: The Minerals Mangement Service (MMS) is proposing to amend its gas product valuation regulations to change the method of determining the value of gas sold under percentage-of-proceeds contracts. Since adoption of the final regulations, MMS has determined that little or no additional royalties are collected as a result of this provision. Also, MMS has experienced a significant increase in workload that is unnecessary for the valuation of gas sold under these contracts. Consequently, MMS is soliciting comments on a proposed alternative method which reduces lessee reporting requirements, produces the same revenue payments, and eliminates the unnecessary workload burden on MMS.

DATE: Comments should be submitted by January 17, 1989.

ADDRESS: written comments, suggestions, or objections regarding the proposed amendment should be mailed to: Minerals Management Service, Royalty Management Program, Rules and Procedures Branch, Denver Federal Center, Building 85, P.O. Box 25165, Mail Stop 662, Denver, Colorado 80225, Attention: Dennis C. Whitcomb.

FOR FURTHER INFORMATION CONTACT: Dennis C. Whitcomb, Chief, Rules and Procedures Branch, (303) 231-3432 or FTS 326-3432.

SUPPLEMENTARY INFORMATION: The principal authors of this proposed rule amendment are Susan Lupinski and Scott Ellis of the Royalty Valuation and Standards Division of the Royalty Management Program, MMS.

I. Background.

The subject of this proposed rulemaking is the manner in which gas production from Federal leases (including leases on the Outer Continental Shelf) and Indian Tribal and allotted leasses will be valued for royalty purposes where the lessee's contract for the sale of gas prior to processing provides for the sales value to be determined based upon a percentage of the purchaser's proceeds from selling the residue gas, liquids, and other gas plant products resulting from processing. The existence of these so called "percentage-of-proceeds" contracts is typically a direct result of oil well production where associated casinghead gas production occurs in sufficient volumes that venting or flaring of the gas is considered wasteful, or the volumes cannot be flared or vented due to environmental reasons. The volume of gas produced from any one lease is usually insufficient to justify the expense for each lessee to build a processing plant to handle its own lease production. Thus, a plant is built in a centralized location to handle the production from the various leases producing casinghead gas in the field or area.

The issue of whether to classify percentage-of-proceeds contracts as sales of unprocessed gas versus processed gas generated much controversy during the comment period prior to MMS's recent modifications to the product value regulations in 30 CFR Part 206 (53 FR 1230, January 15, 1988). Comments from industry generally recommended that MMS classify percentage-of-proceeds contracts under the unprocessed gas section. Industry commenters stated that classifying percentage-of-proceeds contracts as processed gas was unreasonable and unfair to the lessee and that the percentage-of-proceeds contracts were only the mechanism for arriving at wellhead value.

The MMS evaluated all the comments received but decided to retain percentage-of-proceeds contract valuation under the processed gas section. The MMS's main concern was that if the percentage-of-proceeds contracts were treated as unprocessed gas, limitations on processing allowances contained in the valuation regulations would be exceeded without review and approval by MMS. However, to address those instances where a lessee believed that its situation merited an exception to the limitations and requirements of the regulations, MMS adopted a provision at § 206.158(c)(3) allowing a lessee to apply for an exception to the processing allowance limitation.

Since the issuance of the revised gas valuation regulations, MMS has received many requests to (1) waive the valuation requirements under the processed gas section for percentage-of-proceeds contracts, (2) exceed the two-thirds processing allowance limitation, and (3) report royalties and allowances under alternate methods. The enormous burden placed on both payors and MMS to file new Payor Information Forms (Form MMS-4025) and Processing Allowance Forms (Form MMS-4109), and to convert from the previously used one-line entry on the Report of Sales and Royalty Remittance Form (Form MMS-2014) to multiple-line entries, was underestimated by MMS when considering whether or not to require valuation under the processed gas section. For example, the MMS received 2,000 Payor Information Forms from one company alone. Other companies have requested, and received approval of, the continued use of the one-line entry until their automated systems could be modified. Further, the burden on both payors to develop the supporting information and on MMS to process requests for allowances in excess of the two-thirds limit was also underestimated. In order to support a request for an allowance greater than two-thirds, payors had to demonstrate that the higher costs were actual, reasonable and necessary.

Based upon the experiences under the new regulations, MMS is now proposing to reconsider the valuation procedure for gas sold under percentage-of-proceeds contracts. Many percentage-of-proceeds contracts result in processing costs that exceed the two-thirds processing limitation. Due to the limited volumes from any given lease, and the fact that the costs of placing the gas in marketable condition are beyond what a lessee is ordinarily obligated to incur, MMS believes that most requests to exceed the two-thirds limit would be approved as the costs could be demonstrated by the lessee to have been actual, reasonable, and necessary. Given the prospect of approving the majority of the requests for exceptions, the proposal to allow gas sold under percentage-of-proceeds contracts to be valued as unprocessed gas should result in approximately the same revenues upon which royalty would be paid under the processed gas rules, but would eliminate a large amount of burdensome and unnecessary reporting, reviewing, and approval.

The proposed rule would only include arm's-length percent-of-proceeds contracts. As with other non-arm's-length contracts where the purchaser processes the gas, gas sold pursuant to a non-arm's-length percent-of-proceeds contract would be valued in accordance with § 206.153 of the regulations.

The MMS also believes that provisions already in place in the regulations that are applicable to the valuation of gas sold under arm's-length contracts will be a sufficient deterrent to lessees whose only objective was to circumvent the requirements and limitations of the regulations. The regulations generally provide that gas sold pursuant to an arm's-length contract will be valued for royalty purposes based on the lessee's gross proceeds. See 30 CFR 206.152(b). However, if MMS has reason to believe that revenues received under any percentage-of-proceeds contracts were unreasonably low owing to misconduct or breach of duty by the lessee to market production for the mutual benefit of the lessee and the lessor, or if gross proceeds received included a reduction in value for costs to place production in marketable condition (which are normally required to be performed at no cost to the lessor), MMS would not accept those gross proceeds for valuation purposes. See 30 CFR 206.152(b)(1)(iii) and 206.152(i) (53 FR 1274, 1275, January 15, 1988). Although MMS believes that these provisions will generally provide the necessary assurances that the valuation of this gas, as unprocessed gas, will not have results on royalties significantly different from the expected valuation under the processed gas section, including exceptions to allowance limitations, MMS is also proposing to modify § 206.152(h) to ensure that result. The MMS is proposing to modify § 206.152(h) by adding the requirement that the value for royalty purposes of the wet gas which is processed into liquids and residue gas and is disposed of under percentage-of-proceeds contracts shall never be less than a value equivalent to 100 percent of the value of the residue gas attributable to the processing of that gas.

It should be noted also for gas production from those Indian leases which require dual accounting for gas which is processed, this rule change would not affect the application of those lease provisions. See 30 CFR 206.155, 53 FR 1278 (January 15, 1988).

II. Proposed Amendments

For the reasons discussed in the above *Background* section, MMS is proposing to amend its regulations to clarify its intent and to provide for the valuation of gas under percentage-of-proceeds contracts to be under the provisions of § 206.152 rather than § 206.153.

The MMS proposes to amend § 206.152 by deleting the phrase "* * * or where the lessee's contract for the sale of gas prior to processing provides for the value to be determined based upon a percentage of the purchaser's proceeds resulting from processing the gas, * * *" from the second sentence of paragraph (a)(1) and placing that phrase at the end of the first sentence of that paragraph. The MMS proposes to further amend § 206.152 by adding the following sentence to paragraph (h):

> Also, notwithstanding any other provision of this section, where the lessee's contract for the sale of gas prior to processing provides for the value to be determined based upon a percentage of the purchaser's proceeds resulting from processing the gas, the value of production for royalty purposes shall never be less than a value equivalent to 100 percent of the value of the residue gas attributable to the processing of the lessee's gas.

The MMS proposes to amend § 206.153 by deleting the following phrases from the second sentence of paragraph (a)(1):

> * * * or where the lessee's contract for the sale of gas prior to processing provides for the value to be determined based upon a percentage of the purchaser's proceeds resulting from processing the gas (in which event these regulations will apply to determine value as if the person actually selling or disposing of the residue gas or gas plant products were the lessee of the Federal or Indian lease).

The public is invited to participate in this rulemaking action by submitting data, views, or arguments with respect to this notice. All comments must be received by 4 p.m. of the day specified in the **DATE** section at the address indicated in the **ADDRESS** section of this preamble.

III. Procedural Matters

Executive Order 12291

The Department of the Interior (Department) has determined that this document is not a major rule and does not require a regulatory analysis under Executive Order 12291. This proposed rulemaking is to clarify the Department's intent concerning the valuation of gas sold under percentage-of-proceeds contracts under the Federal and Indian gas royalty valuation regulations that were issued on January 15, 1988 (53 FR 1230).

Regulatory Flexibility Act

Because this rule clarifies existing regulations, there are no significant additional requirements or burdens placed upon small business entities as a result of implementation of this rule. Therefore, the Department has 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

The proposed amendment 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 Subject in 30 CFR Part 206

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

Date: November 14, 1988.

James E. Cason,

Deputy Assistant Secretary, Land and Minerals Management.

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

TITLE 30—MINERAL RESOURCES

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. Section 206.152 under Subpart D is amended by revising paragraph (a)(1) and paragraph (h) to read as follows:

§ 206.152 Valuation standards—unprocessed gas.

(a)(1) This section applies to the valuation of all gas that is not processed and all gas that is processed but is sold or otherwise disposed of by the lessee pursuant to an arm's-length contract prior to processing (including all gas where the lessee's arm's-length contract

for the sale of that gas prior to processing provides for the value to be determined based upon a percentage of the purchaser's proceeds resulting from processing the gas). This section also applies to processed gas which must be valued prior to processing in accordance with § 206.155. Where the lessee's contract includes a reservation of the right to process the gas and the lessee exercises that right, § 206.153 shall apply instead of this section.

* * * * *

(h) Notwithstanding any other provision of this section, under no circumstances shall the value of production for royalty purposes be less than the gross proceeds accruing to the lessee for lease production, less applicable allowances determined pursuant to this subpart. Also, notwithstanding any other provision of this section, where the lessee's contract for the sale of gas prior to processing provides for the value to be determined based upon a percentage of the purchaser's proceeds resulting from processing the gas, the value of production for royalty purposes shall never be less than a value equivalent to 100 percent of the value of the residue gas attributable to the processing of the lessee's gas.

* * * * *

3. Paragraph (a)(1) of § 206.153 under Subpart D is revised to read as follows:

§ 206.153 Valuation standards—processed gas.

(a)(1) This section applies to the valuation of all gas that is processed by the lessee and any other gas production to which this subpart applies and that is not subject to the valuation provisions of § 206.152 of this subpart. This section applies where the lessee's contract includes a reservation of the right to process the gas and the lessee exercises that right.

* * * * *

[FR Doc. 88-28883 Filed 12-14-88; 8:45 am]
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Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

Pennsylvania Abandoned Mine Land Reclamation Plan; Opening of Public Comment Period and Opportunity for Public Hearing on Proposed Plan Amendment

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

ACTION: Proposed rule.

SUMMARY: On September 7, 1988, the Commonwealth of Pennsylvania submitted to the Office of Surface Mining Reclamation and Enforcement (OSMRE) a proposed amendment to its Abandoned Mine Land Reclamation (AMLR) Plan (hereinafter referred to as the Pennsylvania Plan). The amendment pertains to changes in the procedures for reclamation project ranking and selection. This notice sets forth the times and locations that the Pennsylvania Plan and the proposed changes will be available for public inspection, the comment period during which interested persons may submit written comments, and the procedures that will be followed regarding a public hearing, if one is requested.

DATES: Written comments must be received on or before 4:00 p.m. on January 17, 1989, to ensure consideration in the rulemaking process. If requested, a public hearing on the proposed amendment will be held at 9:00 a.m. on January 9, 1989. Requests to present testimony at the hearing must be received on or before 4:00 p.m. on December 30, 1988.

ADDRESSES: Written comments and requests to testify at the hearing should be mailed to or hand delivered to Robert J. Biggi, Director, Harrisburg Field Office, at the address listed below. Copies of the Pennsylvania Plan, the proposed amendment and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive, free of charge, one copy of the proposed amendment by contacting OSMRE's Harrisburg Field Office.

Office of Surface Mining Reclamation and Enforcement, Harrisburg Field Office, Harrisburg Transportation Center, Third Floor, Suite 3C, 4th and Market Streets, Harrisburg, Pennsylvania 17101, Telephone: (717) 782-4036.

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

Pennsylvania Department of Environmental Resources (DER), Office of Environmental Energy Management, 10th Floor, Fulton Building, 3rd and Locust Streets, P.O. Box 2063, Harrisburg, Pennsylvania 17120, Telephone: (717) 787-4686.

A public hearing, if held, will be at the Penn Harris Motor Inn and Convention Center at the Camp Hill Bypass and U.S. Routes 11 and 15, Camp Hill, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Robert J. Biggi, Director, Harrisburg Field Office, (717) 782-4036.

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary of the Interior approved the Pennsylvania Plan as submitted on November 3, 1980. Information regarding the general background on the Pennsylvania Plan, including the Secretary's findings and the disposition of comments can be found in the July 30, 1982 **Federal Register** (47 FR 33081-33083).

II. Discussion of Amendment

By letter dated September 7, 1988, (OSMRE Administrative Record No. PA 717), the Pennsylvania DER submitted to OSMRE a proposed amendment to revise the AMLR plan. The proposal would change the procedures for ranking and selecting construction sites. In the current Pennsylvania Plan, potential project sites are to be ranked according to a Ranking Point System which takes into consideration criteria such as priority, real estate status, reclamation benefits, and coordination with other governmental agencies. Proposed construction sites are selected based on the numerical score of the Ranking Point System plus other criteria such as technical feasibility, effect on remaining coal reserves, program objectives, and priority. The proposal would change the current ranking and selection program by eliminating the Ranking Point System and relying on the professional judgement of DER personnel. DER personnel will evaluate proposed construction sites within projects based upon program objectives, priority, technical feasibility, and any potential remining efforts. Proposed construction sites will be placed into one of five categories which are based on priority and status in the National Abandoned Mine Lands Inventory System. Within each category, the sites will be ranked by severity. Severity will be determined through DER personnel experience and expertise.

III. Public Comment Procedures

In accordance with 30 CFR 884.14 and 30 CFR 884.15, OSMRE is now seeking comments on whether the proposed amendment to the Pennsylvania Plan satisfies the applicable State reclamation plan approval criteria under 30 CFR Part 884. If approved, the amendment would become part of the Pennsylvania Plan.

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

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **"FOR FURTHER INFORMATION CONTACT"** by 4:00 p.m. on December 30, 1988. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

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

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

Public Meeting

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

List of Subjects in 30 CFR Part 938

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

Date: December 8, 1988.

Carl C. Close,

Assistant Director, Eastern Field Operations.

[FR Doc. 88-28864 Filed 12-14-88; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3492-3; SC-012]

Approval and Promulgation of Implementation Plans South Carolina; Approval of Plan Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In this action, EPA is proposing to approve revisions to the South Carolina State Implementation Plan (SIP) which were submitted by the South Carolina Department of Health and Environmental Control (SCDHEC) on June 5, 1985. EPA is deferring action on the revisions to Regulation 62.1, Section II (Permit Requirements). The entire section has been reorganized affecting each of the parts in this section collectively including Part B (Operating Permit). EPA does not currently have regulations for evaluating operating permit programs and consequently does not recognize such operating permit programs as being part of a SIP. Since the revisions to this section affect each of the parts including Part B, EPA is deferring action on the entire Section II until such time that the operating permit program issue is decided. EPA at this time is not taking action on the revisions to Regulations 62.5, Standard No. 6 (Alternative Emission Limitation Options) since EPA is presently evaluating this regulation for agreement with the new Emissions Trading Policy (ETP) published on December 4, 1986 (51 FR 43814). The changes and additions to the regulatory and nonregulatory parts of the South Carolina plan involve: Requirements concerning prohibition of open burning; emissions from fuel-burning operations; emissions from process industries; requirements concerning air pollution episodes; control of fugitive particulate matter; requirements concerning the prevention of significant deterioration of air quality in South Carolina; and the requirements concerning source evaluation contained in Chapter 7 of the narrative portion of the SIP.

EPA is aware that certain types of open burning allowed by Regulation 62.2 (Prohibition of Open Burning) of the South Carolina Air Pollution Control Regulations is not allowed by Subtitle D (State or Regional Solid Waste Plans) of the Resource Conservation and Recovery Act (RCRA), and implementing EPA regulations at 40 CFR 257.3-7(a) (Air). However, EPA is approving the revisions to Regulation 62.2 submitted on June 5, 1985, under the Clean Air Act, since the Clean Air Act does not prohibit such burning. EPA has previously approved other parts of Regulation 62.2 under the Clean Air Act. These provisions may also conflict with Subtitle D of RCRA.

DATES: Comments must be received on or before January 17, 1989.

ADDRESSES: Written comments should be addressed to Stuart D. Perry of EPA Region IV (address below). Copies of the materials submitted by South Carolina may be examined during normal business hours at the following locations:

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

Bureau of Air Quality Control, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201.

FOR FURTHER INFORMATION CONTACT: Stuart D. Perry of the EPA Region IV Air Programs Branch at the address given above, telephone (404) 347-2864 (FTS 257-2864).

SUPPLEMENTARY INFORMATION: On June 5, 1985, the South Carolina Department of Health and Environmental Control submitted to EPA for approval revisions to the South Carolina State Implementation Plan, and EPA is today proposing to approve a number of them.

These revisions were adopted by the South Carolina Board of Health and Environmental Control on December 20, 1984, and were forwarded to the State Legislature for approval. The revisions became State-effective on May 24, 1985. This submittal contained certification that adoption of the revisions had been preceded by adequate notice and public hearing. A discussion of these revisions now follows.

- Regulation 62.1, Section I (Definitions) was amended by revising the definition of "Acid Mist." The definition of "acid mist" was revised to agree with the definition of "acid mist" found in the EPA guideline document EPA-450/2-77-019, pages 1-4, paragraph 1.2. Acid mist is defined to be "mist of droplets of sulfuric or other acids. Sulfuric acid mist includes sulfur trioxide (SO_3) and sulfuric acid vapor as well as liquid mist."
- Regulation 62.1, Section II (Permit Requirements) was amended by reorganizing and adding to the existing regulation. The regulation is split into six parts. Part A stipulates requirements for construction permits. Part B stipulates requirements for operating

permits. The remaining parts pertain to permit applications, special permit conditions, permit exemptions, and permit inspections. The entire section has been reorganized affecting each of the parts in this section collectively including Part B (Operating Permit). EPA currently has no regulations or guidance which specify the requirements for an approvable operating permit program and consequently does not recognize such operating permit programs as part of a SIP. Since the revisions affect each of the parts in this section including Part B, EPA is deferring action on the entire Section II. EPA is developing operating permit regulations as a result of the Chemical Manufacturers Association (CMA) rulemaking pursuant to the out of court settlement. If and when EPA promulgates the operating permit regulations, EPA will take action to approve or disapprove the revisions to Section II at that time.

• Regulation 62.1, Section III (Emissions Inventory) was amended to state that an emissions inventory, defined as "a study or compilation of pollutant emissions," may be required of a plant at any time in order for the State to determine the compliance status of the plant regardless of existing conditions at the plant. Previous policy was that the State could request that an emission inventory be conducted for any plant at any time in the event that significant operational changes had taken place or other conditions existed at a plant that would require a new inventory. This statement removes any ambiguity as to when the State can request an emissions inventory.

• Regulation 62.2 (Prohibition of Open Burning) was amended to further clarify when open burning is allowed. The revisions to this regulation are minor in nature and serve to strengthen the regulation. The most significant revisions are now described. (1) Paragraph A has been revised by removing the phrase "or dwellings of four families or less" which further restricts the open burning of leaves, tree branches or yard trimming. This type of burning now is only allowed for materials originating on the premises of private residences. (2) Paragraph C has been revised to specify that fires used solely for human warmth are allowable. Since such fires would of necessity be very small, EPA believes they would have a neglible impact on the National Ambient Air Quality Standards (NAAQS). (3) Paragraph G.4 has been revised to state that "No heavy oils, asphaltic materials, items containing natural or synthetic rubber, or any materials other than plant growth may be burned." Previously the paragraph provided that these materials could be burned if they did not produce smoke in excess of forty percent opacity. (4) Paragraph G.5 has been revised to state that open burning for the purpose of land clearing or right-of-way maintenance must be started between 9:00 a.m. and 3:00 p.m. Previously the paragraph stated the burning may be commenced between the hours of 9:00 a.m. and 3:00 p.m. (5) Paragraph G.6 has been revised to state that open burning for land clearing or right-of-way for maintenance will be burned in no more than two 30' x 30' piles at one time within a six-acre area. This further restricts the size of burning piles, which was formerly one pile 60' x 60' within a six-acre area. (6) Paragraph I was revised by replacing the phrase "rubbish and garbage" with "household trash" and by removing the phrase "or dwellings of four families or less." The opening provision now reads, "Open burning of household trash on the premises of and originating from private residences where services for the disposal of such materials are not available." This condition states when open burning is allowed. In addition a sentence has been added which states, "The location on such burning must be at least 500 feet away from any inhabited building."

EPA is aware that certain types of open burning allowed by Regulation 62.2 of the South Carolina Air Pollution Control Regulations is not allowed by Subtitle D of the Resource Conservation and Recovery Act, and implementing EPA regulations at 40 CFR 257.3–7(a) (Air). For instance, in Regulation 62.2 Paragraph I, South Carolina provides that open burning of household trash on the premises of and originating from private residences where services for the disposal of such materials are not available is allowed. However, in 40 CFR 257.3–7(a), open burning of residential, commercial, institutional or industrial solid waste is prohibited. Household trash fits this description. The types of open burning which are allowed is the infrequent burning of agricultural wastes in the field, silvicultural wastes for forest management purposes, land clearing debris, diseased trees, debris from emergency clean-up operations, and ordnance. EPA is proposing to approve the revisions to Regulation 62.2 submitted on June 5, 1985, pursuant to the Clean Air Act, since the Clean Air Act does not prohibit such burning.

• Regulation 62.3 (Air Pollution Expisodes) was amended by substituting the word "plant" for "facility" throughout this regulation. "Plant" is defined in Regulation 62.1, Section I as "except as otherwise provided, any stationary source or combination of stationary sources, which is located on one or more contiguous or adjacent properties and owned or operated by the same person(s) under common control." "Plant" is used consistently throughout the regulation. The same substitution was made in Regulation 62.6.

• Regulation 62.5, Standard No. 1 (Emissions From Fuel Burning Operations) was amended as follows: (1) Section IV, Part B (Reporting Requirements) was amended by changing its title to "Continuous Opacity Monitor Reporting Requirements." This part, originally one large paragraph, has also been broken into three subparts. The content of the subparts is the same as the original paragraph. One stipulation has been added by the State which will require all *quarterly* Continuous Opacity Monitor reports to be postmarked by the 30th day following the end of each calendar quarter. (2) Section V (Exemptions) was separated into two subparts of the original paragraph. (3) Section VII (Source Test Requirements) was amended to include a requirement that a source's compliance test shall be conducted while the source is operating at the expected maximum production rate or other production rate or operating conditions which would result in the highest emissions. This requirement has also been added to Regulation 62.5, Standard No. 4, Section X, Part A, and Regulation 62.5, Standard No. 5, Section I, Part E.

• Regulation 62.5, Standard No. 4 (Emissions from Process Industries) was amended to include a number of minor revisions. A sampling of the most significant changes are as follows: (1) The statement "Where Federal New Source Performance Standards apply, the more restrictive emission limits will be imposed" has been added to Standard No. 4 to clarify any ambiguity in applicability within this regulation. (2) The title of Section II is revised by adding the work "Kraft." This section is applicable to "Kraft Pulp and Paper Manufacturing Plants." (3) South Carolina has revised Section VII Part B (Non-enclosed Operations) by removing the option of a source to use oil treatment as a means to control dust generated from the premises of and the roadway controlled by the source. Section VII, Part B now states that "oil treatment is prohibited." (4) Section VIII, Part C (Case-by-Case Exceptions to Provisions of Part B) was amended to

state that case-by-case exceptions granted under this part are subject to EPA approval as State Implementation Plan revisions pursuant to section 111(d) of the Clean Air Act instead of section 110(a)(3)(A) as previously stated. This revision was necessary because total reduced sulfur (TRS) emissions, which are regulated by Section VIII, are covered in section 111(d) of the Clean Air Act instead of section 110(a)(3)(A). (5) Section VIII, Part I (Monitoring, Recordkeeping, and Reporting) was revised to agree with federal requirements. This section stated that a source shall have installed continuous emissions monitoring equipment within 18 months after promulgation of an approved TRS monitoring method by EPA or no later than the scheduled date for final compliance. A method has been promulgated by EPA, and the State is now changing this section to agree with the deadline of 18 months after promulgation, which was January 5, 1985.

• Regulation 62.5, Standard No. 6 (Alternative Emission Limitation Options) was revised to provide better clarity within the regulation. EPA is not taking action at this time on the revisions to this regulation since EPA is presently evaluating this regulation for agreement with the new Emissions Trading Policy (ETP) published on December 4, 1986 (51 FR 43814). These revisions will be acted upon in a separate notice.

• Regulation 62.5, Standard No. 7 (Prevention of Significant Deterioration) was amended to include some minor revisions to this regulation which are not considered to alter its meaning or intent. The changes to Section I (Definitions) are as follows: (1) Parts B(1)(a) and B(1)(b) are amended by adding the phrase "from the plant" to the sentences. The sentences states a "major modification" is "any physical change in or change in the method of operation of a major plant that: (a) Would cause, by itself, an emissions increase from the plant of any pollutant subject to regulation under the Federal Clean Air Act; (b) would result in a significant net emissions increase from the plant of any pollutant subject to regulation under the Federal Clean Air Act." (2) Part E, which is a definition of "plant," is revised by deleting the word "facility" from the definition. The definition of plant is "any building, structure, or installation which emits or may emit any air pollutant subject to regulation under the Federal Clean Air Act." (3) Part F, is revised by removing the word "facility" to agree with the change made in Part E. Also, so that there is no ambiguity regarding applicability, the word plant has been added to the Part F definition. Part F is the definition of "Building, structure, plant, or installation" and is defined as follows:

> "All of the pollutant-emiting activities which belong to the same industrial grouping, are located on one or more continguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same first two digit code) as described in the *Standard Industrial Classification Manual, 1972,* as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101–0066 and 003–005–00176–0, respectively.

(4) Part Q (definition of "secondary emissions") is amended by changing paragraph (2). This paragraph, which provides an example of "secondary emissions", is revised by removing the word "facility" and replacing it with the word "operation". The word "operation" best fits this statement and now reads as follows:

> Emissions from any offsite support operation which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major plant or major modification.

The minor revisions are acceptable and do not alter the intent of the regulation.

• Regulation 62.6 (Control of Fugitive Particulate Matter) was amended as follows: (1) Section I (Control of Fugitive Particulate Matter in Non-attainment Areas), paragraphs (a) and (b) were revised by replacing the word "plant" for the word "facility". (2) Section III (Control of Fugitive Particulate Matter Statewide) was amended by replacing the word "plant" for the word "facility" in paragraph (c), and paragraph (d) has been revised by adding the statement "Oil treatment is also prohibited" as a means to control fugitive particulate matter. The State is further clarifying its position on what are and are not acceptable methods for dust control. These changes do not alter the meaning or intent of this regulation.

• Chapter 7 (Source Evaluation), which is part of the narrative portion of the South Carolina State Implementation Plan, was revised to provide minor wording and/or text changes which are not considered to alter the meaning or intent of this chapter. A sampling of the most significant changes are as follows: (1) In Part A.3, the word "rated" is substituted for the word "actual" in the sentence. The sentence now reads "woodwaste (or combination woodwaste) boilers greater than $20x10^6$ BTU/hr rated input." (This sentence is part of a section which states how often a source shall be tested.) (2) Part B has been revised to provide that the owner or operator of any woodwaste boiler not equipped with a wet scrubber will be required to install, calibrate, operate, and maintain continuous emission monitoring equipment for the measurement of opacity if it has 60,000 lb/hr steam rated output and/or has been in non-compliance with any State regulation.

Proposed Action

EPA proposes to approve the regulation changes which were submitted on June 5, 1985, as detailed in this notice. EPA is also proposing to approve the revisions to Regulation 62.2 (Prohibition of Open Burning) under the Clean Air Act, since the Clean Air Act does not prohibit such open burning. EPA is deferring action on revisions to Regulation 62.1, Section II (Permit Requirements). The entire section has been reorganized affecting each of the parts in this section collectively including Part B (Operating Permit). EPA does not currently have regulations for evaluating operating permit programs and consequently does not recognize such operating permit programs as part of a SIP. Since the revisions to this section affect each of the parts including Part B, EPA is deferring action on the entire Section II until such time that the operating permit program issue is decided. Also, EPA will take action on Regulation 62.5, Standard No. 6 (Alternative Emission Limitation Options) in a separate notice.

The public is invited to participate in this rulemaking by submitting written comments on the proposal.

Under 5 U.S.C., section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 87090.)

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, Intergovernmental relations, Particulate matter.

Authority: 42 U.S.C. 7401–7642.

Dated: November 24, 1987.

Charles H. Sutfin,

Acting Deputy Regional Administrator.

Editorial Note: This document was received at the Office of the Federal Register December 12, 1988.

[FR Doc. 88-28845 Filed 12-14-88; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 61

[AD-FRL-3491-9]

National Emission Standards for Hazardous Air Pollutants: Benzene Emissions From Maleic Anhydride Plants, Ethylbenzene/Styrene Plants, Benzene Storage Vessels, Benzene Equipment Leaks, and Coke By-Product Recovery Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Reopening of the public comment period.

SUMMARY: On July 28, 1988, EPA proposed rulemaking under section 112 of the Clean Air Act for five source categories of benzene emissions. That proposal included four policy approaches for setting national emission standards for hazardous air pollutants (NESHAP), consistent with the court's decision on the vinyl chloride standard [*Natural Resources Defense Council, Inc.* v. *EPA*, 824 F.2d 1146 (1987)] (hereafter referred to as *Vinyl Chloride*). The decisions that would result from the application of each of the policy approaches to the five benzene source categories were described, and alternative standards were proposed.

In response to requests from several commenters, the period for receiving written comments on the proposed standards is being reopened to provide an opportunity for rebuttal and additional comments on information previously submitted.

DATE: Comments must be postmarked on or before January 30, 1989.

ADDRESS: Comments should be sent (in duplicate if possible) to: Central Docket Section (LE-131), Attention (to the appropriate docket numbers), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. The applicable dockets are: Docket No. OAQPS 79-3, Part I for comments on benzene health effects and general policy issues; Docket No. OAQPS 79-3, Part II for comments addressing maleic anhydride process vents; Docket No. A-79-49 for comments addressing regulation of ethylbenzene/styrene (EB/S) process vents; Docket No. A-80-14 for comments addressing the regulation of benzene storage vessels; Docket No. A-79-27 for comments addressing benzene equipment leaks; or Docket No. A-79-16 for comments addressing coke by-product recovery plants. Comments on general policy issues and benzene health effects need only be sent to Docket No. OAQPS 79-3, Part I and not to the other five dockets.

FOR FURTHER INFORMATION CONTACT: For general information or information specific to coke by-product recovery plants or benzene storage vessels, contact Ms. Gail Lacy at (919) 541-5261, Standards Development Branch, Emission Standards Division, Research Triangle Park, North Carolina 27711. For information specific to benzene equipment leaks, EB/S process vents, or maleic anhydride process vents, contact Dr. Janet Meyer at the above address, telephone number (919) 541-5254.

SUPPLEMENTARY INFORMATION: On December 8, 1987, the DC Circuit Court granted the EPA's motion for a voluntary remand of the benzene equipment leaks standard and the withdrawal of proposed standards for EB/S and maleic anhydride process vents and benzene storage vessels in light of the same court's recent *Vinyl Chloride* decision. The court ordered EPA to propose action on the above standards within 180 days, and to promulgate action within 360 days. The order was subsequently modified to extend the proposal date by 45 days, and the EPA's proposal was published on July 28, 1988 (53 FR 28946). On October 26, 1988, EPA filed a motion with the court to extend the date for final action in the benzene rulemaking to August 31, 1989. On November 23, 1988, the court granted the EPA's request. This extension will allow reopening of the public comment period and more thorough analyses of issues raised in the comments.

The comment period for the benzene NESHAP proposal (53 FR 28946, July 28, 1988) closed on October 3, 1988. The EPA received requests from two States, one city, one company, several environmental groups, and several individuals for extensions of the comment period. In addition, several commenters have informed EPA that they will be submitting additional information they believe should be considered in the rulemaking.

The over 200 comment letters that have been submitted address many aspects of the proposal. Numerous comments concern the important policy issues raised by *Vinyl Chloride* and, as a related matter, the types and levels of risk that EPA should be addressing under section 112. The EPA also received comments concerning many technical aspects of the data and assumptions underlying the EPA's risk assessment.

Based on its review of the comments received and the requests for an extension, EPA believes that this rulemaking would be significantly enhanced by reopening the comment period to provide an opportunity for rebuttal and other comments on the information previously submitted.

List of Subjects in 40 CFR Part 61

Asbestos, Benzene, Beryllium, Coke oven emissions, Hazardous substances, Incorporation by reference, Inorganic arsenic, Intergovernmental relations, Mercury, Radionuclides, Reporting and recordkeeping requirements, Vinyl chloride, Volatile hazardous air pollutants.

Date: December 9, 1988.

Don R. Clay,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 88-28843 Filed 12-14-88; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 81

[FRL-3492-1]

Designation of Areas For Air Quality Planning Purposes; Attainment Status Designations; Wisconsin

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: USEPA is proposing to approve a request from the state of Wisconsin to revise the attainment status designation for the Milwaukee carbon monoxide (CO) nonattainment area to attainment. The intent of this proposed notice is: (1) To discuss the results of USEPA's review of the State redesignation request, including the supporting data submitted by the State; and (2) to provide an opportunity for the public to comment. Under the Clean Air Act (CAA), a designation can be changed if sufficient data are available to warrant such a change.

DATE: Comments on this revision and on the proposed USEPA action must be received by January 17, 1989.

ADDRESSES: Copies of the redesignation request, technical support documents and the supporting air quality data are available at the following addresses:

U.S. Environmental Protection Agency, Region V, Air Programs Branch, 230 S. Dearborn Street, Chicago, Illinois 60604.

Wisconsin Department of Natural Resources, Bureau of Air

Management, 101 South Webster, Madison, Wisconsin 53707.

Comments on this proposed rule should be addressed to: (Please submit an original and three copies, if possible.) Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR–26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Uylaine E. McMahan, Air and Radiation Branch (5AR–26), Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6031.

SUPPLEMENTARY INFORMATION: Under section 107(d) of the CAA, the Administrator of USEPA has promulgated the national ambient air quality standards (NAAQS) attainment status for all areas within each State. See 43 FR 9062 (March 3, 1978), and 43 FR 45993 (October 5, 1978). An area designation may be revised whenever sufficient data become available to warrant a redesignation.

Milwaukee's current CO nonattainment area is defined (40 CFR 81.350) to be bounded by:

North 75th Street and West Beckett Street on the east; West Perkins Avenue on the south; North 77th Street on the West; and West Hope Avenue and Marion Street on the North.

Redesignation Criteria for CO

The NAAQS for CO is considered to be violated when CO concentrations exceed 9 parts per million (ppm), for an 8-hour average, or 35 ppm for an 1-hour average, more than once per calendar year.

Specific criteria for CO redesignation reviews are given in the following USEPA policy memoranda:

1. June 12, 1979, Memorandum from Richard G. Rhoads, to Directors of Air and Hazardous Materials Divisions, Region I–X, Subject: "Section 107 Redesignation Criteria."

2. April 21, 1983, Memorandum from Sheldon Meyers, to Directors of Air Management Divisions, Subject: "Section 107 Designation Summary Policy."

3. December 23, 1983, Memorandum from G.T. Helms, to Chiefs of Air Programs Branches, Region I–X, Subject: "Section 107 Questions and Answers."

4. May 27, 1983, Memorandum from Richard G. Rhoads, to Gary L. O'Neal, Subject: "Summary of NAAQS Interpretation."

These documents are also in the record for this rulemaking action and are available for public review at the Region V Office. The general USEPA policy relevant to this CO redesignation request is summarized as follows:

1. Generally, the most recent 2 years (eight consecutive quarters) of quality assured, representative air quality data are to be considered. Data are considered on a site-by-site basis.

2. Evidence must be provided to show that a control strategy fully approved by USEPA has been implemented. This must be done to show that the observed air quality improvement is due in part to real, enforceable emission reductions, rather than to temporary changes in emissions or meteorology.

3. Supplemental data, such as air quality modelling data, emissions data, etc., should be used to determine whether or not the monitoring data characterize the worst-case air quality in the area.

4. An entire urban core area should be designated as nonattainment, if NAAQS violations or the potential for such violations exist in the area.

5. Concentrations for CO are to be considered in units of parts per million. Eight-hour concentrations are to be running averages.

Redesignation Request

On May 4, 1987, pursuant to section 107(d)(5) of the CAA, the Wisconsin Department of Natural Resources (WDNR) requested that the Milwaukee CO nonattainment area be redesignated to attainment. This redesignation request is based on CO monitoring data from the period of March 1985 through March 1987, which covers the most recent eight quarters of available CO monitoring data. No CO standard violations have been monitored in the Milwaukee CO area.

USEPA believes that the improvement in CO air quality in the nonattainment area is primarily due to CO emissions reductions resulting from implementation of the Federal Motor Vehicle Emissions Control Program (FMVECP) and the State's vehicle Inspection and Maintenance (I/M) program in the Milwaukee area.

The current Wisconsin CO SIP approved by USEPA predicted that attainment of the CO standard would occur at an emission rate of 173,838 tons per year in the Milwaukee area. The Milwaukee CO emissions have decreased from 257,903 tons per year in 1980, to 160,605 tons per year in 1985; and the State expects the Milwaukee CO emissions to decrease to 132,720 tons per year or lower by the end of 1987.

USEPA approved Wisconsin's 1982 CO State Implementation Plan on March 9, 1984, (49 FR 8920) and Wisconsin's I/M program on February 25, 1985 (50 FR 7593). Therefore, there is a fully approved CO plan in Milwaukee which has resulted in air quality improvements.

Conclusion

The recent air quality improvement can be attributed to reductions required by the SIP, FMVECP, and I/M, which have been implemented and will continue to be implemented. USEPA believes that an adequate explanation of air quality improvement in the Milwaukee CO area has been provided to support the State's request. Therefore, USEPA is proposing to redesignate the Milwaukee CO area to attainment for CO.

All interested persons are invited to submit written comments on the proposed redesignation. Written comments received by the date specified above will be considered in determining whether USEPA will approve the redesignation.

After review of all comments submitted, the Administrator of USEPA will publish in the **Federal Register** the Agency's final action on the redesignation. Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities (See 46 FR 8709).

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

Authority: 42 U.S.C. 7401–7642.

Dated: August 17, 1987.

Valdas V. Adamkus,

Regional Administrator.

NOTE: This document was received by the Office of the Federal Register December 12, 1988.

[FR Doc. 88–28844 Filed 12–14–88; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Federal Motor Vehicle Safety Standards; Denial of Petition for Rulemaking

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

ACTION: Denial of petition for rulemaking.

SUMMARY: This notice denies a petition for rulemaking by Land Rover UK

Limited (Land Rover), asking this agency to amend Standard No. 209, *Seat Belt Assemblies*. Standard No. 209 currently requires that all seat belt assemblies that meet the dynamic testing requirements to be permanently marked or labeled with information about the vehicles and seating positions in which it is appropriate to install the dynamically tested belt assembly. Dynamically tested belt assemblies are also exempted from the width, breaking strength, elongation, and assembly performance requirements of Standard No. 209. Land Rover expressed its opinion that the labeling requirements should apply to belt assemblies that meet the dynamic testing requirements *only* if those belts do not comply with all the requirements of Standard No. 209. According to Land Rover, belts that comply with all the requirements of Standard No. 209 are appropriate for use in any vehicle, so there is no reason to require special labeling on those belts.

The agency disagrees with this assertion. As NHTSA has explained in its recent notices on dynamic testing requirements for safety belts, the protection provided in a crash to vehicle occupants depends on both the performance of the belts themselves *and* on the structural characteristics and interior design of the vehicle. Because of this fact, dynamically tested belt systems that comply with all requirements of Standard No. 209 might not be appropriate for installation in all vehicles, since some vehicles may be designed for use only with a specific design or designs of dynamically tested belt systems. Requiring information about the vehicles and seating positions for which the belt is appropriate to be labeled on the belt itself minimizes the likelihood that dynamically tested belt systems will be installed in vehicles or seating positions for which those belts are not appropriate. Since the current labeling requirements for all dynamically tested safety belts serve to minimize the risk that needless injuries will result from improper applications of dynamically tested belts in particular vehicles or seating positions, Land Rover's petition to delete those labeling requirements for some dynamically tested safety belt is denied.

FOR FURTHER INFORMATION CONTACT: Mr. Clarke Harper, Office of Vehicle Safety Standards, NRM–12, NHTSA, 400 Seventh Street, SW., Washington, DC 20590 (202–366–4916).

SUPPLEMENTARY INFORMATION: On November 23, 1987, NHTSA published a final rule requiring light trucks and light multipurpose passenger vehicles equipped with manual lap/shoulder belts at the front outboard seating positions to comply with the injury reduction criteria of Standard No. 208, *Occupant Crash Protection* (49 CFR 571.208), when tested in a 30 mile per hour barrier crash. As an adjunct to this new requirement, that rule also established a requirement that dynamically tested seat belt assemblies be labeled to show the vehicles and the seating positions in which the belt assembly can be installed. These labeling requirements for dynamically tested belt assemblies for light trucks and light multipurpose passenger vehicles were identical to those that had already been adopted for dynamically tested belt assemblies for passenger cars. In adopting the requirement for dynamically tested passenger car belt assemblies, NHTSA explained the reason for the requirement as follows:

> NHTSA believes that care must be taken to distinguish dynamically tested belt systems from other systems, since misapplication of a belt in a vehicle designed for use with a specific dynamically tested belt could pose a risk of injury. If there is a label on the belt itself, a person making the installation will be aware that the belt should be installed only in certain vehicles. 51 FR 9800, at 9804; March 21, 1986.

Land Rover asked NHTSA for an interpretation of the belt labeling requirements for dynamically tested belt assemblies for light trucks and light multipurpose passenger vehicles in a letter dated April 19, 1988. In this letter, Land Rover noted that S4.6(b) of Standard No. 209 provides that: "A seat belt assembly that meets [the dynamic testing requirements] of Standard No. 208 shall be permanently and legibly marked or labeled with the following statement: This dynamically-tested seat belt assembly is for use only in [insert specific seating position(s), e.g., "front right"] in [insert specific vehicle make(s) and model(s)]." Land Rover suggested that this labeling requirement was adopted primarily because of the provision in section S4.6.3 of Standard No. 208 that dynamically tested manual belt assemblies do "not have to meet the requirements of S4.2(a)–(c) and S4.4 of Standard No. 209."

Land Rover suggested that NHTSA intended to require dynamically tested belts to be labeled in accordance with S4.6(b) of Standard No. 209 *only* if the belts do not comply with *all* of the requirements of Standard No. 209. In these situations, Land Rover acknowledged that the labeling requirements help ensure that the belts will not be installed into inappropriate vehicles. However, Land Rover stated its belief that the labeling requirements in S4.6(b) of Standard No. 209 do *not* apply to dynamically-tested manual belts that also comply with all of the requirements of Standard No. 209. According to Land Rover, there is no reason to require labeling of belt assemblies that comply with all requirements of Standard No. 209, just because those belt assemblies also comply with the dynamic testing requirements when installed in a particular vehicle.

NHTSA responded to Land Rover's request for an interpretation of these requirements in an October 14, 1988 letter. In this letter, the agency explained that section S4.6(b) of Standard No. 209 provides that seat belt assemblies that *meet* the dynamic testing requirements in Standard No. 208 shall be marked or labeled with certain information. This section contains *no* exception for seat belt assemblies that meet the dynamic testing requirements *and* satisfy the performance requirements of Standard No. 209. The reason for not including any such exception was that the agency intended that *all* dynamically tested manual belts be marked or labeled with the information specified in S4.6(b).

The October 14, 1988 letter to Land Rover also explained in detail why the agency intended that *all* dynamically tested manual belts be marked or labeled with this information. The letter explained that NHTSA agrees with Land Rover's suggestion that a belt assembly that complies with all requirements of Standard No. 209 will provide very substantial protection to an occupant of any vehicle in a crash. However, the letter noted that the protection provided by safety belts to occupants of a particular vehicle depends on *more* than the performance of the belts themselves; it also depends on the structural characteristics and interior design of the vehicle. The dynamic testing requirements measure the performance of the safety belt/vehicle combination, while Standard No. 209 focuses on measuring the performance of the safety belts alone. For a more extensive discussion of this issue, *see* 52 FR 44899–44900; November 23, 1987.

The October 14, 1988 letter to Land Rover explained the need for labeling of all dynamically tested belts for light trucks and multipurpose passenger vehicles as follows. Even if Land Rover were to install dynamically tested belt systems that comply with all requirements of Standard No. 209 in all of its vehicles, those belt systems might not be appropriate for use in other light multipurpose passenger vehicles. This is particularly true if other light multipurpose passenger vehicles are

designed for use only with specific dynamically tested belt systems different from the Land Rover belt system. The chances of the Land Rover belt system being installed in a vehicle for which it would not be appropriate are minimized if there is a label on the belt system indicating that it should be installed only in specific seating positions in Land Rover models and any other vehicles for which the belt system is appropriate. Accordingly, the October 14, 1988 letter to Land Rover concluded that the belt labeling requirements in S4.6(b) of Standard No. 209 apply to *all* dynamically tested belts for use in light trucks and multipurpose passenger vehicles, regardless of whether those dynamically tested belts comply with all other requirements of Standard No. 209.

Land Rover requested that NHTSA treat its request for an interpretation as a petition for rulemaking if, as NHTSA did, the agency concluded that Land Rover's suggested interpretation was incorrect. NHTSA has conducted a technical review of the petition, in accordance with 49 CFR 552.6. After that review, the agency has concluded that the reasons set forth in past preambles are still valid and establish a safety need for requiring labeling of *all* dynamically tested manual belts. Because of this safety need, NHTSA has concluded that there is no reasonable possibility that a rule amending the belt labeling requirements in accordance with Land Rover's petition would be issued at the conclusion of the requested rulemaking proceeding. Therefore, Land Rover's petition is denied.

Authority: 15 U.S.C. 1392, 1407, and 1410a; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.

Issued on December 12, 1988.

Barry Felrice,

Associate Administrator for Rulemaking.

FR Doc. 88-28858 Filed 12-14-88 8:45 am]

BILLING CODE 4910-59-M

Notices

Federal Register
Vol. 53, No. 241
Thursday, December 15, 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.

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Bankruptcy Rules

AGENCY: Judicial Conference of the United States.

SUBAGENCY: Advisory Committee on Bankruptcy Rules.

ACTION: Notice of open meeting.

SUMMARY: There will be a two-day meeting of the Judicial Conference Advisory Commmittee on Bankruptcy Rules to consider proposed amendments to the Federal Bankruptcy Rules under the provisions of Chapter 131 of Title 28, United States Code. The meeting will be open to public observation.

DATE: The meeting will be held on January 19 and 20, 1989, beginning at 9:00 a.m. and ending at approximately 5:00 p.m. each day.

ADDRESS: The meeting will be held in the robing room adjacent to the ceremonial courtroom in the United States Courthouse, 450 Golden Gate Avenue, San Francisco, California.

FOR FURTHER INFORMATION CONTACT: James E. Macklin, Jr., Secretary, Committee on Rules of Practice and Procedure, Administrative Office of the United States Courts, Washington, DC 20544, Telephone: (202) 633–6021.

Dated: December 9, 1988.

James E. Macklin, Jr.,

Secretary, Committee on Rules of Practice and Procedure.

[FR Doc. 88–28850 Filed 12–14–88; 8:45 am]

BILLING CODE 2210–01–M

Meeting of the Judicial Conference Committee on Rules of Practice And Procedure

AGENCY: Judicial Conference of the United States.

SUBAGENCY: Committee on Rules of Practice and Procedure.

ACTION: Notice of open meeting.

SUMMARY: There will be a two-day meeting of the Judicial Conference Committee on Rules of Practice and Procedure to consider proposed amendments to the Federal Rules of Appellate, Civil, Criminal and Bankruptcy Procedure and the Federal Rules of Evidence under the provisions of Chapter 131 of Title 28, United States Code. The meeting will be open to public observation.

DATE: The meeting will be held on January 19 and 20, 1989, beginning at 9:00 a.m. and ending at approximately 5:00 p.m. each day.

ADDRESS: The meeting will be held in the ceremonial courtroom in the United States Courthouse, 450 Golden Gate Avenue, San Francisco, California.

FOR FURTHER INFORMATION CONTACT: James E. Macklin, Jr., Secretary, Committee on Rules of Practice and Procedure, Administrative Office of the United States Courts, Washington, DC 20544, Telephone: (202) 633–6021.

Dated: December 9, 1988.

James E. Macklin, Jr.,

Secretary, Committee on Rules of Practice and Procedure.

[FR Doc. 88–28851 Filed 12–14–88; 8:45 am]

BILLING CODE 2210–01–M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

December 9, 1988.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) title of the information collection; (3) form number(s), if applicable; (4) how often the information is requested; (5) who will be required or asked to report; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to provide the information; (8) an indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250, (202) 447–2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension

• *Agricultural Marketing Service*

Regulating the Handling of Spearmint Oil Produced in the Far West, Marketing Order No. 985
Committee report forms
Recordkeeping; On occasion, Annually
Business or other for-profit; 2,425 responses; 249 hours; not applicable under section 3504(h)
Virginia M. Olson, (202) 447–5057

• *Agricultural Marketing Service*

Reporting requirements under the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Related Products
FV–159, FV–356, FV–468
On occasion
State or local governments; Businesses or other for-profit; 13,062 responses; 670 hours; not applicable under section 3504(h)
Joe A. Fly, (202) 447–4693.

• *Human Nutrition Information Service*

Continuing Survey of Food Intakes by Individuals (CSFII) 1989–90
On occasion
Individuals or households; 8,750 responses; 8,750 hours; not applicable under section 3504(h)
Robert L. Rizek, (301) 436–8457

Reinstatement

• *Office of Finance and Management*

Debt Collection

On occasion
Individuals or households; Farms, Businesses or other for-profit; Federal agencies or employees, non-profit institutions, Small businesses or organizations; 2,000 responses; 2,000 hours; not applicable under section 3504(h)
Reynaldo Gonzalez, (202) 382–1168

Revision

• *Agricultural Marketing Service*

Potatoes Grown in Idaho and Malheur County, Oregon, Marketing Order No. 945
Recordkeeping; On occasion
Farms; Businesses or other for-profit; 53,499 responses; 571 hours; not applicable under section 3504(h)
Virginia M. Olson, (202) 447–5057

Jane A. Benoit,

Departmental Clearance Officer.

[FR Doc. 88–28835; Filed 12–14–88; 8:45 am]

BILLING CODE 3410-01-M

Forest Service

Forest Management Activities Associated With the Implementation of the Forest Plan in the Mill and Emigrant Drainages of the Absaroka Mountains; Livingston Ranger District, Park County, MT

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an Environmental Impact Statement to analyze and disclose the environmental impacts of forest management activities associated with the implementation of the Gallatin National Forest Plan, within the Mill and Emigrant drainages of the Absaroka Mountains, Livingston Ranger District, Park County, Montana. The agency invites written comments and suggestions on the proposed management activities. In addition, the agency gives notice of the full environmental analysis and decision making process that will occur on the proposal so that interested and affected parties are aware how they may participate and contribute to the final decision.

DATE: Comments concerning the proposed management activities must be received by January 6, 1989.

ADDRESS: Submit written comments and suggestions on the proposed management activities to Gordon Schofield, Acting District Ranger, Livingston Ranger District, Gallatin National Forest, Route 62, Box 3197, Livingston, Montana 59047.

FOR FURTHER INFORMATION CONTACT: Direct comments or questions about the proposed activities and the Environmental Impact Statement should be made to Rita E. Beard, Livingston Ranger District, Gallatin National Forest, Route 62, Box 3197, Livingston, Montana 59047.

SUPPLEMENTARY INFORMATION: The area under consideration covers approximately 110,000 acres. It can be described as including Mill and Emigrant Creeks, bounded by the hydrologic divides of these drainages and the forest boundary. Approximately 61,800 acres are within the Absaroka-Beartooth Wilderness. An additional 26,000 acres were identified as roadless by the Rare II process, and are within the North Absorka Roadless Area, 1–371, and Chico Peak Roadless Area, 1–547. There are approximately 2,600 acres of private land within the analysis area. The approximate legal description is as follows:

Sections 25, 26, 35, 36 Township 5 south (T5S), Range 10 east (R10E) Montana Prime Meridian (MPM)
Sections 28, 29, 30, 31, 32, 33, 34 T5S, R11E MPM
Sections 12, 13, 14, 23, 24, 25, 26, 35, 36 T6S, R8E MPM
Sections 1, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 28, 29, 30, 31, 32, 33, 34, 35, 36 T6S, R9E MPM
All Sections in T6S, R10E MPM
Sections 4, 5, 6, 7, 8, 9, 17, 18, 19, 20, 28, 29, 30, 31, 32, 33 T6S, R11E MPM
Sections 1, 2, 12 T7S, R8E MPM
Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, 36 T7S, R9E MPM
Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28, 29, 30, 31, 32, 33 T7S, R10E MPM
Sections 4, 5, 6, 7, 8, 9, 17, 18, 19 T7S, R11E MPM
Sections 1, 2, 3, 4, 5, 12 T8S, R9E MPM
Sections 4, 5, 6, 7, 18 T8S, R10E MPM.

The USDA Forest Service proposes to implement activities prescribed by the Gallatin National Forest Plan, approved September 23, 1987.

The proposed activities include, wildlife habitat improvement, noxious weed control, livestock grazing, trail construction and reconstruction and timber management. Timber management activities could include timber sales, firewood gathering, road construction, insect and disease control, reforestation and thinning. Approximately 8,870 acres (8.1 percent of the analysis area), have been identified as suitable and available for timber management by the Gallatin National Forest Plan.

The Forest Service will consider a range of alternatives from deferring management activities for the planning period, considering activities other than timber sales and road construction, and implementing all activities prescribed by the Forest Plan during this planning period. The EIS will analyze the cumulative effects of past, current and projected activities on both private and National Forest lands for each alternative. It will also analyze the effects of the recent wildfires and snow-damaged timber on the proposed management activities.

Public participation is an important part of the analysis, commencing with the scoping process (40 CFR 1501.7). The Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. This input will be used in preparation of the draft environmental impact statement (DEIS). The scoping process includes:

1. Identifying potential issues.
2. Indentifying issues to be analyzed in depth.
3. Eliminating insignificant issues or those which have been covered by a relevant previous environmental analysis, such as the Gallatin National Forest Plan.
4. Identifying alternatives.
5. Identifying potential environmental effects of any proposed action and alternatives (i.e., direct, indirect, and cumulative effects, and connected actions).
6. Determining potential cooperating agencies and task assignments.

Scoping has already been initiated through individual and public meetings beginning in the spring of 1986. Several issues have been identified, including: Concern over additional timber harvest in the area, road construction, visual quality, maintaining security for big game species, impact of forest management activities on moose, maintaining a diversity of age and size classes within timber lands, supplying local economies and mills with timber and management of down and damaged timber caused by snow storms in the spring of 1988. Public participation and comment is welcomed throughout the process. Other Federal and State agencies such as, the Montana Department of Fish, Wildlife and Parks will be invited to cooperate in development of the issues and alternatives and their input will be solicited as the analysis continues.

The draft Environmental Impact Statement (DEIS) is expected to be filed with the Environmental Protection Agency (EPA) and available for public

review in January of 1989. At that time, EPA will publish a notice of availability of the DEIS in the **Federal Register.**

The comment period on the draft environmental impact statement will be 45 days from the date of the EPA's notice of availability appears in the **Federal Register.** It is very important that those interested in management of the Mill/Emigrant area participate at that time. To be most helpful, comments on the DEIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see the Council on Environmental Quality regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3). In addition Federal court decisions have established that reviewers of draft EIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions, *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978) and that environmental objections that could have been raised at that draft stage may be waived if not raised until after completion of the final Environmental Impact Statement, *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

After the comment period ends on the DEIS, the comments will be analyzed and considered by the Forest Service in preparing the final Environmental Impact Statement. The final EIS is scheduled to be completed by March 1989. In the final EIS the Forest Service is required to respond to the comments received (40 CFR 1503.4). The responsible official will consider the comments, responses, environmental consequences discussed in the EIS, and applicable laws, regulations, and policies in making a decision regarding this proposal. The responsible official will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to review under applicable Forest Service regulations.

Gordon Schofield, Acting District Ranger, Livingston Ranger District, Gallatin National Forest is the responsible official.

Date: December 5, 1988.

Gordon Schofield,

Acting District Ranger, Livingston Ranger District, Gallatin National Forest.

[FR Doc. 88-28813 Filed 12-14-88; 8:45 am]

BILLING CODE 3410-11-M

Duncan And Sunflower Timber Sales; Tahoe National Forest, Placer County, CA; Intent To Prepare an Environmental Impact Statement; Correction

This document corrects the notice of intent to prepare an environmental impact statement that appeared at page 48569 in the **Federal Register** of Thursday, December 1, 1988. The action is necessary to correct a typographical error. That notice of intent incorrectly states that comments regarding this project should be received by January 15, 1988. That date is corrected as follows: January 15, 1989.

Date: December 9, 1988.

William P. Knispek,

Timber Management Officer.

[FR Doc. 88-28825; Filed 12-14-88; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Finding of No Significant Impact; Yocona-Spybuck Watershed, AR

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Council on Environmental Quality Guidelines (40 CFR Part 1500), and the Soil Conservation Service Guidelines (7 CFR Part 650), the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Yocona-Spybuck Watershed, St. Francis and Lee Counties, Arkansas.

FOR FURTHER INFORMATION CONTACT: Gene Sullivan, State Conservationist, Soil Conservation Service, 5404 Federal Office Building, 700 West Capitol Avenue, Little Rock, Arkansas 72201, Telephone: (501) 378-5445.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Gene Sullivan, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for flood prevention and watershed protection. Flood prevention measures include channel work on 6.83 miles of existing ditch. Accelerated technical and financial assistance for installing land treatment measures to control erosion will be provided. Land treatment measures include the no-tillage method of crop production, water disposal systems, and land use conversion.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Gene Sullivan.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Date: December 2, 1988.

Ronnie D. Murphy,

Acting State Conservationist.

[FR Doc. 88-28811 Filed 12-14-88; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

International Trade Administration

Short-Supply Review on Certain Steel Wire Strand; Request for Comments

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice and request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for a short-supply determination under Article 8 of the U.S.-Brazil Arrangement Concerning Trade in Certain Steel Products, with respect to certain steel wire strand used for prestressing concrete.

DATE: Comments must be submitted on or before December 27, 1988.

ADDRESS: Send all comments to Nicholas C. Tolerico, Director, Office of

Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue NW., Washington, DC 20230, (202) 377–0159.

SUPPLEMENTARY INFORMATION: Article 8 of the U.S.-Brazil Arrangement Concerning Trade in Certain Steel Products provides that if the U.S.:

* * * determines that because of abnormal supply or demand factors, the United States steel industry will be unable to meet demand in the USA for a particular product (including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors) an additional tonnage shall be allowed for such product or products * * *.

We have received a short-supply request for uncoated seven wire steel strand for prestressing concrete, meeting American Society of Testing Materials (ASTM) specification A 416, stress-relieved, Grade 270, measuring 0.5 inch in nominal diameter.

Any party interested in commenting on this request should send written comments as soon as possible, and no later than December 27, 1988. Comments should focus on the economic factors involved in granting or denying this request.

Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly so label the business proprietary portion of the submission and also provide a non-proprietary submission which can be placed in the public file. The public file will be maintained in the Central Records Unit, Room B–099, Import Administration, U.S. Department of Commerce, at the above address.

Jan W. Mares,

Assistant Secretary for Import Administration.

December 5, 1988.

[FR Doc. 88–28882 Filed 12–14–88; 8:45 am]

BILLING CODE 3510–DS–M

National Institute of Standard and Technology

[Docket No. 81015–8215]

Proposed Revision of Federal Information Processing Standard

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: The purpose of this notice is to announce the proposed revision of Federal Information Processing Standard (FIPS PUB) 21–2, COBOL.

SUMMARY: A revision to Federal Information Processing Standards Publication, FIPS PUB 21–2, COBOL, which adopts ANSI X3.23–1985, is being proposed for Federal use. This revision will adopt the forthcoming addendum (X3.23A–198x) to American National Standard for COBOL which adds an Intrinsic Function facility to the language. The proposed addendum is upwardly compatible with the standard except for the reserved word FUNCTION.

Prior to the submission of this proposed revision to FIPS PUB 21–2 to the Secretary of Commerce for review and approval, it is essential to assure that consideration is given to the needs and views of manufacturers, the public, and State and local governments. The purpose of this notice is to solicit such views.

This proposed revision contains two sections: (1) An announcement section, which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a specifications section which deals with the technical requirements of the standard. Only the announcement section of the standard is provided in this notice. Interested parties may obtain a copy of the proposed addendum to ANSI X3.23–1985 from the Standards Processing Coordinator (ADP), Technology Building, Room B–64, National Institute of Standards and Technology, Gaithersburg, MD 20899, telephone (301) 975–2816.

DATE: Comments on this proposed revision must be received on or before March 15, 1989.

ADDRESS: Written comments concerning the adoption of this proposed revision as FIPS 21–3 should be sent to: National Institute of Standards and Technology, ATTN: Proposed Revision of FIPS 21–2, Technology Building, Room B–154, Gaithersburg, MD 20899.

Written comments received in response to this notice will be made part of the public record and will be made available for inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Ms. Mabel Vickers, National Institute of Standards and Technology, Gaithersburg, MD 20899, telephone (301) 975–3277.

Date: December 9, 1988.

Raymond G. Kammer,

Acting Director.

FEDERAL INFORMATION PROCESSING STANDARDS PUBLICATION 21–3

Announcing the Standard for COBOL [proposed]

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Institute of Standards and Technology after approval by the Secretary of Commerce pursuant to section 111(d) of the Federal Property and Administrative Services Act of 1949 as amended by the Computer Security Act of 1987, Pub. L. 100–235.

1. *Name of standard.* COBOL (FIPS PUB 21–3).

2. *Category of standard.* Software Standard, Programming Language.

3. *Explanation.* This publication announces the adoption of American National Standard Programming Language, COBOL, ANSI X3.23–1985 and X3.23A–198x, as amplified herein, as a Federal Information Processing Standard (FIPS). This revision supersedes FIPS PUB 21–2 and reflects the addition of an Intrinsic Function facility to the COBOL specifications. The American National Standards define the elements of the COBOL programming language and the rules for their use. The purpose of the standards is to promote portability of COBOL programs for use on a variety of data processing systems. The standards are used by implementors as the reference authority in developing processors and by users who need to know the precise syntactic and semantic rules of the standard language.

4. *Approving authority.* Secretary of Commerce.

5. *Maintenance agency.* Department of Commerce, National Institute of Standards and Technology (NIST).

6. *Cross index.* a. American National Standard Programming Language COBOL, ANSI X3.23–1985, ISO 1989–1985.

b. Addendum X3.23A–198x to American National Standard Programming Language COBOL, ANSI X3.23–1985.

7. *Related documents.*[1] a. Federal Information Resources Management Regulation 201–8.1, Federal ADP and Telecommunication Standards.

b. Federal Information Processing Standards Publication 29, Interpretation

[1] Refers to most recent revision of FIPS PUBS.

Procedures for Federal Information Processing Standards for Software.

c. NBS Special Publication 500–117, Selection and Use of General-Purpose Programming Languages.

8. *Objectives.* Federal standards for high level programming languages permit Federal departments and agencies to exercise more effective control over the production, management, and use of the Government's information resources. The primary objectives of Federal programming language standards are:

—To encourage more effective utilization and management of programmers by insuring that programming skills acquired on one job are transportable to other jobs, thereby reducing the cost of programmer retraining.

—To reduce the cost of program development by achieving the increased programmer productivity that is inherent in the use of high level programming languages;

—To reduce the overall software costs by making it easier and less expensive to maintain programs and to transfer programs among different computer systems, including replacement systems;

—To protect the existing software assets of the Federal Government by insuring to the maximal feasible extent that Federal programming language standards are technically sound and that subsequent revisions are compatible with the installed base.

9. *Applicability.* a. Federal standards for high level programming languages should be used for computer applications and programs that are either developed or acquired for government use. FIPS COBOL is one of the high level programming language standards provided for use by all Federal departments and agencies. FIPS COBOL is especially suited for applications that emphasize the manipulation of characters, records, files, and input/output (in contrast to those primarily concerned with scientific and numeric computations).

b. The use of FIPS high level programming languages is strongly recommended when one or more of the following situations exist:

—It is anticipated that the life of the program will be longer than the life of the presently utilized equipment.

—The application or program is under constant review for updating of the specifications, and changes may result frequently.

—The application is being designed and programmed centrally for a decentralized system that employs computers of different makes, models and configurations.

—The program will or might be run on equipment other than for which the program is initially written.

—The program is to be understood and maintained by programmers other than the original ones.

—The advantages of improved program design, debugging, documentation and intelligibility can be obtained through the use of this high level language regardless of interchange potential.

—The program is or is likely to be used by organizations outside the Federal Government (i.e., State and local governments, and others).

c. Nonstandard language features should be used only when the needed operation or function cannot reasonably be implemented with the standard features alone. Although nonstandard language features can be very useful, it should be recognized that their use may make the interchange of programs and future conversion to a revised standard or replacement processor more difficult and costly.

d. It is recognized that programmatic requirements may be more economically and efficiently satisfied through the use of report generation, database management, or text processing languages. The use of any facility should be considered in the context of system life, system cost, data integrity, and the potential for data sharing.

e. Programmatic requirements may be also more economically and efficiently satisfied by the use of automatic program generators. However, if the final output of a program generator is a COBOL source program, then the resulting program should conform to the conditions and specifications of FIPS COBOL.

f. When it is determined that a programming language that has been adopted as a FIPS is to be used for an application or program, a processor conforming to the FIPS programming language shall be used, if available. It is not intended that existing programs be rewritten solely for the purpose of conforming to a FIPS programming language. If a program is to be part of an existing application written in a programming language not conforming to a FIPS programming language, the language processor used for the existing application may be used for the new program.

10. *Specifications.* FIPS COBOL specifications are contained in American National Standard Programming Language COBOL, ANSI X3.23–1985 and ANSI X3.23A–198x.

ANSI X3.23–1985 and ANSI X3.23A–198x specify the form of a program written in COBOL, formats for data, and rules for program and data interpretation.

The standards do not specify limits on the size of programs, minimum system requirements, the means of supervisory control of programs, or the means of transforming programs internally for processing.

In addition, the following requirements apply:

a. For purposes of FIPS COBOL, the modules defined in ANSI X3.23–1985 and ANSI X3.23A–198x are combined into three subsets and four optional modules. The three subsets are identified as Minimum, Intermediate, and High. The four optional modules are Report Writer, Communications, Debug, and Segmentation. These four optional modules may be associated with any of the subsets.

The high subset is composed of all language elements of the highest level of all required modules. The intermediate subset is composed of all language elements of level 1 of all required modules. The minimum subset is composed of all language elements of level 1 of the Nucleus, Sequential I–O, and Inter-Program Communication modules.

The following table reflects the composition of the required subsets and the relationship of the subsets and the optional modules. The numbers in the table refer to the level within a module as designated in ANSI X3.23–1985 and ANSI X3.23A–198x, and a dash denotes the corresponding module is omitted or may be omitted.

COBOL SUBSETS

Modules	Minimum	Intermediate	High
Required:			
Nucleus	1	1	2
Sequential I–O	1	1	2
Relative I–O	-	1	2

COBOL SUBSETS—Continued

Modules	Minimum	Intermediate	High
Indexed I-O	–	1	2
Inter-Program Communication	1	1	2
Sort-Merge	–	1	1
Source Text Manipulation	–	1	2
Intrinsic Function	–	–	1
Optional:			
Report Writer	–, or 1	–, or 1	–, or 1
Communication	–, 1, or 2	–, 1, or 2	–, 1, or 2
Debug	–, 1, or 2	–, 1, or 2	–, 1, or 2
Segmentation	–, 1, or 2,	–, 1, or 2	–, 1 or 2

b. A facility must be available in the processor for the user to optionally specify monitoring of the source program at compile time. The monitoring may be specified for a FIPS COBOL subset, for any of the optional modules, for all of the obsolete language elements included in the processor, or for a combination of a FIPS COBOL subset, optional modules, and all obsolete elements. The monitoring may be specified for any FIPS COBOL subset at or below the highest subset for which the processor is implemented and for a level of an optional module at or below the level of the optional module for which the processor is implemented. The monitoring is an analysis of the syntax used in the source program against the syntax included in the user selected FIPS COBOL subset and optional modules. Any syntax used in the source program that does not conform to that included in the user selected FIPS COBOL subset and optional modules will be diagnosed and identified to the user through a message on the source program listing. Any syntax for an obsolete language element included in the processor and used in the source program will also be diagnosed and identified through a message on the source program listing. The determination of the need to flag any given source program syntax in accordance with these requirements cannot be logically resolved until the syntactic correctness of the source program has been established. The message provided will identify:

—The clause, statement or header that directly contains the nonconforming or obsolete syntax. (For the purpose of this requirement the definitions of clause, statement and header contained in American National Standard Programming Language COBOL, ANSI X3.23–1985, Section III, Glossary, and the definition of syntax contained in American National Dictionary for Information Processing Systems, X3/TR–1–82, apply.)

—The source program line and an indication of the beginning location within the line of the clause, statement or header which contains the nonconforming of obsolete syntax.

—The syntax as "nonconforming standard" if the nonconforming syntax is included in the processor but is not within the user selected FIPS COBOL subset or optional modules except if monitoring is selected for the obsolete category then obsolete language elements are only flagged as "obsolete".

—The syntax as "nonconforming nonstandard" if the nonconforming syntax is a nonstandard extension included in the processor.

—The syntax as "obsolete" if the syntax identified is in the obsolete category within a FIPS COBOL subset or optional module included in the processor.

11. *Implementation.* The implementation of FIPS COBOL involves three areas of consideration: Acquisition of COBOL processors, interpretation of FIPS COBOL, and validation of COBOL processors.

11.1 *Acquisition of COBOL Processors.* This publication is effective June 15, 1989. COBOL processsors acquired for Federal use after this date should implement at least one of the required subsets of FIPS COBOL. If the functionality of one or more of the optional modules meets programmatic requirements, then those optional modules also should be acquired. Each optional module that is needed to meet programmatic requirements should be explicitly cited as a requirement in the order for the processor. Conformance to FIPS COBOL should be considered whether COBOL processors are developed internally, acquired as part of an ADP system procurement, acquired by separate procurement, used under an ADP leasing arrangement, or specified for use in contracts for programming services.

A transition period provides time for industry to produce COBOL processors conforming to the standard. The transition period begins on the effective date and continues for one (1) year thereafter. The following apply during the transition period:

a. The provisions of FIBS PUB 21–2 apply to processors ordered before the effective date but delivered subsequent to the effective date.

b. The provisions of this publication apply to orders placed after the effective date; however, a processor conforming to FIPS PUB 21–3, if available, may be acquired for use prior to the effective date. If a conforming processor is not available, a processor conforming to FIPS PUB 21–2 may be acquired for interim use during the transition period.

11.2 *Interpretation of FIPS COBOL.* NIST provides for the resolution of questions regarding FIPS COBOL specifications and requirements, and issues official interpretations as needed. All questions about the interpretation of FIPS COBOL should be addressed to: National Institute of Standards and Technology, ATTN: COBOL Interpretation, Technology Building, Room B–154, Gaithersburg, MD 20899.

11.3 *Validation of COBOL Processors.* NIST provides a service for the purpose of validating the conformance to this standard of processors offered for Federal procurement. The validation system reports the nature of any deviations that are detected. This service is offered on a reimbursable basis. Further information about the validation service can be obtained from the Software Standards Validation Group, COBOL Validation, National Institute of Standards and Technology, Gaithersburg, MD 20899 (301) 975–3247.

12. *Waivers.* Under certain exceptional circumstances, the heads of Federal departments and agencies may approve waivers to Federal Information Processing Standards (FIPS). The head of such agency may redelegate such authority only to a senior official designated pursuant to section 3506(b) of Title 44, United States Code.

Waivers shall be granted only when:

a. Compliance with a standard would adversely affect the accomplishment of

the mission of an operator of a Federal computer system, or

b. Cause a major adverse financial impact on the operator which is not offset by Government-wide savings.

Agency heads may act upon a written waiver request containing the information detailed above. Agency heads may also act without a written waiver request when they determine that conditions for meeting the standard cannot be met. Agency heads may approve waivers only by a written decision which explains the basis upon which the agency head made the required finding(s). A copy of each such decision, with procurement sensitive or classified portions clearly identified, shall be sent to: National Institute of Standards and Technology, ATTN: FIPS Waiver Decisions, Technology Building, Room B–154, Gaithersburg, MD 20899. In addition notice of each waiver granted and each delegation of authority to approve waivers shall be sent promptly to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate and shall be published promptly in the **Federal Register**.

When the determination on a waiver applies to the procurement of equipment and/or services, a notice of the waiver determination must be published in the *Commerce Business Daily* as a part of the notice of solicitation for offers of an acquisition or, if the waiver determination is made after that notice is published, by amendment to such notice.

A copy of the waiver, any supporting documents, the document approving the waiver and any supporting and accompanying documents, with such eletions as the agency is authorized and decides to make under 5 U.S.C. 552(b), shall be part of the procurement documentation and retained by the agency.

13. *Where to Obtain Copies.* Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. (Sale of the included specifications document is by arrangement with the American National Standards Institute.) When ordering, refer to Federal Information Processing Standards Publication 21–3 (FIPS PUB 21–3), and title. Payment may be made by check, money order, or deposit account.

[FR Doc. 88–28837 Filed 12–14–88; 8:45 am]

BILLING CODE 3510-CN-M

National Oceanic and Atmospheric Administration

Preliminary Determination To Approve Amendment of the Alaska Coastal Management Program

AGENCY: National Oceanic and Atmospheric Administration, National Ocean Service, Office of Ocean and Coastal Resource Management.

ACTION: Notice of preliminary approval of amendment.

Location: Aleutians East Coastal Resource Service Area, Alaska.

SUMMARY: The Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service, National Oceanic and Atmospheric Administration (NOAA) received a request from the Alaska Coastal Management Program (ACMP) to incorporate the Aleutians East Coastal Resource Service Area Coastal Management Program (AECMP). The State's request was made pursuant to section 306(g) of the Coastal Zone Management Act of 1972, as amended (CZMA), 16 U.S.C. 1455 (g) and the regulations implementing the CZMA at 15 CFR 923.81. The AECMP creates a new coastal boundary for the ACMP in the region and establishes goals and policies for activities taking place in the Aleutians East Coastal Resource Service Area. The AECMP follows the guidelines and standards for local program development set in the ACMP and will be administered by the Coastal Resource Service Area and the State.

The Director, OCRM, has reviewed the amendment request and has made a preliminary determination that the ACMP will still constitute an approvable program and that the procedural requirements of section 306(c) of the CZMA have been met.

The Director also determined that approval of the proposed change does not constitute a major Federal action having a significant effect on the environment. Therefore, approval of the proposed amendment does not require an environmental impact statement pursuant to the National Environmental Policy Act of 1969, as amended. Copies of the Finding of No Significant Impact (FONSI), including the supporting Environmental Assessment (EA) were distributed for public comment in June 1987 **Federal Register** Vol. 52, No. 118, p. 2331).

A Preliminary Determination to approve the AECMP was included with the EA in 1987; however, concerns over the AECMP boundary and Special Use Area designations were raised during the public comment period and the AECMP was not approved. The AECMP was resubmitted in October, 1988 based upon additional information and further justification, rather than major changes to either the enforceable policies or the coastal zone boundary. This new information addresses the concerns raised during public comment on the EA and, based on this latest submittal, the Director, OCRM, has issued a Preliminary Determination to approve the AECMP. The Director's Preliminary Determination of Approvability, as well as the latest submittal package, the FONSI, and the EA are available at the address below.

Comments on the Preliminary Determination to approve the Alaska amendment request should be made by January 27, 1989. Address comments to: James P. Burgess, Chief, Coastal Programs Division, Office of Ocean and Coastal Resource Management, 1825 Connecticut Avenue, NW., Washington, DC 20235, (202) 673–5158.

(Federal Domestic Assistance Catalog 11.419, Coastal Zone Management Program Administration.)

Date: December 9, 1988.

Thomas J. Maginnis,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 88–28795 Filed 12–14–88; 8:45 am]

BILLING CODE 3510-08-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in Pakistan

December 12, 1988.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits for the new agreement year.

EFFECTIVE DATE: January 1, 1989.

Authority: E.O. 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343–6498. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION: A copy of the current bilateral textile agreement between the Governments of the United States and Pakistan is available from the Textiles Divsion, Bureau of Economic and Business Affairs, U.S. Department of State, (202) 647–1998.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States Annotated (see **Federal Register** notice 53 FR 44937, published on November 7, 1988).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 12, 1988.

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilateral Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Agreement, effected by exchange of notes dated May 20, 1987 and June 11, 1987, as amended, between the Governments of the United States and Pakistan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1989, entry into the United States for consumption, and withdrawal from warehouse for consumption, of cotton, man-made fiber, silk blend and other vegetable fiber textile products in the following categories, produced or manufactured in Pakistan and exported during the twelve-month period which begins on January 1, 1989 and extends through December 31, 1989, in excess of the following restraint limits:

	12-month restraint limit
Category Group I:	
226/313	67,216,794 square meters.
315	46,416,519 square meters.
331	744,185 dozen pairs.
334	45,339 dozen.
335	55,985 dozen.
336	150,073 dozen.
338	3,022,507 dozen.
339	693,687 dozen.
340	160,578 dozen.
341	277,653 dozen.
342	91,592 dozen.
347/348	361,300 dozen.
351	45,796 dozen.
352	228,980 dozen.
363	28,113,750 numbers.
369–D [1]	1,038,636 kilograms of which not more than 389,488 kilograms shall be in piled dish towels—tariff number 6302.60.00.10.
369–R [2]	5,694,556 kilograms.
Category Group II:	
300, 301, 314, 317, 326, 330, 332, 333, 345, 349, 350, 353, 354, 359, 360–362, 369–S [3] and 369–0,[4] as a group.	64,594,183 square meters equivalent.
Sublevels within Group II:	
317	5,016,764 square meters.
350	25,000 dozen.
369–S	385,554 kilograms.
Group III:	
218	2,257,544 square meters.
219	3,762,573 square meters.
220	3,344,509 square meters.
229	306,481 kilograms.
237	65,000 dozen.
607	453,592 kilograms.
613/614	13,246,565 square meters.
615	14,092,091 square meters.
617	3,511,735 square meters.
631	505,620 dozen pairs.
634	41,946 dozen.
635	16,949 dozen.
636	89,888 dozen.
638/639	224,720 dozen.
640	81,226 dozen.
641	90,123 dozen.
647/648	477,565 dozen.
650/850	55,000 dozen.
659	68,039 kilograms.
666	1,133,981 kilograms.

[1] In Category 369–D, dish towels in tariff numbers 6302.60.00.10 and 6320.91.00.20.
[2] In Category 369–R, only tariff number 6307.10.20.20.
[3] In Category 369–S, only tariff number 6307.10.20.10.
[4] In Category 369–0, all tariff numbers except 6302.60.00.10 and 6302.91.00.20 (369–D); 6307.10.20.20 (369–R) and 6307.10.20.10 (369–S).

Imports charged to these category limits for the period January 1, 1988 through December 31, 1988 shall be charged against the levels of restraint to the extent of any unfilled balances. In the event the limits established for such goods during that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The levels set forth above are subject to adjustment in the future according to the provisions of the current bilateral textile agreement between the Governments of the United States and Pakistan.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 88–28871 Filed 12–14–88; 8:45 am]

BILLING CODE 3510–DR–M

Announcement of Import Limits for Certain Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Socialist Republic of Romania

December 12, 1988.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commisisoner of Customs establishing limits for the new agreement year.

EFFECTIVE DATE: January 1, 1989.

Authority: E.O. 11651 of March 3, 1972, as amended; Sec. 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

FOR FURTHER INFORMATION CONTACT: Jerome Turtola, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Satus Reports posted on the bulletin boards of each Customs port or call (202) 343–6497. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION: A copy of the current Bilateral Wool and Man-Made Fiber Textile Agreement of November 7 and 16, 1984, as amended, between the Governments of the United States and the Socialist Republic of Romania is available from the Textiles Division, Bureau of Economic and Business Affairs, U.S. Department of State (202) 647–1998.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRECTION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States Annotated (see **Federal Register** notice 53 FR 44937, published on November 7, 1988).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist

only in the implementation of certain of its provisions.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 12, 1988.

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further amended on July 31, 1986; pursuant to the Bilateral Wool and Man-Made Fiber Textile Agreement of November 7 and 16, 1984, as amended, between the Governments of the United States and the Socialist Republic of Romania; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1989, entry into the United States for consumption and withdrawal from warehouse for consumption of wool and man-made fiber textile products in the following categories, produced or manufactured in Romania and exported during the twelve-month period beginning on January 1, 1989 and extending through December 31, 1989, in excess of the following restraint limits:

	12-month restraint limit
Category Level not in a group:	
604	1,488,917 Kilograms.
Group II:	
410, 414, 464–469, 611–629, 665–670, as a group.	10,033,528 square meters equivalent.
Sublevels within the Group II:	
410	167,225 square meters.
465	129,600 square meters.
618	1,672,225 square meters.
666	116,306 kilograms.
Group III:	
431–459, 630–659, as a group.	40,225,428 square meters equivalent.
Sublevels within Group III:	
433/434	6,169 dozen.
435	5,028 dozen.
442	8,026 dozen.
443	98,196 numbers.
444	32,021 numbers.
448	6,500 dozen.
459	34,019 dozen.
633	44,199 dozen.
634	53,687 dozen of which not more than 17,083 dozen shall be in non-knit coats in Category 634pt.[1] and not more than 36,604 dozen shall be in knit coats in Category 634pt.[2]
635	64,704 dozen.
638/639	363,256 dozen.
640	70,150 dozen.
641	44,850 dozen.
642	39,326 dozen.
643pt./644pt. (not knit) [3].	498,462 numbers.
643pt./644pt. (knit) [4].	24,996 numbers.
645/646	240,962 dozen.
647	80,737 dozen.
648	57,746 dozen.
659	101,768 kilograms.

[1] In Category 634pt. (non-knit), only tariff numbers 6201.13.40.15, 6201.13.40.20, 6201.13.40.30, 6201.13.40.40, 6201.19.00.30, 6201.93.20.10, 6201.93.30.00, 6201.93.35.10, 6201.93.35.20, 6201.99.00.30, 6203.23.00.50, 6230.29.20.10, 6210.20.10.20, 6210.40.10.20, 6211.20.15.15, 6211.20.20.30, and 6211.33.00.35.

[2] In Category 634pt. (knit), only tariff numbers 6101.30.10.00, 6101.20.20.10, 6101.30.20.20, 6101.90.00.30, 6103.23.00.36, 6103.29.10.10, 6112.12.00.10, 6112.19.10.10, 6112.20.10.10, 6112.20.10.30 and 6113.00.00.25.

[3] In Category 643pt./644pt., (non-knit) only tariff numbers 6203.12.20.10, 6203.12.20.20, 6203.19.30.00 and 6203.19.40.50 in Category 643pt.; 6204.13.20.10, 6204.13.20.20, 6204.19.20.00 and 6204.19.30.60 in Category 644 pt.

[4] In Category 643pt./644pt., (knit), only tariff numbers 6103.12.20.00, 61.03.19.15.00 and 6103.19.40.50 in Category 643pt.; and 6104.13.20.00, 6104.19.15.00 and 6104.19.20.60 in Category 644pt.

Imports charged to the category limits, except Category 439, for the period January 1, 1988 through December 31, 1988 shall be charged against the levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The levels set forth above are subject to adjustment in the future according to the provisions of the Bilateral Wool and Man-Made Fiber Textile Agreement of November 7 and 16, 1984, as amended, between the Governments of the United States and the Socialist Republic of Romania.

The conversion factors for Categories 433/434 and 638/639 are 35.2 and 12.96, respectively.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry of consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile agreements.

[FR Doc. 88–28872 Filed 12–4–88; 8:45 am]

BILLING CODE 3510-DR-M

Announcement of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Singapore

December 12, 1988.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits for the new agreement year.

EFFECTIVE DATE: January 1, 1989.

Authority: E.O. 11651 of March 3, 1972, as amended; sec. 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343–6580. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated May 31 and June 5, 1986, as amended, establishes limits for the 1989 agreement year.

A copy of the current bilateral textile agreement is available from the Textiles Division, Bureau of Economic and Business Affairs, U.S. Department of State, (202) 647–1998.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with Tariff Schedule of the United States Annotated (see **Federal Register** notice 53 FR 44937, published on November 7, 1988).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 12, 1988.

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated May 31 and June 5, 1986, as amended, between the Governments of the United States and Singapore; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to

prohibit, effective on January 1, 1989, entry into the United States for consumption and withdrawal from warehouse for consumtpion of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Singapore and exported during the twelve-month period beginning on January 1, 1989 and extending through December 31, 1989, in excess of the following levels of restraint:

Category	12-mo restraint limit
Group I:	
239	345,297 kilograms.
331	337,459 dozen pairs.
334	55,890 dozen.
335	168,120 dozen.
338/339	855,171 dozen of which not more than 499,770 dozen shall be in Category 338 and not more than 555,681 dozen shall be in Category 339.
340	598,492 dozen.
341	150,491 dozen.
342	92,610 dozen.
347/348	786,763 dozen of which not more than 491,727 dozen shall be in Category 347 and not more than 382,454 dozen shall be in Category 348.
435	6,262 dozen.
604	703,827 kilograms.
631	347,288 dozen pairs.
634	213,381 dozen.
635	218,360 dozen.
638	783,709 dozen.
639	2,920,484 dozen.
640	127,593 dozen.
641	208,118 dozen.
645/656	120,200 dozen.
647	426,400 dozen.
648	1,406,046 dozen.
Group II:	
200–229, 237, 300/301, 313–330, 332, 333/633, 336, 345, 349, 350, 351/651, 352/652, 353/354/653/654, 359–369, 400–434, 436, 438, 439, 440–444, 445/446, 447, 448, 459–469, 600–603, 606, 607, 611–630, 632, 636, 642–644, 649, 650, 659–S [1], 659–V [2], 659–O [3] and 665–670, as a group.	38,461,859 square meters equivalent.
Sublevels within Group II:	
200	251,996 kilograms.
201	259,196 kilograms.
218	1,672,255 square meters.
219	1,672,255 square meters.
220	1,672,255 square meters.
222	169,251 kilograms.
223	119,366 kilograms.
224	1,672,255 square meters.
225	1,672,255 square meters.
226	1,672,255 square meters.
227	1,672,255 square meters.
229	122,592 kilograms.
237	190,000 dozen.
300/301	197,214 kilograms.
313	1,672,255 square meters.
314	1,672,255 square meters.
315	1,672,255 square meters.
317	1,672,255 square meters.
326	1,672,255 square meters.
330	1,176,471 dozen.
332	434,783 dozen pairs.
333/633	41,500 dozen.
336	70,000 dozen.
345	54,348 dozen.
349	416,667 dozen.
350	39,216 dozen.
351/651	38,462 dozen.
352/652	148,148 dozen.
353/354/653/654.	48,426 dozen.
359	197,214 kilograms.
360	1,818,182 numbers.
361	322,581 numbers.
362	289,855 numbers.
363	4,000,000 numbers.
369	197,214 kilograms.
400	34,109 kilograms.
410	125,419 square meters.
414	45,359 kilograms.
431	71,429 dozen pairs.
432	53,571 dozen pairs.
433	4,167 dozen.
434	6,000 dozen.
436	3,049 dozen.
438	10,000 dozen.
439	20,012 kilograms.
440	6,250 dozen.
442	10,000 dozen.
443	33,336 numbers.
444	33,336 numbers.
445/446	20,000 dozen.
447	8,333 dozen.
448	8,333 dozen.
459	34,019 kilograms.
464	52,338 kilograms.
465	139,355 square meters.
469	34,019 kilograms.
600	259,196 kilograms.
603	266,819 kilograms.
606	83,228 kilograms.
607	259,196 kilograms.
611	1,672,255 square meters.
613	1,672,255 square meters.
614	1,672,255 square meters.
615	1,672,255 square meters.
617	1,672,255 square meters.
618	1,672,255 square meters.
619	1,672,255 square meters.
620	1,672,255 square meters.
621	116,306 kilograms.
622	1,672,255 square meters.
624	1,672,255 square meters.
625	1,672,255 square meters.
626	1,672,255 square meters.
627	1,672,255 square meters.
628	1,672,255 square meters.
629	1,672,255 square meters.
630	1,176,471 dozen.
632	434,783 dozen pairs.
636	140,000 dozen.
642	186,104 dozen.
643	444,444 numbers.
644	444,444 numbers.
649	416,667 dozen.
650	39,216 dozen.
659–S	145,150 kilograms.
659–V	145,150 kilograms.
659–O	145,150 kilograms.
655	1,858,061 square meters.
666	115,306 kilograms.
669	116,306 kilograms.
670	453,592 kilograms.

[1] In Category 659–2, only tariff numbers 6112.31.00.10, 6112.31.00.20, 6112.41.00.10, 6112.41.00.20, 6112.41.00.30, 6112.41.00.40, 6211.11.10.10, 6211.11.10.20, 6211.12.10.10, 6211.12.10.20.

[2] In Category 659–V, only tariff numbers 6110.30.10.30, 6110.30.10.40, 6110.30.20.30, 6110.30.20.40, 6110.30.30.30, 6110.30.30.35, 6110.90.00.52, 6110.90.00.54, 6210.93.20.20, 6202.93.20.20, 6211.33.00.50 and 6211.43.00.80.

[3] In Category 659–O, all tariff numbers except 6112.31.00.10, 6112.31.00.20, 6112.41.00.10, 6112.41.00.20, 6112.41.00.30, 6112.41.00.40, 6211.11.10.10, 6211.11.10.20, 6211.12.10.10, 6211.12.10.20 in Category 659–S; and 6110.30.10.30, 6110.30.10.40, 6110.30.20.30, 6110.30.20.40, 6110.30.30.30, 6110.30.30.35, 6110.90.00.52, 6110.90.00.54, 6201.93.20.20, 6202.93.20.20, 6211.33.00.50 and 6211.43.00.80 in Category 659–V.

Imports charged to these category limits, except Category 439, for the period January 1, 1988 through December 31, 1988 shall be charged against the levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The conversion factor for Categories 352/652 is 11.3 square meters equivalent per dozen.

The limits set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement, effected by exchange of notes dated May 31 and June 5, 1986, as amended, between the Governments of the United States and the Republic of Singapore.

In carrying out the above directions, the Commissioner of Customes should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 88–28873 Filed 12–14–88; 8:45 am]

BILLING CODE 3510–DR–M

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Thailand

December 12, 1988.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: December 19, 1988.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port.

For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority. Ex. O. 11651 of March 3, 1972, as amended; sec. 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain cotton, wool and man-made fiber textile products are being adjusted, variously, for shift added, shift subtracted, carryforward and unused carryforward.

A description of the textile and apparel categories in terms of T.S.U.S.A. numbers is available in the Correlation: Textile and Apparel Categories with the Tariff Schedules of the United States Annotated (see **Federal Register** notice 52 FR 47745, published on December 16, 1987). Also see 53 FR 60, published on January 4, 1988.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 12, 1988.

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 29, 1987 by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Thailand and exported during the period which began on January 1, 1988 and extends through December 31, 1988.

Effective on December 19, 1988, the directive of December 29, 1987 is being amended further to adjust the limits for cotton, wool and man-made fiber textile products in the following categories, under the provisions of the current bilateral textile agreement between the Governments of the United States and Thailand:

Category	Adjusted 12-mo. limit [1]
200	921,215 pounds.
226/613/614/615	17,838,016 square yards.
300	5,707,411 pounds.
301pt.[2]	5,693,260 pounds.
315	16,635,342 square yards.
604	1,002,674 pounds.
Group II: 239, 330–354, 359, 630–654 and 659, as a group.	84,690,114 square yards equivalent.
Sublevel in Group II: 341	152,521 dozen.
Group III: 410, 414, 431–448 and 459, as a group.	1,677,420 square yards equivalent.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1987.
[2] In Category 301pt., not wholly cotton in TSUSA numbers 300.6025, 300.6027 and 300.6028.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 88–28874 Filed 12–14–88; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement/ Environmental Impact Report (DEIS/ EIR) for the Tule River Basin Investigation, Tulare County, CA

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The action being taken is to determine the feasibility of constructing additional facilities to control flooding along the Tule River and to provide additional water supply storage to meet other water resources needs of the area including irrigation, recreation, hydropower, and enhancement of fish and wildlife resources. Potential alternatives would help to alleviate flooding and provide additional water supplies to address other identified water related problems.

FOR FURTHER INFORMATION CONTACT: Suggestions and input from agencies, organizations and the general public are encouraged. Questions or comments about the proposed action and DEIS should be addressed to the District Engineer, U.S. Army Corps of Engineers, Sacremento District, (CESPK–PD–R), 650 Capitol Mall, Sacramento, California 95814–4794, or call Mr. Jeff Groska, at telephone (916) 551–1860. Responses specifically related to California Environmental Quality Act requirements of the EIR may be directed to Mr. Roger Robb of the Lower Tule River Irrigation District, P.O. Box 1388 Porterville, California 93258, (209) 686–4716.

SUPPLEMENTARY INFORMATION:

1. Proposed Action

The study will determine the feasibility of increasing flood protection and increasing irrigation storage space in the existing reservoir by modifying the spillway. The Corps of Engineers will prepare a report on its findings to be submitted to Congress.

2. Alternatives

Alternatives being considered are (a) no action plan and (b) the raising of the gross pool of Success Lake. Additional alternatives were considered but are not being studied in detail because they were found to not provide adequate flood protection, or are economically infeasible. They include the following: Indian Reservation Dam, North Fork Tule Dam, Middle Fork Tule Dam, South Fork Tule Dam, Springfield Dam, and Springfield Levees.

3. Scoping Process

a. The Corps completed a reconnaissance study in July 1987 which identified the acceptable alternatives to be carried into feasibility studies. Close coordination is being maintained with Federal, State, local sponsors, local agencies, environmental organizations, and concerned individuals. This is being accomplished through public meetings, public notices and inter-agency coordination. Through this Notice of Intent all segments of the affected public and agencies are invited to participate in the continuing planning process.

b. Significant issues that will be analyzed in depth in the EIS/EIR include: Displacement of people, land use, noise, air quality, endangered species, wildlife resources, fishery resources, cultural resources, riparian vegetation, flood protection, dam failure, water quality, recreation, and transportation.

c. The Lower Tule River Irrigation District is the local sponsor for the study and is providing 50 percent of the total study cost. Cost sharing partners to the study sponsor are: Tulare County, Kings County, and the State of California Department of Water Resources. The sponsor will participate with the Corps of Engineers in study management and plan formulation processes. Specific work items to be accomplished by the local interests include identification of environmental baseline conditions, identification of current land use, and assistance in the preparation of the Habitat Evaluation Procedure

evaluation of fish and wildlife impacts and enhancement potentials.

d. Significant review and consultation requirements to be conducted during the study include coordination with the U.S. Fish and Wildlife Service and California Department of Fish and Game under the Fish and Wildlife Coordination Act and Endangered Species Act, consultation with the State Historic Preservation Officer and Advisory Council on Historic Preservation under the National Historic Preservation Act, and coordination with the California Water Quality Control Board and Environmental Protection Agency on water quality issues under section 404 of the Clean Water Act. As this report will be a joint DEIS/EIR, coordination and review requirements both the National Environmental Policy Act and the California Environmental Quality Act will be completed.

4. Meeting Schedule

Additional public meetings for the specific purpose of scoping are not being considered. Scoping letters and prior public meetings during the reconnaissance study phase served to identify significant concerns and potential solutions. A July 1988 Notice of Initiation of Feasibility Study for flood control was mailed to interested agencies, organizations, and individuals. That notice and this Notice of Intent to Prepare a DEIS/EIR provide further opportunity for interested parties to provide input into the scope of the feasibility study and potential solutions.

5. Availability

The DEIS/EIR is scheduled to be available to the public in January 1990.

November 30, 1988.

Jack A. Le Cuyer,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 88-28814 Filed 12-14-88; 8:45 am]

BILLING CODE 3710-EZ-M

DEPARTMENT OF EDUCATION

[CFDA No. 84.003Q]

Invitation; Applications for New Awards Under the Bilingual Education; State Educational Agency Program for Fiscal Year 1989

Purpose: Provides financial assistance to State educational agencies (SEAs) to collect, aggregate, analyze, and report data and information on each State's population of limited English proficient persons, and the educational services provided or available to those persons. The program further provides assistance for activities designed to improve the effectiveness of programs for limited English proficient persons in their States.

Deadline for Transmittal of Applications: February 6, 1989.

Deadline for Intergovernmental Review Comments: April 5, 1989.

Applications Available: December 20, 1988.

Available Funds: It is expected that approximately $5,975,000 will be available for this program for fiscal year 1989.

Project Period: 36 months.

Applicable Regulations: (a) The Bilingual Education: State Educational Agency Program (34 CFR Part 548), and (b) the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, 79 and 80 (except for § 75.217 (b) through (d)—relating to review of applications).

For Applications or Information Contact: Luis A. Catarineau, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue SW. (Room 5086, Mary E. Switzer Building), Washington, DC 20202-6641. Telephone: (202) 732-5707.

Program Authority: 20 U.S.C. 3302.

Dated: December 8, 1988.

Alicia Coro,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 88-28891 Filed 12-14-88; 8:45 am]

BILLING CODE 4000-01-M

[CFDA NO. 84.184B]

Invitation; Applications for New Awards Under the Drug-Free Schools and Communities Program; Federal Activities Grants Program for Fiscal Year 1989

Purpose: To award grants to State educational agencies, local educational agencies, institutions of higher education and other nonprofit agencies, organizations and institutions to support drug and alcohol abuse education and prevention activities.

Deadline for Transmittal of Applications: January 23, 1989.

Applications Available: December 23, 1988.

Available Funds: $3,000,000.

Estimated Range of Awards: $100,000-$200,000.

Estimated Average Size of Awards: $150,000.

Estimated Number of Awards: 20.

Project Period: 12-18 Months.

Applicable Regulations: (a) The final regulations governing the Drug-Free Schools and Communities Program—Federal Activities Grants Program, 34 CFR Parts 764 adn 766, published in the **Federal Register** on July 30, 1987 (52 FR 28526), and (b) the Education Department General Administrative Regulations, 34 CFR Parts, 74, 75, and 77.

Absolute Priority: In accordance with 34 CFR § 66.4(b) and 34 CFR 75.105(c)(3), the Secretary gives an absolute priority to projects that are designed for students in grades kindergarten through eight (K-8). The Secretary funds under this competition only applications that meet this absolute priority.

Invitational Priorities

The Secretary invites applications that address one or more of the following invitational priorities. However, under 34 CFR 75.105(c)(3), applications meeting these invitational priorities will not receive competitive or absolute preference over applications that do not meet one or more of these invitational priorities.

(1) Involve parent and school personnel in preventing drug and alcohol use by students though such activities as educating parents and school personnel about substance abuse and how it may be prevented, detected, and treated.

The Secretary is particularly interested in supporting projects that:

- Implement programs or workshops to educate parents about the impact of substance abuse on their children.
- Implement educational programs for students in grades K-8 that focus on preventing the use of "gateway drugs," i.e., tobacco and alcohol.

(2) Communicate to students the dangers of drug and alcohol use, including development of communication programs that effectively convey the dangers of drug and alcohol use to students.

The Secretary is particularly interested in supporting projects that:

- Integrate information on the harmful effects of alcohol and drugs throughout the regular curriculum in such subjects areas as health, science, physical education, and social studies.
- Disseminate information on the harmful effects of alcohol and drugs through such activities as student-generated theatrical presentations, literature, and other media as one part of a larger, comprehensive drug prevention program.

(3) Implement cooperative programs with local law-enforcement officials, judicial officials, community leaders, and government officials.

The Secretary is particularly interested in supporting projects that:

• Provide workshops involving law enforcement officials to educate parents, students and school personnel about such issues as improving discipline and security in the schools or on school premises as a means of preventing drug use.

Selection Criteria

The program regulations at § 766.20 authorize the Secretary to distribute an additional 15 points among the criteria described in the regulations at § 766.21 to bring the total to a maximum of 100 points. For the purpose of this competition, the Secretary will distributed the additional points as follows:

Evaluation Plan

(§ 766.21(d)) Five (5) additional points will be added for a possible total of 15 points for this criterion.

Contribution to Improving the Quality of Drug and Alcohol Abuse Education and Prevention Activities

(§ 766.21(f) Ten (10) additional points will be added for a possible total of 35 points for this criterion.

For Applications or Information Contact: The Drug-Free Schools and Communities Staff, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2135, Washington, DC, 20202–6151. Telephone: (202) 732–4599.

Program Authority: 20 U.S.C. 3212.

Dated: December 8, 1988.

Beryl Dorsett,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 88–28890 Filed 12–14–88; 8:45 am]

BILLING CODE 4000–01–M

[CFDA NO: 84.184A]

Invitation; Applications for New Awards under the Drug-Free Schools and Communities Program—Training and Demonstration Grants to Institutions of Higher Education for Fiscal Year 1989

Purpose: To award grants to institutions of higher education for projects that provide preservice and inservice personnel training or curriculum demonstration in drug and alcohol abuse education and prevention for use in elementary and secondary schools.

Deadline For Transmittal of Applications: February 6, 1989.

Applications Available: December 23, 1968.

Available Funds: $13,900,000.

Estimated Range of Awards: $75,000—$250,000.

Estimated Average Size of Awards: $180,000.

Estimated Number of Awards: 77.

Project Period: 12- 24 months.

Applicable Regulations: (a) The final regulations governing the Drug-Free Schools and Communities Program—Training and Demonstration Grants to Institutions of Higher Education, 34 CFR Parts 764 and 765, published in the **Federal Register** July 30, 1987 (52 FR 28526), and (b) the Education Department General Administrative Regulations, 34 CFR Parts 74, 75 and 77.

Authorized Activities: In accordance with 45 CFR 75.3, the Secretary invites applications for projects that—

(a) Provide preservice training and instruction of teachers and other personnel in the field of drug abuse education and prevention in elementary and secondary schools;

(b) Provide inservice training and instruction of teachers and other personnel in the field of drug abuse education and prevention in elementary and secondary schools;

(c) Provide summer institutes and workshops to instruct teachers and other personnel in the field of drug abuse education and prevention in elementary and secondary schools;

(d) Carry out research and demonstration programs for teacher training and retraining in drug abuse education and prevention;

(e) Provide training for law enforcement officials, judicial officials, community leaders, parents, and government officials in drug abuse education and prevention; or

(f) Demonstrate model programs, coordinated with local elementary and secondary schools, for the development and implementation of quality drug abuse education curricula.

Absolute Priority: In accordance with 34 CFR 765.4 (d) and 34 CFR 75.105 (c) (3), for applications proposing to conduct activities (a) through (c), the Secretary will give absolute priority to applications that provide for coordinated and collaborative efforts with State educational agencies, local educational agencies, and the Regional Centers for Drug-Free Schools. The Secretary considers for funding applications proposing to conduct activities (a) through (c) only if they meet this absolute priority.

Selection Criteria: The program regulations at § 765.20 authorize the Secretary to distribute an additional 15 points among the criteria described in § 765.21 to bring the total to a maximum of 100 points. For the purpose of this competition, the Secretary will distribute the additional points as follows:

Evaluation plan. (Section 765.21 (d)) Five (5) additional points will be added for a possible total of 15 points for this criterion; and

Contribution to improving the quality of drug and alcohol abuse education and prevention activities. (§ 754.21 (f)) Ten (10) additional points will be added for a possible total of 35 points for this criterion.

FOR APPLICATIONS OR INFORMATION CONTACT: The Drug-Free Schools and Communities Staff, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue S.W., Room 2135, Washington, DC 20202–6151. Telephone (202) 732–4599.

Program Authority: 20 U.S.C. 3211.

Dated: December 8, 1988.

Beryl Dorsett,

Assistant Secretary, for Elementary and Secondary Education.

[FR Doc. 88–2889 Filed 12–14–88; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Proposed Finding of No Significant Impact; SP–100 GES Test Site; Hanford Site, Richland, WA

Hanford Site, Richland, WA

AGENCY: Department of Energy.

ACTION: Proposed finding of no significant impact.

SUMMARY: The Department of Energy (DOE) has prepared an environmental assessment (EA) for the proposed ground testing of a prototype SP–100 space nuclear reactor in a modified reactor containment building, Building 309, at the Department of Energy Hanford Site, near Richland, Washington (DOE/EA–0318). The proposal is part of an overall program to develop nuclear reactor power system technology for use in space. Based on the analyses in the EA, the DOE believes that the proposed action to modify Building 309 and conduct ground tests of the prototype reactor therein is not a major Federal action significantly affecting the quality of the human environment, within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, and, as such, proposes to issue a finding of no significant impact (FONSI). The proposed FONSI and the supporting EA are being made available for public review for a period of 30 days following

the date of this notice. Following completion of the public review period, DOE will make its final determination on whether to issue a FONSI or to prepare an environmental impact statement (EIS) for the proposed SP–100 ground test.

Copies of the EA Are Available From: John R. Hunter, Director, Operations Division, U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352, (509) 376–7471.

For Further Information About the Proposed Action Contact: Earl Wahlquist, Director, Office of Defense Energy Projects, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20545, (301) 353–3321.

For Further Information About the NEPA Process Contact: Carol Borgstrom, Director, Office of NEPA Project Assistance, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–4600.

Description of the Proposed Action

The Department of Energy (DOE), the National Aeronautics and Space Administration (NASA), and the Department of Defense (DOD) have entered into an agreement to jointly develop nuclear reactor power system technology for use in space. The purpose of the overall SP–100 program is to develop safe, compact, light-weight, durable, space reactor power system technology that can provide electrical power in the range of 10s to 100s of kilowatts for a broad class of emerging military and civil space missions in the mid-1990s and beyond. DOE has primary responsibility for developing and ground testing the nuclear reactor power system within the Ground Engineering System (GES) element of the program.

DOE is planning a ground test of the nuclear reactor portions of the power system at the DOE Hanford Site near Richland, Washington. DOE is proposing to modify an existing 70 megawatt-thermal (MWt) reactor containment building (the decommissioned Plutonium Recycle Test Reactor containment building—Building 309) for the test. The total program duration consisting of facility engineering, construction, testing, and decommissioning is expected to be 9 years. The test facility (Building 309) will be designed for 2 years of reactor operation; however, it is anticipated that actual reactor operations will be less than 2 years.

The SP–100 nuclear reactor as designed is a low pressure 2.5 MWt fast reactor, fueled with uranium nitride as the heat source and cooled by liquid lithium. The nuclear reactor portions of the power system proposed for testing in Building 309 include the SP–100 nuclear reactor, instrumentation and controls, the primary heat transport loop, and radiation shield subsystems.

The reactor is designed to be used with thermoelectric cells as the technology for converting thermal energy to electrical power. The power system will be designed to ensure safety of the general public and mission personnel during normal operations and in the event of low probability launch vehicle accidents, flight malfunctions, and inadvertent reentry.

A ground test of the assembled nuclear reactor power subsystem described above will be conducted at Hanford to confirm the ability of the nuclear reactor power system to meet design requirements. The ground test will verify performance, lifetime, reliability, and safety parameters of the generic nuclear reactor power system design. The data acquired during ground testing will assist in improving safety and performance in the design of future flight systems.

Following the test the reactor and associated hardware will be disposed of as low-level waste at Hanford. If possible, the enriched fuel materials will be recycled; if recycling is not possible, the fuel materials will be handled as transuranic waste, with ultimate disposal at the Waste Isolation Pilot Plant. Test facility systems external to the reactor and associated hardware will be put in a safe condition pending future use or ultimate decommissioning. Alternatives for the post-operation decontamination and decommissioning are under consideration. Once an alternative is proposed, the appropriate environmental reviews will be conducted.

Alternatives

Consideration of alternatives to the proposed action (i.e., nuclear reactor ground test at Hanford) included evaluation of alternative power system concepts, sites other than Hanford, evaluation of other potential locations at Hanford, and evaluation of the no-action alternative (i.e., no ground test of the SP–100 reactor).

Four power system concepts were evaluated during Phase I of the SP–100 Program. Design characteristics identified as part of the SP–100 system selection process included surety, performance, growth (to accommodate varying mission power requirements), survivability, cost/schedule, user interface, and operations. Evaluation objectives of the surety characteristic included health, safety, and environmental factors.

Four of the seven competing design characteristics (surety, survivability, user interface, and operations criteria) were found to be essentially nondiscriminators among the four system concepts. All four concepts were found to exceed the surety requirements with substantial margin. Therefore, although safety and environmental considerations were thoroughly considered throughout the system concept selection process, the final selection was driven by the design characteristics relating to performance, growth and cost/schedule.

Five DOE laboratory sites were considered for ground testing of the prototype SP–100 reactor system. The site evaluation process considered facilities and equipment, ability to obtain approval to operate, personnel and organizational effectiveness, integration with other site and program activities, and management commitment. The approval-to-operate criterion addressed site-specific environmental considerations. The evaluation concluded that environmental considerations were not governing in the selection of the site. The evaluation narrowed the choice for the final selection to two sites, and the Hanford site was selected as the preferred test site based on programmatic considerations.

Building 309 was one of ten potential facilities considered at Hanford for the GES test. These facilities were examined for suitability based on operational, safety, safeguards, and environmental characteristics. Building 309 was identified as the best Hanford facility for this purpose based on the existing containment building, the ease with which the facility could be upgraded to meet current environmental and safety standards, and the overall ability to support program objectives.

The no-action alternative would not provide for ground testing of the SP–100 prototype flight reactor and associated systems. Onsite environmental effects would not exist, but the program would develop a flight system with inadequate ground-based verification of operational and safety functions.

Description of Impacts

The SP–100 ground reactor test (maximum rating of 2.5 megawatt-thermal, low pressure coolant system) will be located at the Hanford Site in the existing containment building, Building 309, that was designed and built as a high pressure containment for the now decommissioned pressurized water cooled, 70 megawatt-thermal, Plutonium Recycle Test Reactor (PRTR).

Reacter heat will be rejected by dump heat exchangers that will transfer heat from the secondary sodium coolant to air.

The 309 Building consists of the PRTR welded steel containment vessel, three below-grade process cells (A, B, and C), and the services and utilities building. The containment vessel is surrounded by a thick, cylindrical, shielding wall that is in common with each of three process cells. The SP–100 Ground Engineering System (GES) nuclear reactor assembly and vacuum vessel will be located in Cell A. Auxiliary systems will be in Cells A, B, and C, as well as outside containment, and in the basement of the attached service building. Existing Hanford 300 Area utilities are adequate or require only minor upgrades or extensions. The estimated peak work force is less than 100 people, which is less than 1 percent of current site employment (about 12,000) and local area employment (about 75,000). No significant construction impacts will occur.

The SP–100 GES Test Program, when operational, will routinely release small quantities of gaseous radioactive tritium (hydrogen-3) and argon-41. The projected annual airborne release of argon-41 is 3.7 Curies; the projected release of tritium is 0.047 Curies. The maximum whole body dose commitment to the nearest resident from these releases is projected to be 0.00045 mrem. The 50-year whole body dose commitment for the population within 83 km (50 mi) was projected to be 0.0027 person-rem. The maximum individual whole body dose commitment is significantly smaller than the regulatory (40 CFR 61.92) limit of 25 mrem/yr whole body dose commitment and the annual dose from background radiation of 100 mrem. The SP–100 GES Test Site is being designed with state-of-the-art technology, and the design objectives are such that no employee is expected to receive a dose greater than 1000 mrem/yr in normally occupied zones and during anticipated maintenance. Actual radiation exposures will be considerably less than 1000 mrem/yr as a result of the test site program to maintain radiation exposures as low as reasonably achievable (ALARA).

The SP–100 GES test activities will result in thermal discharges to the atmosphere. Reactor heat (up to 2.5 megawatts-thermal) will be dissipated to the atmosphere using forced-air dump heat exchangers. In addition, air conditioning will be provided to remove heat from support areas. The potential effects of thermal discharges were analyzed by comparing the quantities to those discharged by Fast Flux Test Facility (FFTF), also located at Hanford, in the 400 Area. The FFTF rejects 160 times as much reactor heat as that projected for SP–100 test facilities. No significant environmental consequences beyond the immediate FFTF area were projected for the thermal discharges of FFTF; operational experience has confirmed no adverse effect. Based on this comparison, minimal effect is expected even in the immediate vicinity of the SP–100 test area.

The test activities will generate hazardous, radioactive, and mixed waste. The estimated annual radioactive solid waste volume is less than 1000 cubic feet, which is 7 percent of the total presently generated in the Hanford 300 Area. Minimal radioactive liquid waste will be generated (less than 300 gallons per year); it will be solidified and disposed of as low-level solid radioactive waste (included in the amount discussed above). No liquid waste will be disposed of to the soil. Disposal of low-level radioactive and mixed solid waste will be accomplished by burial in the Hansford 200 Area Burial Ground. The amount of low-level radioactive and mixed solid waste projected amounts to less than 1 percent of the total volume presently handled by the Hanford 200 Area Burial Ground.

Hazardous material use will consist primarily of liquid alkali metals for cooling media and solid beryllium oxide as a reactor reflector. The containment building (Building 309) will be designed to contain liquid metals and to minimize the effects of liquid metal leakage. In addition, commonly used hazardous materials, such as ethylene glycol, may be selected as the cooling medium in air conditioning systems but no normal release mechanism resulting in environmental impact was identified for this substance.

The SP–100 GES Test Facility will be designed to preclude routine particulate material releases to the environment. Further, for accidents, particulate material in the form of liquid metal aerosols which might result from a sodium or lithium fire will be precluded. Design features will be incorporated to limit leakage of alkali metal and to prevent fire if a leak did occur, thereby precluding the generation and release of particulate material. Analyses show that no risk to the general public will result from particulate material.

Further, the analyses of accidental radionuclide releases, including extreme cases, show that the facility will meet the siting and safety criteria established by DOE. Three extremely low probability, accidents (10^{-6} to 10^{-8} probability) were chosen as bounding events for assessing environmental impact. One of these accidents is a sodium leak and fire from the secondary coolant system. For this accident, the calculated offsite (public) maximum individual whole body dose is 0.021 rem and the calculated onsite (worker) individual maximum whole body dose is 0.19 rem. The corresponding whole body population calculated dose commitment is 0.53 person-rem. A second accident was accidental tritium release from the tritium removal system. For this accident, the calculated offsite maximum individual whole body dose is 0.22 rem, and the calculated onsite individual whole body dose is 2 rem. The corresponding whole body population calculated dose commitment is 5.6 person-rems. The third accident was an irradiated fuel handling accident following extended operation and cooldown. For this accident, the calculated offsite maximum individual whole body dose is 0.00048 rem and the calculated onsite individual whole body dose is 0.0042 rem. The corresponding calculated whole body population dose commitment is 0.17 person-rem.

In addition, a severe (beyond design basis) accident was considered to permit evaluation of the consequences of an extremely improbable event. The system failures that were assumed to reach severe accident consequences include failure of the primary reactor coolant boundary with substantial loss of coolant, failure of emergency core cooling, failure of the core to maintain structural integrity, relocation of the core to provide a high energy recriticality, failure of the vacuum vessel, and a concurrent nonmechanistic failure of containment by malfuction of the heating and ventilation containment isolation exhaust valve.

If this severe accident were to occur, for the Hanford Site boundary individual, the maximum whole-body dose would be 0.75 rem. This amounts to a single exposure dose for that individual of 7.5 times that of the annual background dose of 100 mrem. The corresponding whole body population calculated dose commitment is less than 6 person-rem. Onsite (worker) whole-body doses would not exceed 3.4 rem. Actual doses would be expected to be lower because of operator response and onsite personnel evacuation.

These results show that no significant radiological impacts on public health and safety or on the environment would result from the testing of the SP–100 nuclear reactor assembly at the Hanford site.

SP–100 Program

The SP–100 Program is laid out in three phases: (I) Technology assessment; (II) technology flight readiness; and (III) flight system production, qualification, and application.

Phase I, which ended in FY 1985, resulted in the selection of the uranium-nitride fueled, lithium-cooled reactor and thermoelectric power conversion concept for further development, and the selection of the proposed test site at Hanford.

Phase II was initiated in FY 1986 and consists of four functional SP–100 elements: (1) Ground Engineering System Development, (2) Advanced Aerospace Technology, (3) Civil Missions Analysis and Requirements Definition, and (4) Military Missions Analysis and Requirements Definition. Of these four functional elements, the first one is the subject of this EA and is the only element for which DOE has responsibility. This is managed within the DOE Office of Defense Energy Projects by the SP–100 GES Program Office.

Phase III may be initiated prior to the completion of Phase II activities, depending on mission decisions and funding levels. Initial planning for the first application of an SP–100 power system in space by other agencies may begin in 1989 for a proposed launch in 1996.

Potential mission applications for an SP–100 space reactor power system are many and diverse as a result of the flexibility and scalability in the system design. Missions that may employ the SP–100 power system include deep space probes, manned lunar and Mars bases, electrical propulsion for orbital transfer and interplanetary vehicles, space-based radar for surveillance, tracking and air/ocean traffic control, direct broadcasting, and global communications.

At this time, a specific mission has not been selected for the SP–100 nuclear reactor power system and flight system design and mission parameters are not available. However, it was appropriate to assess potential accident scenarios for reasonably foreseeable missions to provide insight into the possible environmental consequences of future space deployment of SP–100 reactors. Accordingly, DOE has performed a radiological risk assessment of these potential accident scenarios to ensure that the technology development efforts are directed towards reducing any potential impacts. When a specific mission is proposed by another Federal agency using the SP–100 nuclear reactor power system, potential environmental impacts of the specific mission will be evaluated further as part of the flight approval process by that Federal agency.

Three hypothetical mission scenarios representative of the range of missions for which the SP–100 is applicable were analyzed for potential accidents:

- Titan-launched high-orbit mission,
- Shuttle-launched nuclear electric propulsion (NEP) mission, and
- Shuttle-launched low-orbit mission.

The risk assessment was based on the analytical approach used for the safety analysis of past and current missions employing nuclear power sources.

Using assumed mission scenarios and the latest SP–100 design information, accident scenarios and associated probabilities were generated and potential radiological impacts were evaluated in terms of population doses. The results of the risk assessment for the three missions, expressed as statistically expected total population dose commitment, and the probabilities of population dose were 0.6 person-rem (probability 0.32), 0.5 person-rem (probability 0.01), and 3.0 person-rem (probability 0.0041) for the Titan launched high-orbit mission and the shuttle launched NEP and low-orbit missions, respectively. These doses represent the total dose that would be received by the total population that would potentially be exposed to radiation. The average individual would receive a dose that would be many thousands times smaller. Those individual doses, if detectable at all, would be much smaller than current regulatory standards for exposure of the general public to radiation.

Proposed Determination

Based on the information and analyses in the EA, the Department believes that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, within the meaning of NEPA. Thus, DOE proposes to issue a finding of no significant impact and, therefore, not require the preparation of an environmental impact statement. DOE will make a final determination following the 30-day public review period.

Issued at Washington, DC, November 22, 1988.

Ernest C. Baynard, III,

Assistant Secretary, Environment, Safety and Health.

[FR Doc. 88–28894 Filed 12–14–88; 8:45 am]

BILLING CODE 6450–01–M

Chicago Operations Office; Restricted Eligibility for Cooperative Agreement Award; Midwest Office of the Council of State Governments

AGENCY: Department of Energy.

ACTION: Notice of restricted eligibility for cooperative agreement award.

SUMMARY: The Department of Energy (DOE) Chicago Operations Office announces that pursuant to the DOE Financial Assistance Rules, 10 CFR 600.7(b)(2), it is restricting eligibility for award of a cooperative agreement to the Midwest Office of the Council of State governments (MOCSG) in order to (1) coordinate and convene a standing committee consisting of regional state members to address transportation issues; (2) maintain and update a regional nuclear waste transportation reference document; (3) initiate, coordinate, evaluate and present regional analyses of transportation issues as necessary; (4) provide the DOE analyses of transportation initiatives originating in its member states; (5) distribute DOE program information to their membership; and (6) facilitate special forums.

FOR FURTHER INFORMATION CONTACT: Steven C. Kouba, RTTD, U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, Illinois 60439, (312) 972–2263.

SUPPLEMENTARY INFORMATION: Under the Nuclear Waste Policy Act (NWPA), the DOE is required to develop an integrated, publicly acceptable transportation network which will ensure the safe and efficient movement of civilian spent fuel and high-level waste between points of origin and destination. In order to accomplish this mandate, it is necessary that the DOE develop and maintain lasting institutional relationships with appropriate groups to provide technical analyses of and input into transportation issues as these issues are defined.

The MOCSG is an established, not-for-profit compact of state governments organized and convened to identify, address, and resolve economic, environmental, and transportation issues on a regional basis. The MOCSG cooperatively serves the states of North Dakota, South Dakota, Kansas, Minnesota, Iowa, Missouri, Wisconsin, Illinois, Michigan, Indiana, and Ohio. Due to the MOCSG's unique institutional relationships with member state governments and their demonstrated ability to identify and assist in resolving issues relating to the

NWPA by convening these members on a regular basis, the MOCSG has distinguished itself as an organization that can effectively provide the regional leadership necessary to address transportation issues in a multi-state forum.

Eligibility for the cooperative agreement award is being restricted to MOCSG because of its unique institutional and representational capabilities. This cooperative agreement will cover an approximate five year period beginning January, 1989 and will provide MOCSG with approximately $950,000, if all renewal options are exercised.

Issued in Chicago, Illinois, on December 8, 1988.

Timothy S. Crawford,

Assistant Manager for Administration.

[FR Doc. 88-28893 Filed 12-14-88; 8:45 am]

BILLING CODE 6450-01-M

Financial Assistance Award; Intent To Award Grant to the National Association of Regulatory Utility Commissioners (NARUC)

AGENCY: U.S. Department of Energy.

ACTION: Notice of Unsolicited Financial Assistance Award.

SUMMARY: The Department of Energy announces that pursuant to 10 CFR 600.14, it is making a financial assistance award based on an unsolicited application under Grant Number DE-FG01-89CE28301 to NARUC to update the current "NARUC Least-Cost Utility Planning Handbook" and expand on the knowledge base developed by the NARUC in least-cost utility planning under the previous DOE Grant with the NARUC which will further regulatory and technological transfer of Least-Cost Utility Planning (LCUP).

Scope: This Grant will aid in providing funding for LCUP as follows: (1) Research and preparation to update the current *NARUC LCUP Handbook* and study financial incentives to encourage utility participation; (2) to coordinate regional technical assistance workshops for regulators and staff; (3) to coordinate the Second National Conference fo Regulators; and (4) to research, catalog, abstract and input LCUP planning documents.

The purpose of this project will be to bring about expansion and further transfer of information and data among consumers and their representatives to assist in achieving dependable energy service at rates that are reasonable, as well as assuring utility services to the consumer at the least cost for future generating capacity.

Eligibility: Based on receipt of an unsolicited application to continue and expand the statement of work of their previous grant which expires December 31, 1988, eligibility of this award is being limited to NARUC, a non-profit quasi-governmental organization whose mission is to serve the consumer interest by seeking to improve the quality and effectiveness of public regulation in America. NARUC's membership consists of governmental bodies from the fifty States, District of Columbia, Puerto Rico and the Virgin Islands, engaged in the regulation of energy utilities. NARUC has the exclusive domestic capability to perform this activity successfully based upon previous performance, technical expertise and the unique nature of the organization. There is no known other regulatory entity which is conducting or planning to conduct such activities.

The term of this grant shall be two years from the effective date of award. The estimated cost of this grant is $135,000.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Procurement Operations, Attn: Lisa Tillman, MA-453.2, 1000 Independence Avenue, SW., Washington, DC. 20585.

Thomas S. Keefe,

Director, Contract Operations Division "B" Office of Procurement Operations.

[FR Doc. 88-28897 Filed 12-14-88; 8:45 am]

BILLING CODE 6450-01-M

Financial Assistance Award; Intent To Award Grant to the University of North Dakota

AGENCY: U.S. Department of Energy.

ACTION: Acceptance of an unsolicited application for Grant Award.

SUMMARY: The Department of Energy announces that pursuant to 10 CFR 600.14, it intends to award based on an unsolicited action submitted by the University of North Dakota. The application is entitled "Performance Evaluation of a Novel Erosion-Resistant Pump Design".

Scope: The intended grant award is to assist the University of North Dakota Energy and Mineral Research Center, Grand Forks, North Dakota in conducting research for the "Performance Evaluation of a Novel Erosion-Resistant Pump Design".

The objective of the research proposed here is to compare the erosion rate of the Burly pump impeller with that of the most nearly similar pump of conventional design under controlled experimental conditions. The results, if positive, will substantiate the manufacturer's claims regarding the pump's durability and provide a quantitative prediction of the longer useful impeller life offered by this pump. A secondary objective is to observe, analyze, and simulate the internal hydrodynamics of this pump design to provide greater understanding of how its presumed advantages are attained. It is also possible that a study of this thoroughness may suggest further design improvements.

The project is anticipated to be of eleven months duration. The total estimated amount of the proposed cost is $39,944.00.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921-165, Pittsburgh, PA 15236, *Attn:* Dona G. Sheehan, *Telephone:* AC 412/892-5918.

Gregory J. Kawalkin,

Acting Director, Acquisition and Assistance Division, Pittsburgh Energy Technology Center.

FR Doc. 88-28898 Filed 12-14-88 8:45 am]

BILLING CODE 6450-01-M

Office of Fossil Energy, Coordinating Subcommittee on Petroleum Storage and Transportation Committee on Petroleum Storage and Transportation National Petroleum Council; Open Meeting

Notice is hereby given of the following meeting:

Name: Coordinating Subcommittee on Petroleum Storage and Transportation of the Committee on Petroleum Storage and Transportation of the National Petroleum Council.

Date and Time: Monday, January 12, 1989, 1:00 p.m. Tuesday, January 13, 1989, 8:00 a.m.

Place: The Breakers, Flager Board Room, One South County Road, Palm Beach, Florida.

Contact: Margie D. Biggerstaff, U.S. Department of Energy, Office of Fossil Energy (FE-1), Washington, DC 20585, Telephone: 202/586-4695.

Purpose of the Parent Council: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries.

Purpose of the Meeting: Review Committee's request for further work on the draft volumes.

Tentative Agenda

—Opening remarks by the Chairman and Government Cochairman.
—Review the draft of the System Dynamics Volume of the report.

—Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

Public Participation: The meeting is open to the public. The Chairman of the Subcommittee on Petroleum Storage and Transportation is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Ms. Margie D. Biggerstaff at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provisons will be made to include the presentation on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E–190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

J. Allen Wampler,

Assistant Secretary Fossil Energy.

[FR Doc. 88–28896 Filed 12–14–88; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

[ERA Docket No. 88–72–NG]

B.C. Gas Inc., Application To Import Natural Gas From Canada and Export Natural Gas to Canada and Request for an Interim Emergency Export Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of application to import natural gas from and export natural gas to Canada and emergency order granting interim authority to export natural gas to Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on November 30, 1988, of an application filed by B.C. Gas Inc. (B.C. Gas) requesting authority beginning the date of first delivery until April 30, 1996, to import up to 2,164,122 Mcf of natural gas a year from Canada for injection into seasonal storage and authority to export this gas back to Canada after withdrawal from storage. Under the application, the gas would be imported from Westcoast Transmission Company Limited (Westcoast) at Sumas, Washington, and transported from the international border to Northwest Pipeline Corporation (Northwest) to Washington Water Power Company's (Water Power) storage facilities at Jackson Prairie, Washington. According to B.C. Gas' application, the gas would be imported for storage at Water Power's facilities during the non-heating season and exported back into Canada during the winter heating season for sale to B.C. Gas' customers. B.C. Gas states that none of the gas imported for storage would be sold in the U.S. B.C. Gas proposes to use existing facilities for the import/export of the gas if granted authority by the ERA.

Further, B.C. Gas requests that the ERA grant emergency interim authorization to export its existing stored gas to meet the peak requirements of B.C. Hydro's firm sales customers in Canada during the current winter heating months, until a final determination is made on its application. According to the application, the emergency authorization is necessary because Northwest has notified B.C. Gas that Northwest cannot return storage gas under the redelivery agreement between Northwest and Westcoast.

The application is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–111. Protests, motions to intervene, notices of intervention and written comments are invited.

By this notice, the ERA is establishing a 30-day comment period to provide all interested persons the opportunity to submit comments in response to B.C. Gas' long-term import/export arrangement. The ERA also gives notice at this time of its decision to issue on December 12, 1988, an emergency order granting B.C. Gas an export authorization of limited duration on which comments may be filed within the same 30-day public comment period.

DATE: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed no later than January 17, 1989.

FOR FURTHER INFORMATION CONTACT:

Thomas Dukes, Natural Gas Division, Economic Regulatory Administration, U.S. Department of Energy, Forrestal Building, Room 3F–070, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9590.

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: B.C. Gas, a Canadian corporation located in Burnaby, British Columbia, is a local gas distribution company engaged in the transmission, storage and distribution of gas within the Province of British Columbia. Currently, B.C. Gas stores up to 2,164,122 Mcf of gas annually on behalf of its provincial customer, B.C. Hydro, at Water Power's facilities in Jackson Prairie, Washington. Pursuant to existing contracts between Northwest and Water Power, Westcoast and B.C. Gas, B.C. Gas and Water Power, Westcoast and B.C. Hydro, and Westcoast and Northwest, Westcoast transports the gas to the Northwest interconnection near Sumas, Washington. Under the terms of the arrangement, Northwest would then transport the gas to Water Power for B.C. Hydro's account. The gas is injected at Water Power's storage facility during the period of May to September; during the October to April months up to 60,115 Mcf per day may be drawn off for redelivery by Northwest to Westcoast for B.C. Hydro's peak winter heating needs. Based on Northwest's and Westcoast's deferred exchange agreement, Northwest would be able to withdraw B.C. Hydro's gas from storage for its own system supply use, but would have to redeliver such volumes to Westcoast. Further, for any B.C. Hydro gas taken by Northwest for system supply use, Westcoast would retain equivalent volumes for B.C. Hydro's account from any gas volumes Northwest purchases from Westcoast.

According to B.C. Gas' application, the net effect of the proposed import and export will be no different from the previously authorized arrangements. No Canadian gas is proposed to be sold into United States markets or visa versa. B.C. Gas only wishes to continue using storage facilities in the United States to store gas which it purchases in Canada during off-peak periods for subsequent sale and use in Canada during peak periods. Lastly, since the volumes are imported for storage and not sold in the U.S. market, the ERA will not consider the competitiveness of the arrangement in making either an emergency or long-term evaluation of B.C. Gas' authorization request.

B.C. Gas has contractual rights to use the Jackson Prairie storage site until April 30, 1986. However, on September 30, 1988, Northwest notified Westcoast that it was invoking "force majeure" under their service agreement. Northwest seeks to terminate its deferred exchange agreement with Westcoast and its obligation to transport gas withdrawn from storage to

the international border. In view of the above considerations, the Administrator has determined that granting an emergency order to B.C. Gas is not inconsistent with the public interest. Therefore, while the ERA determines whether to approve B.C. Gas' long-term import/export authorization request, the ERA will grant the applicant interim emergency authority, to April 30, 1989, to export to B.C. Hydro gas already held in storage for the 1988–89 winter heating season. While noting that the ERA does not ordinarily act on a request for authorization until after the expiration of the **Federal Register** notice and public comment period, the Adminstrator emphasizes the need to allow B.C. Gas to serve its provincial customers' peak requirements during the ongoing heating season with the gas in storage with Water Power and the short-term nature of the authorization and the protection offered by this notice which invites public participation. This order may be superseded pending issuance of a final decision on the application.

NEPA Compliance

On August 9, 1988, the DOE published in the **Federal Register** (53 FR 29934) a notice of proposed amendments to its guidelines for compliance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, effective on an intrim basis upon publication. In that notice, the DOE proposed to amend the agency's NEPA guidelines to add to its list of categorical exclusions the approval or disapproval of an import/export authorization for natural gas in cases not involving new construction. Application of the categorical exclusion in any particular case raises a rebuttable presumption that the ERA's action is not a major Federal action under NEPA. Unless the ERA receives comments indicating the presumption does not or should not appy in this case, no further NEPA review will be conducted by the DOE.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room 3F–056, RG–23, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478. They must be filed no later than 4:30 p.m., EST, January 17, 1989.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to the decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of B.C. Gas' application is available for inspection and copying in the Natural Gas Division Docket Room, 3F–056 at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., EST, Monday through Friday, except Federal holidays.

Issued in Washington, DC, December 12, 1988.

Constance L. Buckley,

Acting Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 88–28895 Filed 12–14–88; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

Application Filed With the Commission

November 8, 1988.

Take notice that the following hydroelectric application has been filed with the Federal Energy Reulatory Commission and is available for public inspection:

a. *Type of Application*: Preliminary Permit.

b. *Project No.*: 10631–000.

c. *Date Filed*: July 27, 1988.

d. *Applicant*: James River Hydro Project.

e. *Name of Project*: Twelfth Street Hydro Project.

f. *Location*: On the James River in the City of Richmond, Virginia.

g. *Filed Pursuant to*: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact*: David M. Coombe, Synergics, Inc., 410 Severn Avenue, Suite 313, Annapolis, MD 21403 (301) 268–8820.

i. *FERC Contract*: Mary Nowak, (202) 376–9634.

j. *Comment Date*: January 12, 1989.

k. *Description of Project*: The proposed project would consist of (1) an existing 1,760-foot-long diversion dam owned by the City of Richmond and Virginia Power Company; (2) a 92-acre reservoir having a negligible storage capacity; (3) an existing canal approximately 2,240 feet long, 12 feet deep, and 48 feet wide; (4) an existing concrete powerhouse containing six 1,960-kw horizontal tubular-type turbines for a total installed capacity of 11.5 MW; (5) a 120-foot-wide, 75-foot-wide, 15-foot-deep tailrace; (6) a proposed transmission line either 13.2 kV or 34.5kV; and (7) appurtenant facilities. The project would have an average annual generation of approximately 57 GWh. The applicant estimates that the studies under permit would be about $150,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

A5. Preliminary Permit

Any qualified applicant desiring to file a competing application for a preliminary permit for a proposed

project must submit to the Commission, on or before the specified comment date for the particular application, the competing application or a notice of intent to file such an application (see 18 CFR 4.36 (1985)). Submitting a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A7. Preliminary Permit

Any qualified applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either the competing development application or a notice of intent to file such an application. Submitting a timely notice of intent allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A9. Notice of Intent

A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies Under Permit

A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene

Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents

Any filings must bear in all capital letters the title "COMMENTS," "RECOMMENDATIONS FOR TERMS AND CONDITIONS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATIONS," "PROTEST" or "MOTION TO INTERVENE," as applicable, and the project number of the particular application to which the filing is in response. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to: the Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 204–RB, at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the applicant specified in the particular application.

D2. Agency Comments

The Commission invites Federal, state, and local agencies to file comments on the described application. (Agencies may obtain a copy of the application directly from the applicant.) If an agency does not file comments within the time specified for filing comments, the Commission will presume that the agency has none. One copy of an agency's comments must also be sent to the applicant's representatives.

Lois D. Cashell,

Secretary.

[FR Doc. 88–28875 Filed 12–14–88; 8:45 am]

BILLING CODE 6717–01–M

Application Filed With the Commission

November 8, 1988.

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10667–000.

c. *Date Filed:* September 27, 1988.

d. *Applicant:* Youghiogheny Hydroelectric Authority.

e. *Name of Project:* Tionesta Dam Hydro Project.

f. *Location:* On the Tionesta Creek, in Forest County, Pennsylvania.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a) 825(r).

h. *Applicant Contact:* Mr. Robert D. Rizzo, D/R Hydro Company, 10 Duff Road, Suite 300, Pittsburgh, PA 15235, (412) 242–7900.

i. *FERC Contact:* Mary Nowak, (202) 376–9634.

j. *Comment Date:* January 12, 1989.

k. *Competing Application:* Project No. 10626. *Date Filed:* July 15, 1988.

l. *Description of Project:* The proposed project would utilize the existing U.S. Corps of Engineers' Tionesta dam and would consist of: (a) A proposed penstock approximately 250 feet long and 18 feet in diameter connected to an existing intake structure located about 1,000 feet from the dam; (b) a proposed powerhouse containing one new turbine generator having a total installed capacity of 6 megawatts; (c) a 100-foot-long by 50-foot-wide tailrace; (d) a proposed transmission line approximately 200 feet long; and (e) appurtenant facilites. The proposed project would have an average annual generation of approximately 20,000,000 kilowatthours. The applicant estimates that the studies under permit would be about $150,000.

m. This notice also consists of the following standard paragraphs: A8, A10, B, C, and D2.

Standard Paragraphs

A8. Preliminary Permit

Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit and development applications or notices of intent. Any competing preliminary permit or development application, or notice of intent to file a competing application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent may be filed in response to this notice.

A competing license application must conform with 18 CFR 4.30(b) (10 and 9) and 4.36.

A10. Proposed Scope of Studies Under Permit

A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene

Anyone may submit comments, a protest, or a motio to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents

Any filings must bear in all capital letters the title "COMMENTS," "RECOMMENDATIONS FOR TERMS AND CONDITIONS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATIONS," "PROTEST" or "MOTION TO INTERVENE," as applicable, and the project number of the particular application to which the filing is in response. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to: the Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 204–RB, at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the applicant specified in the particular application.

D2. Agency Comments

The Commission invites Federal, state, or local agencies to file comments on the described application. (Agencies may obtain a copy of the application directly from the applicant.) If an agency does not file comments within the time specified for filing comments, the Commission will presume that the agency has none. One copy of an agency's comments must also be sent to the applicant's representatives.

Lois D. Cashell,

Secretary.

[FR Doc. 88–28876 Filed 12–14–88; 8:45 am]

BILLING CODE 6717–01–M

Application Filed With the Commission

November 9, 1988.

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10669–000.

c. *Date Filed:* October 3, 1988.

d. *Applicant:* New York Irrigation District, Boise-Kuna Irrigation District, Wilder Irrigation District, Big Bend Irrigation District, Nampa and Meridian Irrigation District.

e. Name of Project: Twin Springs Irrigation Reservoir and Hydroelectric Project.

f. *Location:* At River Mile 94.3 on the Boise River partially within the Boise National Forest near Idaho City in Elmore County, Idaho.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a) through 825(r).

h. *Applicant Contact:* Mr. Carl Padour, 214 Broadway Avenue, Boise, ID 83702, (208) 344–1141.

i. *FERC Contract:* Ms. Julie Bernt, (202) 376–1936.

j. *Comment Date:* January 16, 1989.

k. *Description of Project:* The proposed project would consist of: (1) A 470-foot-high rockfill dam at elevation 3,860 MSL; (2) a reservoir which at maximum pool elevation of 3,850 feet would have a gross storage of 600,000 acre-feet and a surface area of 4,300 acres and at minimum pool elevation of 3,650 feet would have a gross storage of 110,000 acre-feet and a surface area of 1,100 acres; (3) a concrete-ogee-shaped 1,200-foot-long spillway; (4) a powerhouse containing four generating units two each having a rated capacity of 17,250 kW and two each having a rated capacity of 34,500 kW; and (5) a 36-mile-long transmission line. Applicant estimates the average annual energy production to be 317,000 MWh and the cost of the proposed studies to be $2,000,000.

l. *Purpose of Project:* The power produced would be sold to a local power company.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C and D2.

Standard Paragraphs

A5. Preliminary Permit

Any qualified applicant desiring to file a competing application for a preliminary permit for a proposed project must submit to the Commission, on or before the specified comment date for the particular application, the competing application or a notice of intent to file such an application (see 18 CFR 4.36 (1985)). Submitting a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.30 (b)(1) and (9) and 4.36.

A7. Preliminary Permit

Any qualified applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either the competing development application or a notice of intent to file such an application. Submitting a timely notice of intent allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

A competing license application must conform with 18 CFR 4.30 (b)(1) and (9) and 4.36.

A9. Notice of Intent

A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent of submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies Under Permit

A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a

study of environmental impacts. Based on the results of these studies, the applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene

Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents

Any filings must bear in all capital letters the title "Comments," "Recommendations for Terms and Conditions," "Notice of Intent To File Competing Application," "Competing Applications," "Protest" or "Motion To Intervene," as applicable, and the project number of the particular application to which the filing is in response. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. An additional copy must be sent to: the Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 204–RB, at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon application, or motion to intervene must also be served upon each representative of the applicant specified in the particular application.

D2. Agency Comments

The Commission invites Federal, state, and local agencies to file comments on the described application. (Agencies may obtain a copy of the application directly from the applicant.) If an agency does not file comments within the time specified for filing comments, the Commission will presume that the agency has none. One copy of an agency's comments must also be sent to the applicant's representatives.

Lois D. Cashell,

Secretary.

[FR Doc. 88–28877 Filed 12–14–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP89–332–000 et al.]

Tennessee Gas Pipeline Co. et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Tennessee Gas Pipeline Company

[Docket No. CP89–332–000]

December 8, 1988.

Take notice that on December 5, 1988, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP89–332–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for ANR Gathering Company (ANR Gathering), a marketer, under the blanket certificate issued in Docket No. CP87–115–000 on June 18, 1987, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Tennessee states that pursuant to a transportation agreement dated September 22, 1988, under its Rate Schedule IT, it proposes to transport up to 50,000 dekatherms (dt) per day equivalent of natural gas for ANR Gathering from points of receipt listed in Exhibit "A" of the agreement to delivery points also listed in Exhibit "A". Tennessee states that it would receive the gas at existing points on its system located in Potter County, Pennsylvania, and that it would transport and redeliver the gas at interconnections with Pennsylvania Gas & Water Company at Uniondale and Auburn in Susquehanna, Pennsylvania.

Tennessee advises that service under § 284.233(a) commenced October 1, 1988, as reported in Docket No. ST89–368 (filed October 27, 1988). Tennessee further advises that it would transport 50,000 dt on an average day and 18,250,000 dt annually.

Comment date: January 23, 1989, in accordance with Standard Paragraph G at the end of this notice.

2. Natural Gas Pipeline Company of America

[Docket No. CP89–296–000]

December 8, 1988.

Take notice that on November 28, 1988, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP89–296–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas for Texaco Producing Inc. (Texaco), a producer of natural gas, under Natural's blanket certificate issued in Docket No. CP86–582–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Natural proposes to transport up to 100 billion Btu of natural gas per day, plus overrun volumes, on an interruptible basis for Texaco. It is indicated that the receipt points would be in Oklahoma, Texas, New Mexico, Louisiana and offshore Louisiana, and that the delivery points would be in Oklahoma, Louisiana, New Mexico, Iowa, Kansas, and Illinois.

Natural states that this transportation commenced October 1, 1988, pursuant to § 284.223(a)(1) of the Commission's Regulations as reported in Docket No. ST89–937.

Comment date: January 23, 1989, in accordance with Standard Paragraph G at the end of this notice.

3. Texas Gas Transmission Corporation

[Docket No. CP89–336–000]

December 8, 1988.

Take notice that on December 5, 1988, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP89–336–000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to transport natural gas on behalf of Conoco Inc. (Conoco), under Texas Gas' blanket certificate issued in Docket No. CP88–686–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Texas Gas proposes to transport on an interruptible basis up to 15,000 MMBtu equivalent of natural gas on a peak day for Conoco, 15,000 MMBtu equivalent on an average day and 5,475,000 MMBtu equivalent on an annual basis. It is stated that the transportation service would be effected using existing facilities and would not

require any construction of additional facilities. It is explained that the service commenced October 14, 1988, under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST89-689.

Comment date: January 23, 1989, in accordance with Standard Paragraph G at the end of this notice.

4. Mississippi Valley Gas Company, Complainant, vs. Gulf Fuels, Inc. and ANR Pipeline Company, Respondents

[Docket No. CP89-252-000]

December 8, 1988.

Take notice that on November 21, 1988, Mississippi Valley Gas Company (Complainant), 711 West Capitol Street, Jackson, Mississippi 39203-2608, filed a complaint in Docket No. CP89-252-000 pursuant to § 385.206 of the Commission's Rules of Practice and Procedure (18 CFR 385.206) against Gulf Fuels, Inc. and ANR Pipeline Company (Respondents) to prohibit them from engaging in Natural Gas Policy Act (NGPA) section 311 transportation. Complainant states that, because Gulf Fuels, a local gas broker, misrepresented to ANR that it is an intrastate pipeline within the meaning of section 2(16) of the NGPA, the contract underlying ANR's purported NGPA section 311 transportation on behalf of Gulf Fuels should be declared void as a matter of law and no NGAP section 311 transportation service lawfully may be provided under that contract, all as more fully set forth in the complaint which is on file with the Commission and open to public inspection.

Complainant states that on August 30, 1988, Baxter Healthcare Corporation (Baxter), an MVG industrial customer which manufactures hospital and pharmaceutical equipment at a plant in Cleveland, Bolivar County, Mississippi, informed MVG that beginning October 1, 1988, it would meet its gas supply requirements from its own gas supply line. According to Complainant, following a September 8, 1988, inquiry by the Mississippi Public Service Commission (MPSC), the MPSC discovered that Baxter's gas supply requirements were being met by means of an NGPA transportation service rendered by ANR on behalf of Gulf Fuels pursuant to a March 21, 1988, transportation agreement. Complainant indicates that the March 21, 1988, contract contains a representation and warranty by Gulf Fuels that it is an intrastate pipeline company within the meaning of the NGPA.

Complainant asserts that Gulf Fuels does not appear to be an intrastate pipeline as defined in the NGPA, and as represented by Respondents. Complainant notes that affidavits of various officials of the MPSC indicate that Gulf Fuels (1) does not hold any certificate from the MPSC as an intrastate pipeline, (2) has no pending application for certification before the MPSC, and (3) has never been regulated or certificated in any manner by the MPSC. Complainant explains that on November 17, 1988, it filed a petition for a declaratory order (Docket No. U-5269) at the MPSC seeking an order determining the jurisdictional status of Gulf Fuels. In its petition Complainant states that it expects to show that if Gulf Fuels is an intrastate pipeline operating in Mississippi, that it is in violation of Mississippi law or in the alternative, if Gulf Fuels is not an intrastate pipeline, then it is obtaining interstate gas transmission service under the NGPA by means of a misrepresentation of fact.

Complainant asserts that Gulf Fuels is simply a local gas broker in Jackson, Mississippi and lacks the indicia of an intrastate pipeline performing transportation service in Mississippi to qualify it as an intrastate pipeline under the NGPA. Accordingly, Complainant seeks Commission action to rule that the agreement between ANR and Gulf Fuels dated March 21, 1988, is void at law, since no NGPA intrastate pipeline is involved in the transaction and therefore no NGPA section 311 transportation service may be accomplished pursuant to that contract.

Comment date: January 9, 1989, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

5. United Gas Pipe Line Company

[Docket No. CP89-340-000]

December 9, 1988.

Take notice that on December 5, 1988, United Gas Pipeline Company (United), P.O. Box 1478, Houston, Texas 77251, filed in Docket No. CP89-340-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas under the blanket certificate issued in Docket No. CP88-6-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United proposes to transport natural gas on a firm basis for Arkla Energy Marketing Company (AEM). United explains that the service commenced November 1, 1988, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST89-855. United explains that the peak day quantity would be 103,000 MMBtu, the average daily quantity would be 103,000 MMBtu, and that the annual quantity would be 37,595,000 MMBtu. United explains that it would receive natural gas for AEM's account at existing interconnections in the states of Texas and Louisiana, and Offshore Louisiana. United States that it would redeliver the gas for AEM's account at existing or proposed interconnections in the state of Louisiana.

Comment date: January 23, 1989, in accordance with Standard Paragraph G at the end of this notice.

6. Tennessee Gas Pipeline Company

[Docket No. CP89-327-000]

December 9, 1988.

Take notice that on December 2, 1988, Tennessee Gas Pipeline Company (Applicant), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP89-327-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to provide a transportation service for Cornerstone Production Corporation, a marketer, under Applicant's blanket certificate issued in Docket No. CP87-115-000 on June 18, 1987, pursuant to section 7(c) of the Natural Gas Act, all as more fully set out in the request on file with the Commission and open to public inspection.

Applicant states that pursuant to a transportation agreement dated October 31, 1988, as amended November 3, 1988, it proposes to transport natural gas for Cornerstone Production Corporation from points of receipt located in offshore Louisiana, offshore Texas, and in the states of Louisiana, Texas, Mississippi, New Jersey, Massachusetts, Pennsylvania, West Virginia, New York, and Ohio. Applicant states that the points of delivery are located in the states of Massachusetts, Mississippi, Tennessee, West Virginia, Connecticut, Pennsylvania, and Alabama. It is stated that the ultimate points of delivery are located on the states of Tennessee, Connecticut, Massachusetts, and Alabama. It is stated further that no new facilities will be constructed to provide the transportation service.

The applicant states that the maximum daily quantity transported is 50,000 dekatherm (dt) equivalent of natural gas, an average day is 50,000 dt equivalent of natural gas, and the anual quantity is 18,250,000 dt equivalent of natural gas. It is further stated that service under § 284.223(a) commenced

November 5, 1988, as reported in Docket No. ST89–870 (filed November 23, 1988).

Comment date: January 23, 1989, in accordance with Standard Paragraph G at the end of this notice.

7. Panhandle Eastern Pipe Line Company

[Docket No. CP89–299–000]

December 9, 1988.

Take notice that on November 29, 1988, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP89–299–000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to partially abandon sales service to Ohio Valley Gas Company (Ohio Valley), an existing jurisdictional sales customer under Panhandle's Rate Schedule G–1, all as more fully set forth in the application on file with the Commission and open to public inspection.

Panhandle states that the proposed abandoment would reduce the total annual quantity of gas delivered to Ohio Valley from 3,294,600 Mcf to 2,127,300 Mcf. Panhandle states that the term of its existing agreement with Ohio Valley expired October 31, 1988 and accordingly, Panhandle requests that authority for the partial abandonment to be effective November 1, 1988 for a term through October 31, 1990.

Panhandle states that the partial abandonment of sales service reflects the result of contract renegotiation between Panhandle and Ohio Valley that will allow Ohio Valley to realign its sales service contract demand to match its actual requirements.

Comment date: December 30, 1988, in accordance with Standard Paragraph F at the end of this notice.

8. Williams Natural Gas Company

[Docket No. CP89–330–000]

December 9, 1988.

Take notice that on December 2, 1988, Williams Natural Gas Company (Williams) P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP89–330–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CER 157.205) for authorization to abandon by reclaiming regulating, measuring and appurtenant facilities serving the Cloyce R. Sturdy Grain Company (Sturdy) in Osage County, Kansas, and the transportation of gas through said facilities, under its blanket authorization issued in Docket No. CP82–479–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

It is stated that Williams seeks authorization to abandon by reclaiming regulating, measuring and appurtenant facilities located in the Southeast (SE/4) of Section 1, Township 17 South, Range 15 East, Osage County, Kansas, installed to serve Sturdy's grain company and certificated in Docket No. CP70–166, 43 FPC 538 (1970).

It is alleged that by letter dated July 12, 1988, Sturdy has requested that Williams reclaim its facilities. It is averred that the total cost to reclaim these facilities is approximately $150 with an estimated salvage value of $0.00.

It is asserted that this proposal would not significantly affect a sensitive environmental area since the facilities to be reclaimed are all above ground.

Comment date: January 23, 1989, in accordance with Standard Paragraph G at the end of this notice.

9. United Gas Pipe Line Company

[Docket No. CP89–339–000]

December 9, 1988.

Take notice that on December 5, 1988, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP89–339–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act, for authorization to provide a transportation service for Chevron U.S.A., a producer, under United's blanket certificate issued in Docket No. CP88–6–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United states that pursuant to a transportation agreement dated October 1, 1988, it proposes to transport up to 77,250 Mcf of natural gas per day on an interruptible basis. United proposes to transport the gas from an existing interconnection between United and Sea Robin Pipeline Company near Erath, Vermilion Parish, Louisiana to any of nine specific redelivery points located in St. Landry, Ouachita, Rapides, and LaSalle Parishes, Louisiana.

United states that no new facilities would be required to implement the service. United further states that the maximum day, average day, annual volumes would be approximately 77,250 Mcf, 77,250 Mcf, and 28,196,250 Mcf, respectively. United indicates that it would charge the rates and abide by the terms and conditions provided by its Rate Schedule ITS.

United advises that service under § 284.223(a) of the Commission's Regulations commenced on November 4, 1988, as reported in Docket No. ST89–788.

Comment date: January 23, 1989, in accordance with Standard Paragraph G at the end of this notice.

10. Northern Natural Gas Company, Division of Enron Corp.

[Docket No. CP89–343–000]

December 9, 1988.

Take notice that on December 6, 1988, Northern Natural Gas Company, Division of Enron Corp., (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP89–343–000, a request for authorization pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act and Northern's blanket certificate issued in Docket No. CP86–435–000 pursuant to section 7 of the Natural Gas Act, for authorization to transport natural gas on behalf of Phillips Natural Gas Company (Phillips), a producer of natural gas, on an interruptible basis, all as more fully set forth in the application on file with the Commission and open to public inspection.

Northern states that it would transport natural gas for Phillips, through existing facilities, as follows:

100,000 MMBtu on a peak day
75,000 MMBtu on an average day
36,500,000 MMBtu on an annual basis

It is further stated that the requisite filings, under the 120 day automatic authorization provisions of § 284.223(a), have been made in Docket No. ST89–442.

Comment date: January 23, 1989, in accordance with Standard Paragraph G at the end of this notice.

11. Tennessee Gas Pipeline Company

[Docket No. CP89–338–000]

December 9, 1988.

Take notice that on December 5, 1988, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252 filed in Docket No. CP89–338–000 a request pursuant to § 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas under the blanket certificate issued in Docket No. CP89–115–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Tennessee proposes to transport natural gas on an interruptible basis for Entrade Corporation (Entrade).

Tennessee explains that service commenced October 28, 1988 under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST89–892370. Tennessee further explains that the peak day quantity would be 150,000 dekatherms, the average daily quantity would be 150,000 dekatherms, and that the annual quantity would be 54,750,000 dekatherms. Tennessee explains that it would receive natural gas for the account of Entrade at points of receipt located Offshore Louisiana and in the states of Louisiana, Alabama, Mississippi and Texas. Tennessee states that the points of delivery and the ultimate points of delivery are located in the states of Mississippi, Alabama, and Tennessee.

Comment date: January 23, 1989, in accordance with Standard Paragraph G at the end of this notice.

12. Williams Natural Gas Company

[Docket No. CP89–329–000]

December 9, 1988.

Take notice that on December 2, 1988, Williams Natural Gas Company (Williams), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP89–329–000, a request for permission and approval to abandon certain pipeline delivery facilities, pursuant to §§ 157.205 and 157.216(b) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216(b)), under Williams blanket certificate issued in Docket No. CP82–479–000 on September 30, 1982, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

By its request, Williams proposes to abandon by dismantling and reclaiming certain regulating, measuring and related facilities (delivery point) used for the purpose of selling gas to the following customers:

(1) Delivery point located in section 31, Township 3 North, Range 16 East, Texas County, Oklahoma, installed to serve TELNS Broadcasting Company (TELNS).

(2) Delivery point located in section 16, Township 29 South, Range 4 East, Butler County, Kansas, installed to serve Douglas Alfalfa Plant (Douglas).

(3) Delivery point located in section 2, Township 30 South, Range 40 West, Stanton County, Kansas, installed to serve Barber Farms, Inc. (Barber).

(4) Delivery point located in section 11, Township 19 South, Range 10 West, Rice County, Kansas, installed to serve Prospect Oil and Gas Company (Prospect).

TELNS, Barber and Prospect have each requested that Williams reclaim its facilities, it is stated. Williams also states that it has been unsuccessful in its efforts to contact Douglas, as the alfalfa plant is dismantled.

It is indicated, that the total cost to reclaim the subject facilities will be $1,340, with an estimated salvage value of $175.

Comment date: January 23, 1989, in accordance with Standard Paragraph G at the end of this notice.

13. Panhandle Eastern Pipe Line Company

[Docket No. CP89–281–000]

December 9, 1988.

Take notice that on November 23, 1988, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas, 77001, filed in Docket No. CP89–281–000, a request pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon part of a sales service to Indiana Gas Company, Inc. (Indiana Gas), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Panhandle states that pursuant to section 284 of the Commission's Regulations, Panhandle and Indiana Gas have entered into a sales agreement which provides for a 15% reduction of Indiana Gas' contract demand (CD) level under Rate Schedule G–1, which was converted to firm transportation service effective November 1, 1988.

Specifically, Panhandle would abandon part of Indiana Gas' daily sales contract quantity, which would reduce the annualized CD total from 91,391,850 Mcf to 77,683,058 Mcf.

Panhandle explains that the firm transportation service would be provided for in accordance with the terms and conditions of Panhandle's Rate Schedule PT-Firm.

Pursuant to 18 CFR 284.10(d)(2) the exercise of the customer's option to convert constitutes consent to the proposed abandonment.

Comment date: December 30, 1988, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 88–28879 Filed 12–14–88; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 10531–001, Washington, Oregon, Idaho]

Asotin Hydro Co., Inc.; Surrender of Preliminary Permit

December 12, 1988.

Take notice that Asotin Hydro Company, Inc., Permittee for the Upper

Asotin Hydropower Project No. 10531, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 10531 was issued May 16, 1988, and would have expired April 30, 1991. The project would have been located on the Snake River near Asotin, Washington, in Asotin County, Washington, Nez Perce County, Idaho, and Wallowa County, Oregon.

The Permittee filed the request on November 25, 1988, and the preliminary permit for Project No. 10531 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR § 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 88-28878 Filed 12-14-88; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3492-51]

Contractor Indemnification Review Panel

AGENCY: Environmental Protection Agency.

ACTION: Notice of public meeting.

SUMMARY: The Contractor Indemnification Review Panel will meet at the EPA Headquarters Building, 401 M Street SW., Washington, DC, on December 16, 1988. The meeting will be held in Room SE363 from 9 a.m. to 12 noon. The Contractor Indemnification Review Panel was formed by the EPA to provide the Agency with outside expertise on pollution liability insurance issues. Panel membership is open to all interested persons. The Agency will use the Panel's input when it develops contractor indemnification guidance and regulations under CERCLA section 119. December 16 will be the final opportunity for Panel members to provide input to the Agency prior to the Agency's development of guidance on contractor indemnification.

FOR FURTHER INFORMATION CONTACT: Tom Gillis of the Environmental Protection Agency, Office of Waste Programs Enforcement (OS-510), Washington, DC 20460; telephone 202/382-4524.

Lloyd S. Guerci,

Director, CERCLA Enforcement Division.

[FR Doc. 88-28841; Filed 12-14-88; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL CROP INSURANCE CORPORATION

[Doc. No. 6435S]

Selection of the Federal Crop Insurance Commission

On Wednesday, November 2, 1988, the Federal Crop Insurance Corporation (FCIC) published a Notice in the **Federal Register** at 53 FR 44214, soliciting nominations for membership on the Federal Crop Insurance Commission.

The 25 member commission, authorized by the Federal Crop Insurance Commission Act (Pub. L. 100-546, October 28, 1988), is composed of 20 representatives of the agriculture and crop insurance industries, the Manager of FCIC, and 4 ex officio non-voting members from the House and Senate. Members of the commission serve without compensation.

Commission members representing the agriculture industry include three from the largest general farm organizations and seven growers. Insurance industry members include representatives from large and small insurance companies reinsured by FCIC, sales and service contractors selling federally underwritten crop insurance, and agent trade associations.

The commission is required by law to hold its first meeting within 30 days of its appointment, and to file reports to Congress on April 1 and July 1, 1989. The commission is also required to file monthly reports on its progress until its termination on December 31, 1990.

This notice serves to advise all interested parties that on November 25, 1988, in accordance with the provisions of the ACT, the Secretary of Agriculture appointed the following representatives of the agriculture and crop insurance industries to the commission:

Richard A. Bill
Willard D. Classen
Raymond L. Davis
James D. Deal
M.K. Felt
Robert E. Fulwider
Richard Garabedian
Richard C. Gibson
Thomas Giessel
Franklin T. Johnson
John C. Kintzle
John G. Laurie
Terrence O. Miller
Myrl D. Mitchell
Doyle D. Rahjes
Ernest L. Ross
Wayne A. Showers
Stanley L. Stephenson
Donald E. Suhr
George F. Vohs

David W. Gabriel,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 88-28812 Filed 12-14-88; 8:45 am]

BILLING CODE 3410-08-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202-000093-048.

Title: North Europe-U.S. Pacific Freight Conference.

Parties:

Hapag-Lloyd AG
Compagnie Generale Maritime
P&O Containers (TFL) Limited
Incotrans BV
Sea-Land Service, Inc.

Synopsis: The proposed modifcation would permit common carriers serving the North Europe-U.S. West Coast trades to become Conference members on an associate membership basis. The parties have requested a shortened review period.

Agreement No.: 202-009831-010.

Title: New Zealand/U.S. Atlantic and Gulf Shipping Lines Rate Agreement.

Parties:

Columbus Line
Pacific America Container Express Line (PACE Line)

Synopsis: The proposed modification would permit the Conference to enter into loyalty contracts in accordance with the antitrust laws of the United States. It would also prohibit any party,

either individually or jointly with any other carrier or carriers, from entering into an individual loyalty contract in the Agreement trade. It would further prohibit any party from taking independent action with respect to loyalty contracts.

Agreement No.: 202–010636–053
Title: U.S. Atlantic-North Europe Conference
Parties:

Atlantic Container Line, B.V.
Orient Overseas Container Line (UK) Ltd.
Hapag-Lloyd AG
Sea-Land Service, Inc.
A.P. Moller-Maersk Line
Gulf Container Line (GCL), B.V.
P&O Containers (TFL) Limited
Compagnie Generale Maritime (CGM)
Nedlloyd Lijnen, B.V.

Synopsis: The proposed modification would delete the commencement date provision concerning the authority of the Conference with respect to loyalty contracts.

Agreement No.: 202–010637–036.
Title: North Europe-U.S. Atlantic Conference.
Parties:

Atlantic Container Line, B.V.
Hapag-Lloyd AG
Sea-Land Service, Inc.
Nedlloyd Lijnen, B.V.
Gulf Container Line (GCL), B.V.
P&O Containers (TFL) Limited
Compagnie Generale Maritime (CGM)

Synopsis: The proposed modification would delete the commencement date provision concerning the authority of the Conference with respect to loyalty contracts.

Agreement No.: 226–010916–002.
Title: Global Equipment Management Agreement.
Parties:

The East Asiatic Co. Ltd. A/S
Johnson Line AB
Rederiaktiebolaget Transocean
Wilhelmsen Lines A/S
Barber Blue Sea (Wilhelmsen Lines A/S)
Barber West Africa Line (Wilhelmsen Lines A/S)
EAC–PNSL Service Ltd.
EAC Lines Trans Pacific Service Ltd.
EAC–West Africa Service
Johnson Scanstar
Global Equipment Manager
Johnson South America Lines AB
Portulloyd
Rosa Line
ScanCarriers (Wilhelmsen Lines A/S)
Streamline
Swedish Orient Line
Transatlantic-Southern Africa Services
Pacific Australia Direct Line
Willine (Wilhelmsen Lines A/S)

Synopsis: The proposed modification would substitute Rederiaktiebolaget Transocean for Rederiaktiebolaget Transatlantic, change the name Wilh. Wilhelmsen Limited A/S to Wilhilmsen Lines A/S and delete Pacific Australia Direct Line as a party to the agreement. It would also reflect Barber Blue Sea and ScanCarriers as a service of Wilhelmsen Lines A/S rather than as a joint service. The parties have requested a shortened review period.

Agreement No.: 203–011222.
Title: Barber Blue Sea/Leif Hoegh Discussion Agreement.
Parties:

Barber Blue Sea (Wilhelmsen Lines A/S)
Leif Hoegh & Co., A/S

Synopsis: The proposed agreement would authorize the parties to discuss and agree upon rates, charges, service contracts, and other matters in the table between U.S. and Canadian ports (and inland and coastal ports via such ports) and ports and points worldwide (excluding Japan). It would also permit the parties to charter space to or from one another, and to rationalize sailing. Adherence to any agreement reached by the parties would be voluntary.

Agreement No.: 203–011223.
Title: Transpacific Stabilization Agreement.
Parties:

American President Lines, Ltd.
Evergreen Marine Corp. (Taiwan) Ltd.
Hanjin Shipping Co., Ltd.
Hyundai Merchant Marine Co., Ltd.
Kawasaki Kisen Kaisha, Ltd.
A.P. Moller-Maersk Line
Mitsui O.S.K. Lines, Ltd.
Neptune Orient Lines, Ltd.
Nippon Liner System, Ltd.
Nippon Yusen Kaisha
Orient Overseas Container Line, Inc.
Sea-Land Service, Inc.
Yangming Marine Transport Corp.

Synopsis: The proposed agreement would permit the parties to create a capacity management program among the parties in connection with their existing waterborne operations in the trade from ports and points in the Far East to ports and points in North America.

By Order of the Federal Maritime Commission.

Dated: December 12, 1988.

Joseph C. Polking,

Secretary.

[FR Doc. 88–28799 Filed 12–14–88; 8:45 am]

BILLING CODE 6730–01–M

Agreement(s) Filed; Coastal Cargo Co. et al.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC, Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200060–005.
Title: Port of New Orleans Terminal Lease Agreement.
Parties:

Board of Commissioners of the Port of New Orleans
Coastal Cargo Company

Synopsis: The agreement, pursuant to the terms of the basic lease, provides for the cancellation of sections 51 through 60 of the leased premises at the Galvez Street Wharf, effective January 16, 1989.

Agreement No.: 224–200194.
Title: Maryland Port Administration Terminal Agreement.
Parties:

Maryland Port Administration (MPA)
Atlantic Venture, Inc. (AV)

Synopsis: The proposed agreement provides for a fifteen year term of pier use between MPA and AV. It provides that when either parties' pier terminal facility (facility) becomes temporarily unavailable for use, the facility owner/operator whose facility is temporarily unavailable may, subject to availability, utilize the other owner/operator's facility.

Agreement No.: 224–200196.
Title: Port Everglades Authority Terminal Lease Agreement.
Parties:

Port Everglades Authority (Port)
Florida Europe Cargo Service N.V. (FECS)

Synopsis: The agreement provides that the Port will lease to FECS approximately 3.36 acres of vacant property located in Broward County, Florida. The leased property shall be used only as a container terminal for the

storage of containers, cargo and related equipment which has arrived at Port Everglades by water, or is destined for export from Port Everglades. The lease shall be for a term of three years beginning December 1, 1988, and ending November 30, 1991.

By Order of the Federal Maritime Commission.

Dated: December 12, 1988.

Joseph C. Polking,

Secretary.

[FR Doc. 88-28881 Filed 12-14-88; 8:45 am]

BILLING CODE 6730-01-M

Agreement(s) Filed; Provident Warehouse Co. et al.

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 560.7 and/or § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 224-200195.

Title: Port of Houston Authority Terminal Agreement.

Parties:

Port of Houston Authority (Port)
Provident Warehouse Company (Provident)

Filing Party: Algenita Scott Davis, Counsel, Port of Houston Authority, P.O. Box 2562, Houston, TX 77252-2562.

Synopsis: The agreement provides that Provident will perform or have performed public marine terminal services, including freight handling and cargo loading/unloading, at the Port's wharves and transit sheds Number M-2. The term of the agreement expires December 31, 1990.

Dated: December 12, 1988.

By order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 88-28880 Filed 12-14-88; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

First Independence Corp. et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in §225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convience, 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 January 5, 1989.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Independence Corporation,* Detroit, Michigan; to engage *de novo* through its subsidiary, First Independence Courier Services, Detroit, Michigan, in providing courier services pursuant to § 225.25(b)(10) of the Board's Regulation Y. These activities will be conducted in the State of Michigan.

2. *Irwin Union Corporation,* Columbus, Indiana; to engage *de novo* through its subsidiary, Irwin Union Capital Corporation, Columbus, Indiana, in consumer financial counseling pursuant to § 225.25(b)(20) of the Board's Regulation Y.

2. *Irwin Union Corporation,* Columbus, Indiana; to engage *de novo* through its subsidiary, Irwin Union Capital Markets, Inc., Columbus, Indiana, in securities brokerage pursuant to § 225.25(b)(15) of the Board's Regulation Y.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Peoples National Bancshares of Checotah, Inc.,* Checotah, Oklahoma; to engage *de novo* through its subsidiary, Cantwell Insurance Agency, Inc., Checotah, Oklahoma, in insurance-agency activities pursuant to § 225.25(b)(8)(iii) of the Board's Regulation Y. These activities will be conducted in the city of Checotah, Oklahoma, which has a population of less than 5,000. Comments on this application must be received by December 29, 1988.

Board of Governors of the Federal Reserve System, December 9, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-28793 Filed 12-14-88; 8:45 am]

BILLING CODE 6210-01-M

Midconn Bancorp, Inc., et al., Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for

immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute an 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 January 5, 1989.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *MidConn Bancorp, Inc.*, Kensington, Connecticut; to become a bank holding company by acquiring 100 percent of the voting shares of MidConn Bank Kensington, Connecticut.

B. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Omega Financial Corporation*, State College, Pennsylvania; to acquire 9.99 percent of the voting shares of Mifflinburg Bancorp, Inc., Mifflinburg, Pennsylvania.

C. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First of Searcy, Inc.*, Searcy, Arkansas; to acquire 24.15 percent of the voting shares of Baxter County Bancshares, Inc., Mountain Home, Arkansas, and thereby indirectly acquire People's Bank Corporation, Mountain Home, Arkansas, and its subsidiary, Peoples Bank & Trust Company, Mountain Home, Arkansas. In connection wtih this application, Baxter County Bancshares, Inc., has filed an application to become a bank holding company by acquiring 80 percent of the voting shares of Peoples Bank Corporation, Mountain Home, Arkansas, and thereby indirectly acquire Peoples Bank & Trust Company, Mountain Home, Arkansas.

Board of Governors of the Federal Reserve System, December 9, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-28794 Filed 12-14-88; 8:45 am]

BILLING CODE: 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 88N-0394]

Generic Animal Drug and Patent Term Restoration Act; Letter Setting Forth Agency Policies; Availability

AGENCY: Food and Drug Administration.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a policy letter on the implementation of the Generic Animal Drug and Patent Term Restoration Act (the new law). The letter announces the agency policy in implementing certain aspects of the new law. The agency is soliciting comments on the letter and other aspects of implementing the new law.

DATE: Comments by February 13, 1989.

ADDRESSES: Written requests for copies of the letter to Industry Information Staff (HFV-12), Center for Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. (Send two self-addressed adhesive labels to assist the Staff in processing your requests.) Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Richard Talbot, Office of New Animal Drug Evaluation (HFV-100), Center for Veterinary Medicine, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4313.

SUPPLEMENTARY INFORMATION: On November 16, 1988, the President signed into law the Generic Animal Drug and Patent Term Restoration Act (the new law) (Pub. L. 100-670, 102 Stat. 3971). The new law follows enactment of the Drug Price Competition and Patent Term Restoration Act of 1984, signed by the President on September 24, 1984 (Pub. L. 98-417). Title I of that act provided a system for abbreviated new human drug applications, and Title II of that act amended the U.S. patent laws to provide patent term extension for certain human drug products, including biologics, antibiotics, medical devices, food additives, and color additives.

The new law signed November 16, 1988, amends the Federal Food, Drug, and Cosmetic Act (the act) by extending the generic approval system to copies of new animal drugs that were approved after October 1962 and provides patent extension for certain animal drugs. Under the provision of the new law: (1) FDA must within 60 days of enactment publish a list of the animal drugs that the agency has approved for safety and effectiveness, and update the list every 30 days; (2) sponsors can obtain approvals for generic drugs without submission of safety and effectiveness data, provided they show that their drugs are bioequivalent to listed drugs and meet certain other requirements including assurance of human food safety; (3) sponsors of listed drugs may obtain certain exclusive marketing periods during which generic applications may not be submitted or approved, and patents for listed drugs may be extended; (4) pioneer sponsors must submit certain patent information, in some instances as early as 30 days after enactment of the new law, and generic sponsors must, when they submit applications, make certifications with respect to the patent status of the listed drugs; (5) generic sponsors may submit applications starting 60 days after the enactment date, but FDA cannot approve generic applications under the new law until January 1, 1991, and the agency is precluded from approving generic equivalents of drugs that are primarily manufactured using biotechnology; (6) FDA is required to promulgate implementing regulations for the generic approval and patent extension provisions of the new law but in the meantime is to follow the provision of the act, as amended, and existing regulations; and (7) the agency is required to approve or disapprove generic applications within 180 days unless the agency and the sponsor agree on a different period of time.

FDA has issued a letter concerning certain aspects of implementing the new law to the animal drug industry and to other interested persons. The letter discusses the list of approved drugs that the agency must publish, patent certifications that must be made by generic applicants, and submission of patent information and exclusivity claims by pioneer sponsors.

Until regulations are promulgated, the information in the letter (unless revoked or modified) may be relied upon with assurance of its acceptability to FDA. The letter, however, does not state legal requirements beyond those found in the statute and existing regulations, nor does the letter bind FDA should events occur prior to the issuance of a rule that require a change in FDA policy. Additional policy information concerning implementation of the new law and changes in FDA policy will be announced in future letters or notices.

Interested persons may, on or before February 13, 1989, submit to the Dockets Management Branch (address above)

written comments regarding information in the letter and implementation of the new law in general. Two copies of any comments should be submitted, except that individuals may submit one copy. Comments and other information on this topic have been placed on file with the Dockets Management Branch and may be seen between 9 a.m. and 4 p.m., Monday through Friday.

Written requests for single copies of the letter should be sent to the Industry Information Staff (address above).

Dated: December 9, 1988.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 88-28797 Filed 12-12-88; 11:17 am]

BILLING CODE 4160-01-M

Technical Electronic Product Radiation Safety Standards Committee; Recharter

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration announces the rechartering of the Technical Electronic Product Radiation Safety Standards Committee (TEPRSSC), by the Commissioner of Food and Drugs. This notice is issued under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)).

DATE: The new charter for this committee will extend to December 24, 1990.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA-306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

Dated: December 8, 1988.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 88-28798 Filed 12-14-88; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Statement of Organization, Functions and Delegations of Authority

Part F. of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA) **Federal Register**, Vol. 48 No. 198 pp. 46434-46448, dated Wednesday, October 12, 1983) is amended to reflect organizational changes within the Office of the Associate Administrator for Operations for the Bureau of Program Operations. The Bureau's functional statement will remain unchanged. However, the Office of Financial Operations and the Division of Reports and Analysis will have new functional statements. Also, within the Division, there will be a new branch.

The specific changes to Part F. are described below:

- Section FP.20.A.4., the functional statement for the Office of Financial Operations is deleted and replaced by a new functional statement.
- Section FP.20.A.4.d., the functional statement for the Division of Reports and Analysis is deleted and replaced by a new functional statement. The Program Data Management Branch is added to the Division of Reports and Analysis.

The Office of Financial Operations Division of Reports and Analysis will keep the same administrative codes. The new functional statements are as follows:

4. Office of Financial Operations (FPA7).

Establishes the policies and procedures by which contractors and Regional Offices prepare and submit periodic budget estimates. In consultation with other HCFA and BPO components, develops and negotiates the national budget for Medicare contractors, including workload and funds estimates. Controls and manages the Medicare cash flow and related banking activities. Reviews periodic contractor expenditure reports to evaluate budget execution and determine the allowability of costs. Prepares analyses of Medicare expenditure trends and patterns. Reviews contractor performance in determining the correct amount of provider, physician, and supplier overpayments, and assists contractors in negotiations related to the acceptability of the technique for determining the amount of overpayment and the methods of recovery. Prepares cases when compromises are not appropriate and overpayments are uncollectable and assists the HCFA Claims Collection Officer in preparing such cases for disposition. Prepares manual instructions concerning the procedures for the recovery of provider cost report overpayments. Designs, implements, and maintains a Medicare/Medicaid overpayment tracking system. Directs the processing of all Medicare (Part A) beneficiary appeals and beneficiary overpayments. Plans, directs, and coordinates the processing of claims submitted for reconsideration and hearings. Reviews Office of Hearings and Appeals, Social Security Administration, decisions. Establishes procedures and guidelines to target the audit activities of Medicare contractors. Assures that audit funds are utilized to provide a high rate of return in program savings. Directs special audit projects. Compiles operational and performance data for recurring and special reports to reflect the status and trends in program operations effectiveness. Directs and coordinates the Bureau's program data management activities.

d. Division of Reports and Analysis (FPA78).

Designs and develops a system of reports that generates Medicare contractor data regarding program administration. Reviews contractors' reporting systems for consistency and the ability to transmit the required information and prepares the appropriate reporting changes. Prepares written interpretations and analyses of operating data to provide other Bureau components with information necessary in conducting performance evaluations. Develops the specifications for an automated operational data system for Medicare. Prepares recurring and special reports on the status and trends in program administration and operational effectiveness. Provides technical assistance to Regional Offices and contractors on reporting requirements. Directs the Bureau's program data management activities including: Developing BPO automation strategy based on long term needs and new initiatives; identifying needs, documenting requirements and coordinating design, development, and implementation activities with Bureau of Data Management and Strategy; and providing technical assistance to the Bureau components in mainframe and microcomputer applications.

Date: December 1, 1988.

William L. Roper,

Administrator.

[FR Doc. 88-28884 Filed 12-14-88; 8:45 am]

BILLING CODE 4120-01-M

Health Resources and Services Administration

Filing of Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of Pub. L. 92-463, the Annual Report for the following Health Resources and Service Administration Federal Advisory Committee has been filed with the Library of Congress:

National Advisory Council on Health Professions Education Copies are available to the public for inspection at the Library of Congress Newspaper and Current Periodical Reading Room, Room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, SE., Washington, DC, or weekends between 9:00 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department Library, HHS North Building, Room G-400, 330 Independence Avenue, SW., Washington, DC, telephone (202) 245-6791. Copies may be obtained from: Mr. James M. Hoeven, Executive Secretary, National Advisory Council on Health Professions Education, Room 8C-22, Parklawn Building, 5600 Fishers Lane, Rockville Maryland 20857, Telephone (301) 443-6880.

Dated: December 12, 1988.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 88-28849 Filed 12-14-88; 8:45 am]

BILLING CODE 4160-15-M

National Institutes of Health

Public Health Service; Academic Research Enhancement Award

The National Institutes of Health (NIH) is making a special effort to stimulate research in educational institutions that provide the baccalaureate training for a significant number of our nation's research scientists but that historically have not been major recipients of NIH support. Since Fiscal Year (FY) 1985, Congressional appropriations for the NIH have included funds for this initiative which NIH has implemented through the Academic Research Enhancement Award (AREA) Program. In FY 1985, the NIH made 75 awards, totalling $5 million. In FY 1986, 146 such grants were awarded, amounting to $9.57 million. In FY 1987, a total of 152 AREA grants were awarded from the Congressional appropriation of $10 million. In FY 1988, 173 awards were made, totalling approximately $11 million.

This award is designed to enhance the research environment of educational institutions that have not been traditional recipients of NIH research funds. The AREA funds are intended to support new research projects or expand ongoing research activities proposed by faculty members of these institutions in areas related to the health sciences. Applications for FY 1989 AREA grants are currently undergoing review for scientific merit. Since it is anticipated that additional funds will be available next year the NIH is inviting grant applications for the FY 1990 competition for AREA grants.

Eligibility requirements of the AREA Program include the following:

Applicant Institutions

- All domestic institutions offering baccalaureate or advanced degrees in the sciences related to health are eligible, except those that have received an NIH Biomedical Research Support Grant (BRSG) of $20,000 or more per year for four or more years during the period from FY 1982 through FY 1988.
- Health professional schools (e.g., schools of medicine, dentistry, nursing, osteopathy, pharmacy, veterinary medicine, public health, allied health, optometry, and podiatry) as well as organizationally discrete campuses of a university system are eligible if they meet the above criterion.
- Multiple applications proposing different research projects may be submitted by an applicant institution.

Applicant Principal Investigators

- Must not have active research grant support (including an AREA) from either NIH or the Alcohol, Drug Abuse and Mental Health Administration ADAMHA) at the applicant institution at the time of award of an AREA grant.
- May not submit a regular NIH or ADAMHA research grant application for essentially the same project as a pending AREA application.
- Are expected to conduct the majority of their research at their own institution, although limited access to special facilities or equipment at another institution is permitted.
- May not be awarded more than one AREA grant at a time nor be awarded a second AREA grant to continue the research initiated under the first AREA grant.

Those in doubt about eligibility should consult their institution's Office of Sponsored Research, or the Director, Special Programs and Initiatives, Office of Extramural Programs, (Building, 31, Room 1B54, NIH, Bethesda, MD 20892, 301/496-1968).

Funding decisions will be based on the proposed research project's scientific merit and relevance to NIH programs, and the institution's contribution to the undergraduate preparation of doctoral-level health professionals. Among projects of essentially equivalent scientific merit and program relevance, preference will be given to those submitted by institutions that have granted baccalaureate degrees to 25 or more individuals who, during the period 1978-1988, obtained academic or professional doctoral degrees in the health related sciences.

AREAs are awarded on a competitive basis. Applicants may request support for up to a total of $75,000 in direct costs (plus applicable indirect costs) for a period not to exceed 36 months. Although this award is non-renewable, it will enable qualified individual scientists within the eligible institutions to receive support for feasibility studies, pilot studies and other small-scale research projects preparatory to seeking more substantial funding from the regular NIH research grant programs.

Applications for this award will be accepted under the regular application submission procedures of the Division of Research Grants (DRG) of NIH. Grant applications must be prepared and submitted on Form PHS 398 (Rev. 9/86) Grant Application. An abbreviated format and simplified instructions will be provided for use in preparing these applications. The receipt date is June 22, 1989.

Those individuals and institutions meeting eligibility requirements and wishing to receive further information and/or application materials should write to: AREA, Office of Grants Inquiries, Division of Research Grants, National Institutes of Health, Westwood Building—Room 449, Bethesda, Maryland 20892, (301) 496-7441.

(*Catalog of Federal Domestic Assistance* Program No. 13.390, Academic Research Enhancement Award (AREA), National Institutes of Health.)

Dated: December 7, 1988.

James B. Wyngaarden,

Director, National Institutes of Health.

[FR Doc. 88-28805 Filed 12-14-88; 8:45 am]

BILLING CODE 4140-01-M

Social Security Administration

Social Security Disability Program Demonstration Project United Cerebral Palsy Associations; Project Incentive

SUMMARY: The Commissioner of Social Security announces the following demonstration project to be conducted under the authority of section 1110(b) of the Social Security Act (the Act). Through its project entitled, "Project Incentive," the United Cerebral Palsy Associations, Inc. (UCPA), will demonstrate the effectiveness of using rehabilitation engineering in adapting worksites with assist devices in enhancing employment outcomes for Supplemental Security Income (SSI) recipients with physical disabilities due to cerebral palsy. Section 1615 of the Act

is waived to conduct this project, permitting direct referral of SSI recipients from the Social Security Administration (SSA), or State agencies that make disability determinations for SSA to UCPA. We are publishing this notice to comply with the Code of Federal Regulations, Title 20, Part 416, section 250(e), which requires such notification.

FOR FURTHER INFORMATION CONTACT: Malcolm H. Morrison, Ph.D., Social Security Administration, Office of Disability, 2223 Annex Building, 6401 Security Boulevard, Baltimore, Maryland 21235, Phone (301) 965–0091.

Background Information

Section 1110(b) of the Act authorizes the Secretary to develop and conduct experimental, pilot, and demonstration projects to promote the objectives or improve the administration of the SSI program. These projects are intended to test the advantages of altering certain requirements, conditions, or limitations for recipients and test different administrative methods that apply to SSI applicants and recipients. This section also authorizes the Secretary to waive certain provisions of the Act as is necessary to conduct these experiments and demonstration projects.

Project Objectives

The objectives of this project are to:

- Create competitive job opportunities for persons with cerebral palsy and;
- Determine the effectiveness of adapting work sites with modifications and strategies through the use of rehabilitation engineering in enhancing the employment outcomes of the participants.

Description of the Demonstration Project

Survey information and group interviews have shown that many of SSA's disability recipients, including those suffering from cerebral palsy, would prefer to work if the conditions were favorable. Many individuals with cerebral palsy suffer from severe motor and/or mental disabilities which prevent their successful employment in customary work environments. Project Incentive will create a model program for employing such individuals by adapting worksites with individualized assist devices and strategies that allow them to perform work functions despite their limitations. UCPA will provide accommodations and place 50 to 60 SSI recipients by the end of the 2-year project. An additional 20 individuals will be similarly placed in a nongrant-funded replication site in year 2 of the project to further test the efficacy of the project.

The project is based on the cooperative efforts of several agencies and thus offers a combination of services. Local rehabilitation agencies, SSA district offices, and the grantee will identify potential participants in the Baltimore, Maryland, metropolitan area and the rural western Maryland area. In order to serve efficiently this broad catchment area, a demonstration site will be employed in each of these areas. Participants will be chosen with an emphasis on those individuals with one or more of the following characteristics:

- Job training that has not resulted in job placement;
- A history of repeated job terminations, particularly those related to performance capability/skills;
- A history of job-seeking activities that have not resulted in securing a job; and/or
- Documentation of motivation for remaining unemployed due to past disincentives (e.g., loss of medical benefits), either on the part of the client or his/her family.

UCPA will promote SSA's 1619 (a) and (b) work incentive program to encourage participation. Potential employers will be identified using existing central Maryland UCPA and State of Maryland Division of Vocational Rehabilitation business contacts and systematic review of advertised job openings in newspapers and civil service circulars. Individualized placement will occur following an intake process in which a participant's job history, job preferences, prior training, and job-related support needs are ascertained. Participant productivity will be measured before and after installation of the accommodations. Success of the project will be based on whether the accomplishments match the projected tasks and objectives; whether the effort required to effect the changes is cost-efficient; and whether the participants are satisfied with the project's activities and outcomes.

Statutory Provisions Waived

Section 1615 of the Act, which requires that SSA refer disabled persons directly to State vocational rehabilitation agencies, is waived for the purpose of conducting this project. This waiver authorizes SSA to refer SSI recipients directly to UCPA.

(Catalogue of Federal Domestic Assistance Program No. 13.812 Social Security Research and Demonstration)

Dated: November 29, 1988.

Dorcas R. Hardy,

Commissioner of Social Security.

[FR Doc. 88–28804 Filed 12–14–88; 8:45 am]

BILLING CODE 4190–11–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–09–4214–11; N–1885, N–1885A, N–2345A]

Classification Vacated; Correction, Nevada

December 7, 1988.

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction notice.

SUMMARY: The purpose of this notice is to correct errors in two 1983 **Federal Register** notices.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Bureau of Land Management, Nevada State Office, 850 Harvard Way, P.O. Box 12000, Reno, NV 89520, 702–784–5481.

SUPPLEMENTARY INFORMATION: The following corrections are hereby made to the listed **Federal Register** published documents:

On page 36213 of **Federal Register** document 83–21659 published on August 9, 1983, paragraph 3, line 2, remove "except that."

On page 34525 of **Federal Register** document 83–20604 published on July 29, 1983, first column, fourth line under T. 15 N., R. 19 E., add "SE¼."

Fred Wolf,

Associate State Director, Nevada.

[FR Doc. 88–28899 Filed 12–14–88; 8:45 am]

BILLING CODE 4310–HC–M

[CA–060–09–5101–09 XBCK, FES 8–52]

Final Supplemental Environmental Impact Statement Devers-Palo Verde No. 2 500 kV Transmission Line

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a Final Supplemental Impact Statement concerning construction of 500 kV transmission line.

FOR FURTHER INFORMATON CONTACT: Gerald E. Hillier, District Manager,

California Desert District, 1695 Spruce Street, Riverside, California 92507.

SUPPLEMENTARY INFORMATION: The Southern California Edison Company (SCE) proposes to build a 500 kV transmission line from the Devers Substation near Palm Springs, California, to the vicinity of the Palo Verde Nuclear Generating Station about 40 miles west of Phoenix, Arizona. The Draft Supplemental Environmental Impact Statement described and evaluated four routing alternatives and the no-action alternative with respect to the transmission line. The SCE's proposed route, parallel to the existing Devers-Palo Verde No. 1500 kV Transmission Line, is the preferred alternative of the Bureau of Land Management.

A limited number of individual copies of the Final Environmental Impact Statement may be obtained from the above address.

Dated: November 29, 1988.

Bruce Blanchard,

Director, Office of Environmental Project Review.

[FR Doc. 88-28861 Filed 12-14-88; 8:45 am]

BILLING CODE 4310-40-M

[C-47721]

Realty Action; Direct Sale of Public Lands in Teller County, CO

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action C-47721, Direct Sale of Public Lands in Teller County, Colorado.

SUMMARY: The following described lands have been examined and identified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1701, 1713) at no less than the appraised fair market value:

Sixth Principal Meridian, Colorado

T.14S., R.70W.,
Sec. 25, M.S. 14357
6.89 acres
T.15S., R.70W.,
Sec. 3
Lots 76, 83, 85, 89, 93, 95, 100, 101, 102, 105 and 111
36.19 acres

The total acreage in this sale is 43.08 acres. The specific descriptions and acreages may change slightly upon approval of the final survey plat. These lands are hereby segregated from appropriation under the public land laws, including the mining laws, until patent issues or for a period of 270 days. The land will be offered by direct sale to Golden Cycle Land Corporation. Golden Cycle and any other interested parties will be notified of the sale price upon completion of the appraisal.

Any parcel not sold by direct sale will be reoffered for sale by competitive bidding to the general public beginning April 5, 1989 and the 1st and 3rd Wednesdays each month thereafter until sold or the sale is canceled.

A more detailed sales prospectus providing specific information on each sale parcel, including patent reservations and restrictions will be available upon request.

DATES: Comment period ends January 30, 1989.

FOR FURTHER INFORMATION: Contact the District Manager, Canon City District Office, 3170 East Main Street, P.O. Box 311, Canon City, Colorado 81212, (719) 275-0631. Comments will be evaluated by the District Manager, who may cancel or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become final.

Donnie R. Sparks,

District Manager.

[FR Doc. 88-28828 Filed 12-14-88; 8:45 am]

BILLING CODE 4310-JB-M

Bureau of Land Management; Montana

[MT-070-09-4050-91-47D; M-76985]

Realty Action: Exchange; Montana

AGENCY: Bureau of Land Management, Butte District, Interior.

ACTION: Exchange of public land in Madison County for private land in Beaverhead and Madison Counties.

SUMMARY: The following described land has been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716.

Principal Meridian, Montana

T. 3 S., R. 9 W.,
Sec. 12, SW¼NE¼, W½SE¼, E½SE¼SW¼
Containing 140 acres of public land.

In exchange for these lands, the United States will acquire the following land owned by McCullough Ranches, Inc.

Principal Meridian, Montana

T. 3 S., R. 9 W.,
Sec. 14, W½SW½W¼, SW¼SW¼NE¼SW¼SW¼, W½SE¼SW¼SW¼.
Sec. 23, E½W½NE¼NW¼NW¼, W½W½E½NW¼, W½W½NW¼, NE¼NW¼NW¼SW¼, W½W½W½SW¼, E½SW¼SW¼SW¼.
Containing 125.625 acres.

DATES: On or before January 30, 1989 interested parties may submit comments to the Bureau of Land Management at the address shown below. Any adverse comments will be evaluated by the BLM, Montana State Director, who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of Interior.

FOR FURTHER INFORMATION CONTACT: Information related to the exchange, including the environmental assessment/land report, is available for review at the Dillon Resource Area Office, Ibey Building, P.O. Box 1048, Dillon, Montana 59725.

SUPPLEMENTARY INFORMATION: The publication of this notice segregates the public lands described above from settlement, sale, location and entry under the public land laws, including the mining laws, but not from exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976 for a period of two years from the date of first publication. The exchange will be made subject to:

1. A reservation to the United States of a right-of-way for ditches or canals in accordance with 43 U.S.C. 945.

2. Both the surface and mineral estates will be exchanged on an equal value basis.

3. The lands will be exchanged subject to all valid, existing rights (e.g., rights-of-way, easements, and leases of record.)

4. The exchange must meet the requirements of 43 CFR 4110.4-2.

This exchange is consistent with Bureau of Land Management policies and planning and has been discussed with State and local officials. The estimated completion date is April, 1989. The public interest will be served by this exchange because it will enable the Bureau of Land Management to acquire riverfront lands with high public values and will increase management efficiency of public lands in the area.

December 6, 1988.

Paul E. Peek,

Acting District Manager.

[FR Doc. 88-28822 Filed 12-14-88; 8:45 am]

BILLING CODE 4310-DN-M

[NM-030-09-4333-12]

Establishment of Supplementary Rules for Designated Recreation Sites, Special Recreation Management Areas, and Other Public Land in the Las Cruces District, NM

AGENCY: Bureau of Land Management, Interior.

ACTION: Rules of conduct and supplemental rules.

SUMMARY: The purpose of these supplementary rules is to provide for the protection of person, property, and public land and resources. More specifically, the purpose falls into the following categories.

a. Implementation of Management Plans—Certain prohibited activities have been recommended as supplemental rules for designated recreation sites and Special Recreation Management Areas (SRMAs). Some plan amendments and recommendations are not enforceable as published. In order to implement these recommendations, they must be published as specific prohibited acts in the **Federal Register.** Use of the supplemental rules section of 43 CFR, Subpart 8365, is the most appropriate way of implementing these recommendations. Rationale for these recommendations are presented in their entirety in the resource management plan or recreation management plan for the specific area.

b. Mitigation of User Conflict—Certain other supplementary rules are recommended because of specific user conflict problems in the field. Prohibiting the reservation of camping space in developed campgrounds will allow such space to be available on a first come first serve basis. This will prevent a few persons from monopolizing the use of limited developed camping space. Prohibition of motorized vehicle freeplay (operation of any 2-wheel, 3-wheel, or 4-wheel motor vehicle for purposes other than accessing a campsite) is recommended to minimize the noise and nuisance factor that such activity represents in a developed recreation site.

c. Public Health and Safety—The erection and maintenance of unauthorized toilet structures on the public land could represent a major threat to public safety and health due to the concentration of human wastes. The erection and maintenance of toilet structures may be permitted by the authorized officer on a case-by-case basis and only when appropriate State and local permits have been obtained. It should be noted that all of the shooting restrictions recommended do not prohibit legitimate hunting activities except within ¼ mile of developed sites. Recreational shooters will be encouraged to use public land where such shooting restrictions do not apply and this use does not significantly conflict with other uses.

d. Complementary Rules—Some supplementary rules, such as parking or camping near water sources, are recommended to complement those of State and local agencies. Because these rules provide for the protection of persons and resources and in the interest and spirit of cooperation with the responsible agencies, these supplementary rules are deemed necessary.

The degree to which these rules will be enforced will not change normal patrol procedures. As always, violations will be handled by Rangers on a case-by-case basis.

Special Recreation Management Areas and Designated Recreation Sites

A Special Recreation Management Area (SRMA) is an area where special or more intensive types of recreation management are needed. There are two primary types of SRMAs: Those Congressionally recognized and those administratively recognized by the BLM.

A designated recreation site is a smaller area or an enclave of a SRMA where recreation is the principal management objective for which the Bureau manages, and facilities are provided. Development within designated recreation sites may vary from limited development for protection of the resource values and the safety of users to a site with definite developed facilities that meet the Land and Water Conservation Fund Act criteria for a fee collection site.

The following areas are considered designated recreation sites and SRMAs for the purpose of applying the rules of conduct contained in 43 CFR 8365.2:

1. Aguirre Spring (Recreation Site—Mimbres Resource Area).
2. La Cueva (Recreation Site—Mimbres Resource Area).
3. Three Rivers (Recreation Site—White Sands Resource Area).
4. Datil Well (Recreation Site—Socorro Resource Area).
5. Organ Mountains Recreation Lands (SRMA—Mimbres Resource Area).
6. Gila Lower Box (SRMA—Mimbres Resource Area).

In addition to the regulations contained in 43 CFR 8365.2, the following supplemental rules will be applied to the recreation sites and areas listed above.

1. Reserving camping space is prohibited. Camping space will be allocated on a first come first served basis.

2. Persons may group or occupy any specific location within designated campgrounds, designated recreation sites or on public land within SRMAs in the Las Cruces District, New Mexico for a period of not more than 7 days within any period of 28 consecutive days unless otherwise authorized. Exceptions which will be posted would include areas closed to camping and areas with specially designated camping stay limits. The 28-day period will begin when a camper initially occupies a specific location on public land. The 7-day limit may be reached either through a number of separate visits or through 7 days of continuous occupation during the 28-day period. After the 7th day of occupation, campers must move outside of a 25-mile radius of the previous location. Camping means the erection and use of a tent or shelter of natural or synthetic material, preparing a sleeping bag or other bedding material for use, or use of a vehicle or trailer/camper for the apparent purpose of overnight ocupancy. Occupancy is defined as the taking or holding possession of a camp or residence on public land.

3. Motorized vehicle freeplay is prohibited within designated recreation sites. Motorized vehicles will be used for access to and from campsites only.

4. Cutting or gathering of green or dead wood is prohibited within the designated recreation sites and SRMAs. Open fires are restricted to fire rings provided within designated sites. Open fires along the Baylor Pass and Pine Tree Trails are restricted to the designated primitive campsites.

5. Equestrian use is prohibited at campgrounds and picnic areas unless facilities have specifically been provided for such use or unless otherwise authorized.

6. The discharge of firearms is prohibited within ¼-mile of designated recreation sites. Possession and use of fireworks are prohibited within designated recreation sites.

7. Aguirre Spring Campground use is limited to overnight campers after 10:00 p.m. The entrance gate will be closed at 10:00 p.m. during summer hours and at 8:00 p.m. during winter hours.

8. Within all designated recreation sites, quiet hours are in effect from 10:00 p.m. to 6:00 a.m.

9. Pets must be confined to leashes at all times within designated recreation sites and on designated trails.

10. The gate located in T. 23 S., R. 3 E., Section 2 on the Dripping Springs Road

will remain locked and all public access will be restricted for a period of not less than 6 months from the date of this notice. Authorized permittees are exempt from this closure. This closure is in accordance with the Memorandum of Understanding between the BLM and the Nature Conservancy to allow for an orderly transition of the A. B. Cox Estate property before public use is allowed within the area known as "The Cox Ranch."

11. The gate located in T. 23 S., R. 3 E., Section 12, on the road from the Cox Ranch headquarters to Dripping Springs will be locked to restrict vehicle access in upper Ice Canyon. Vehicle access will be futher restricted in this area by means of a locked gate along the powerline road in T. 23 S., R. 3 E., Section 11. The purpose of these closures is to protect significant historic and natural values. These closures will remain in effect indefinitely. Exceptions are authorized permittees and (for the road from the headquarters to Dripping Springs) handicapped or otherwise physically disabled persons who obtain prior authorization.

Other Public Land

In addition to the regulations contained in 43 CFR 8365.1–2, the following supplemental rules will be applied to all public land in the Las Cruces District, New Mexico.

1. Persons may camp on any specific location on public land outside SRMAs or designated recreation sites within the Las Cruces District, New Mexico for a period of not more than 14 days within any 28 consecutive days unless otherwise authorized. Exceptions which will be posted would include areas closed to camping and areas with specially designated camping stay limits. The 28-day period will begin when a camper initially occupies a specific location on public land. The 14-day limit may be reached either through a number of separate visits or through 14 days of continuous occupation during the 28-day period. After the 14th day of occupation, campers must move outside of a 25-mile radius of the previous location. Camping means the erection and use of a tent or shelter of natural or synthetic material, preparing a sleeping bag or other bedding material for use, use of a vehicle or trailer/camper, or morring of a vessel for the apparent purpose of overnight occupancy. Occupancy is defined as the taking or holding possession of a camp or residence on public land.

2. It is prohibited to erect or maintain any semi-permanent or permanent toilet, shower, or other sanitary facilities or structures on public land without authorization.

3. It is unlawful to park any motor vehicle or to camp within 300 yards of any manmade water hole, water well, or watering tank used by wildlife or domestic stock, without authorization.

4. On public land where off-road vehicle use is permitted, all vehicles must be equipped with an approved spark arrester and muffler.

5. Use of fireworks is prohibited.

6. Public vehicular access will be restricted by means of a locked gate in T. 22 S., R. 1 e., Section 19 to protect significant natural values. This restriction will remain in effect indefinitely. Authorized permittees are exempt from this closure.

DATES: These rules will be in effect December 15, 1988.

FOR FURTHER INFORMATION CONTACT: Dwayne Sykes, Outdoor Recreation Planner, Bureau of Land Management, Las Cruces District, 1800 Marquess, Las Cruces, NM 88005, (505) 525–8228 (FTS 571–8350).

SUPPLEMENTARY INFORMATION: The authority for establishing supplemental rules is contained in 43 CFR 8365.1–6. The authority for establishing closures and restrictions is contained in 43 CFR 8364.1. These rules and closures have been recommended and adopted through development of resource management plans and recreation management plans. These rules and closures will be available in each local office having jurisdiction over the lands, sites, or facilities affected.

H. James Fox,

District Manager.

[FR Doc. 88–28830 Filed 12–14–88; 8:45 am]

BILLING CODE 4310–FB–M

[CA–050–09–4410–10]

Intent To Prepare Resource Management Plan; Redding Resource Area, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare Resource Management Plan.

SUMMARY: The Bureau of Land Management, Redding Resource Area, California, is preparing a Resource Management Plan (RMP) which will include an Environmental Impact Statement (EIS). The plan will guide and control future management actions on approximately 400,000 acres of public land and mineral resources in the Redding Resource Area. The Code of Federal Regulations, Title 43, Subpart 1600, will be followed for the planning effort. The public is invited to participate in the planning process, beginning January 1, 1989, with the identification of issues and planning criteria.

DATE: Comments relating to the identification of issues and planning criteria will be accepted until February 21, 1989.

ADDRESS: Send comments to BLM, Redding Resource Area, RMP Team, 355 Hemsted Drive, Redding, California 96002.

FOR FURTHER INFORMATION CONTACT: Mark Morse, Area Manager, or Barron Bail, Chief of Lands and Resources, Redding Resource Area, (916) 246–5325.

SUPPLEMENTARY INFORMATION: The planning area will include the public land and Federal mineral ownership in all or parts of Shasta, Butte, Trinity, Siskiyou, and Tehama Counties. This encompasses approximately 240,000 acres of BLM administered surface and 400,000 acres of Federal minerals under Federal, State or Private surface in the five counties. Anticipated issues to be addressed during the development of the RMP include, but are not limited to the following: (1) Which commercial forest land should be managed on a sustained yield basis for wood products?; (2) What should be done to provide recreation opportunities, including access, while resolving conflicts between recreationists and between recreationists and other users of public land?; (3) Which land in the Redding Resource Area would be beneficial to BLM progress if acquired, and which land could be transferred to other than BLM administration or may require further study?; These preliminary issues are not final and may be further refined, dropped, or new issues added by direct input through active public participation. The RMP will be developed by an interdisciplinary team, using representation from the team leader, technical coordinator, realty specialists, wildlife and fisheries biologists, foresters, geologists, and outdoor recreation planner, an archaelogist, and additional technical support to be provided by other specialists as needed.

A comprehensive public participation plan has been prepared. It is intended to involve all interested or affected parties early and continuously throughout the planing process. An individual may protest approval of a Proposed Plan only with respect to those items submitted in writing to the District manager during the planning process. The plan emphasizes localized one-to-one contacts, media coverage, direct

mailings, and continual coordination with local, state and other Federal agencies. Meetings to determine the scope of the RMP, and to obtain input on issues and planning criteria will be held in Redding, at the Red Lion Inn at 7:00 p.m. on January 5, 1989; in Red Bluff, at the City Council chambers at 7:00 p.m. on January 10, 1989; in Chico, at the Holiday Inn, at 7:00 p.m. January 12, 1989; in Yreka, at the Community Center Theatre, at 7:00 p.m. on January 17, 1989; and in Weaverville, at Lowden Recreation Hall, at 7:00 p.m. on January 18, 1989.

Compete records of all phases of the planning process will be available for public review at the Redding Resource Area Office throughout development of the RMP. Draft and final documents will be published and distributed to the public.

John E. Borgic,

Acting Area Manager.

Date: December 5, 1988.

[FR Doc. 88-28829 Filed 12-14-88; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-08-4520-12; (Group 955)]

Plat of Survey; California

December 6, 1988.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Kern County

T. 29 S., R. 37 E.
T. 30 S., R. 37 E.

2. These plats:

(1) Representing the dependent resurvey of a portion of the south boundary and a portion of the subdivisional lines, and the survey of the subdivision of sections 21, 22, 28, and 33, Township 29 South, Range 37 East, Mount Diablo Meridian, California, under Group No. 955 California, was accepted October 19, 1988.

(2) Representing the dependent resurvey of a portion of the north boundary and a portion of the subdivisional lines, and the survey of the subdivisional lines, and the survey of the subdivision of section 4, Township 30 South, Range 37 East, Mount Diablo Meridian, California, Under Group No. 955 California, was accepted October 19, 1988.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Public Information Section.

[FR Doc. 88-28815 Filed 12-14-88; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-08-4520-12; (Group 969)]

Plat of Survey; California

December 6, 1988.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Humboldt, Meridian, Siskiyou County

T. 18 N., R. 7 E.

2. This plat representing the dependent resurvey of a portion of the west boundary and a portion of the subdivisional lines, and the survey of the subdivision of section 30, Township 18 North, Range 7 East, Humboldt Meridian, California under Group No. 969 California, was accepted October 28, 1988.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Klamath National Forest.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Public Information Section.

[FR Doc. 88-28816 Filed 12-14-88; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-08-4520-12; (Group 998)]

Plat of Survey; California

December 6, 1988.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Kern County

T. 29 S., R. 40 E.

2. This plat representing the metes-and-bounds survey of Lot 4 in section 26, Township 29 South, Range 40 East, Mount Diablo Meridian, California under Group No. 998 California, was accepted October 28, 1988.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Public Information Section.

[FR Doc. 88-28817 Filed 12-14-88; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-08-4520-12; (Group 1003)]

Plat of Survey; California

December 6, 1988.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California, immediately:

Mount Diablo Meridian, Eldorado County

T. 12 N., R. 18 E.
T. 13 N., R. 18 E.

2. This plat representing the dependent resurvey of a portion of the south boundary of Township 13 North, Range 18 East, a portion of the subdivisional lines, Township 12 North, Range 18 East, and the survey of the subdivision of section 2, and the metes-and-bounds survey of a portion of the westerly right-of-way of Pioneer Trail, Township 12 North, Range 18 East, Mount Diablo Meridian, California, under Group No. 1003 California, was accepted November 16, 1988.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Forest Service.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage

Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Public Information Section.

[FR Doc. 88-28818 Filed 12-14-88; 8:45 am]

BILLING CODE 4310-40-M

[ID-942-09-4730-12]

Idaho: Filing of Plats of Survey

The plats of survey of the following described lands were officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 10:00 a.m., December 1, 1988.

The plat representing the dependent resurvey of a portion of the south boundary and subdivisional lines; the subdivision of sections 26 and 35 and the survey of new meanders of the left bank of the South Fork of the Payette River in section 35, T. 9 N., R. 4 E., Boise Meridian, Idaho, Group No. 659, was accepted November 8, 1988.

The plat representing the dependent resurvey of a portion of the south and west boundaries, and subdivisional lines and the subdivision of certain sections, T. 7 S., R. 18 E., Boise Meridian, Idaho, Group No. 655, was accepted November 16, 1988.

These surveys were executed to meet certain administrative needs of this Bureau.

All inquiries about this land should be sent to the Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

December 1, 1988.

[FR Doc. 88-28819 Filed 12-14-88; 8:45 am]

BILLING CODE 4310-66-M

[OR-943-09-4214-12; GP9-059; OR-3225]

Partial Termination of Classification for Multiple Use Management; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action terminates a land classification for multiple use management as to 37.83 acres of public lands. This action also opens the lands to disposition by public sale only.

EFFECTIVE DATE: December 15, 1988.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503-231-6905.

SUPPLEMENTARY INFORMATION: 1. By order of Oregon State Director, Bureau of Land Management, which was published in the **Federal Register** on September 19, 1968 (33 FR 14182), the following described public lands were classified for multiple use management pursuant to the Act of September 19, 1964 (78 Stat. 986, 43 U.S.C. 1411-18):

Willamette Meridian

T. 16 S., R. 16 E.,
Sec. 13, tract 37;
Sec. 14, tract 40;
Sec. 21, tracts 41 and 42;
Sec. 24, tract 38;
Sec. 25, tract 39;
Sec. 26, tract 43;
Sec. 35, tracts 46 and 47.

T. 16 S., R. 17 E.,
Sec. 19, tract 37.

The areas described aggregate 37.83 acres in Crook County, Oregon.

2. Pursuant to 43 CFR 2461.5(C)(2), the classification as to the lands described in paragraph 1 is terminated upon publication of this notice in the **Federal Register.**

3. Upon publication of this notice in the **Federal Register,** the lands described in paragraph 1 are open to disposition by public sale only.

Charles W. Luscher,

State Director.

Dated: December 9, 1988.

[FR Doc. 88-28821 Filed 12-14-88; 8:45 am]

BILLING CODE 4310-33-M

[AZ-050-09-7122-14-X218; AZA-23555]

Arizona and California; Temporary Closure of Selected Public Lands in La Paz County, AZ, and San Bernardino County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Temporary closure of selected public lands in La Paz County, Arizona, and San Bernardino County, California, during the operation of the 1989 SCORE Parker 400 Off-Road Vehicle Race.

SUMMARY: The District Managers of the Yuma District, the California Desert District, and the Phoenix District jointly announce the temporary closure of selected public lands under their respective administration. This action is being taken to provide for public safety and prevent unnecessary environmental degradation during the official permitted running of the 1989 SCORE Parker 400 off-road vehicle race.

DATES: January 26, 1989, through January 29, 1989.

FOR FURTHER INFORMATION CONTACT: Merv Boyd, Concession Management Specialist, Havasu Resource Area, 3189 Sweetwater Avenue, Lake Havasu City, Arizona 86403, 602 855-8017; Phil Damon, Outdoor Recreation Planner, Needles Resource Area, P.O. Box 888, Needles, California 92363, 619 326-3897; or Mike Feeney, Natural Resource Specialist, Lower Gila Resource Area, 2015 West Deer Valley Road, Phoenix, Arizona 85027, 602-863-6711.

SUPPLEMENTARY INFORMATION: Specific restrictions and closure periods are as follows:

California Loop

1. The entire course is closed to public vehicle use from 6 a.m., Thursday, January 26, 1989, to 6 p.m., Sunday, January 29, 1989 (PST).

2. Between noon, Friday, January 27, 1989, and 3 p.m., Saturday, January 28, 1989 (PST), vehicles are prohibited within 1 mile of either side of existing roads making up the California Loop of the officially approved course. Access routes leading to the course are also closed. All closed routes will be posted throughout the closure period.

3. Spectator viewing is limited to four designated spectator areas located at:

a. Start/Finish area (approximately 5 miles east of Vidal Junction off State Route 62).

b. Vidal Junction (approximately 2 miles north of Vidal Junction adjacent to U.S. Highway 95).

c. Rice (approximately 18 miles west of Vidal Junction off State Route 62).

d. Thunder Alley (approximately 25 miles west of Vidal Junction off Cadiz Road).

Vehicle travel or parking outside these designated locations is prohibited. All vehicles operated within these four locations shall be legally registered for street and highway operation.

4. The previously used spectator viewing area located adjacent to U.S. Highway 95, aproximately 18 miles north of Vidal Junction, is open *only* to official pitting activity. No spectators will be allowed at this location.

5. Spectators and vehicle parking along U.S. Highway 95 is prohibited.

6. All vehicles operated within designated pit areas shall be legally registered for street and highway operation.

Arizona Loop

1. The portion of the course comprised of BLM roads and ways is closed to public vehicle use from 6 a.m., Thursday, January 26, 1989, to 6 p.m. Sunday, January 29, 1989 (MST).

2. Vehicles are prohibited from the following five Wilderness Study Areas:

a. AZ—050-12 (Gibraltar Mountain)
b. AZ—050-14A/B (Cactus Plain)
c. AZ—050-15A (Swansea)
d. AZ—050-17 (East Cactus Plain)

e. AZ—050–71 (Buckskin Mountains)

3. The entire area encompassed by the Arizona Loop and all areas within 1 mile outside the Arizona Loop are closed to vehicles unless otherwise posted. Access routes leading to the course are closed to vehicles. All closed routes will be posted throughout the closure period.

4. Spectator viewing is limited to two designated spectator areas located at:

a. Arizona Start/Finish area (along Shea Road east of Parker, Arizona).

b. Bouse Road (about 1½ miles north of Bouse, Arizona).

Camping is allowed only in the two designated spectator areas. Vehicle travel or parking outside these designated locations is prohibited. All vehicles operated within these two locations shall be legally registered for street and highway operation.

5. Spectators and vehicle parking along Bouse Road, Shea Road, and Swansea Road is prohibited except for the two designated spectator areas.

6. All vehicles operated within designated pit areas shall be legally registered for street and highway operation.

Signs and maps directing the public to the Arizona and California spectator areas will be provided by the Bureau of Land Management and the event sponsor.

The above restrictions do not apply to emergency vehicles and vehicles owned by the United States, the States of Arizona and California, or the Counties of La Paz and San Bernardino. Vehicles under permit for operation by event participants must follow the race permit stipulations. Operators of permitted vehicles shall maintain a maximum speed limit of 30 mph on all BLM roads and ways. This speed limit shall not apply to vehicles entered in the race during race day, Saturday, January 28, 1989.

Authority for closure of public lands is found in 43 CFR Part 8340, Subpart 8341; 43 CFR Part 8360, Subpart 8364.1, and 43 CFR Part 8372. Persons who violate this closure order are subject to arrest and, upon conviction, may be fined not more than $1,000 and/or imprisoned for not more than 12 months.

Herman Kast,

Yuma District Manager.

Date: November 21, 1988.

Gerald E. Hillier,

California Desert District Manager.

Date: November 29, 1988.

Henri Bisson,

Phoenix District Manager.

Date: December 9, 1988.

[FR Doc. 88–28823 Filed 12–14–88; 8:45 am]

BILLING CODE 4310–32–M

[AZ–020–8–4212–13; A–23306]

Realty Action; Exchange of Public Lands, Maricopa County, AZ; Correction

In notice document 88–27432, Federal Register, Vol. 53, No. 229, Tuesday, November 29, 1988, Notice page 48045, make the following correction:

1. On page 48045, first column, (AZ–020–8–4212–13; A–23306) should read (AZ–020–9–4212–13; A–23306A).

Henri R. Bisson,

District Manager.

Date: December 9, 1988.

[FR Doc. 88–28824 Filed 12–14–88; 8:45 am]

BILLING CODE 4310–32–M

[ID–050–08–4351–11]

Emergency Closure of Public Lands (Western Portion of the Shoshone BLM District, ID)

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that effective immediately all public lands located in the western portion of the Shoshone BLM District are closed to off road motorized travel. The closed area is bounded and generally described as follows:

That portion of Idaho Department of Fish and Game Unit 45, West of the Bliss-Hill City Road to the Snake River, downstream to the confluence of King Hill Creek with the Snake River, up King Hill Creek to the Idaho Power Two pole power line, East along the powerline to White Arrow ponds on the Bliss-Hill City Road, the point of the beginning.

All public lands administered by the Bureau of Land Management within the above described area are closed to off road motorized vehicle use, from the date of the notice until April 1, 1989.

Exemptions from this closure for Federal, State, and local government personnel on official duty, emergency service personnel including medical, search and rescue, utility services, and all other licensed/permitted individuals may be approved by the authorized officer.

The described area is currently experiencing high concentrations of Mule Deer hunters during a late season muzzleloader hunt season. The hunting activity has encouraged off road motorized use which is opening tracks for excessive soil erosion during snowmelt or seasonal rains. The purpose of the closure is to protect the natural resources from excessive soil erosion caused by disturbances from off road vehicle use.

The authority for this closure is 43 CFR 8364.1. The closure will remain in effect until April 1, 1989.

DATE: Thursday, December 8, 1988.

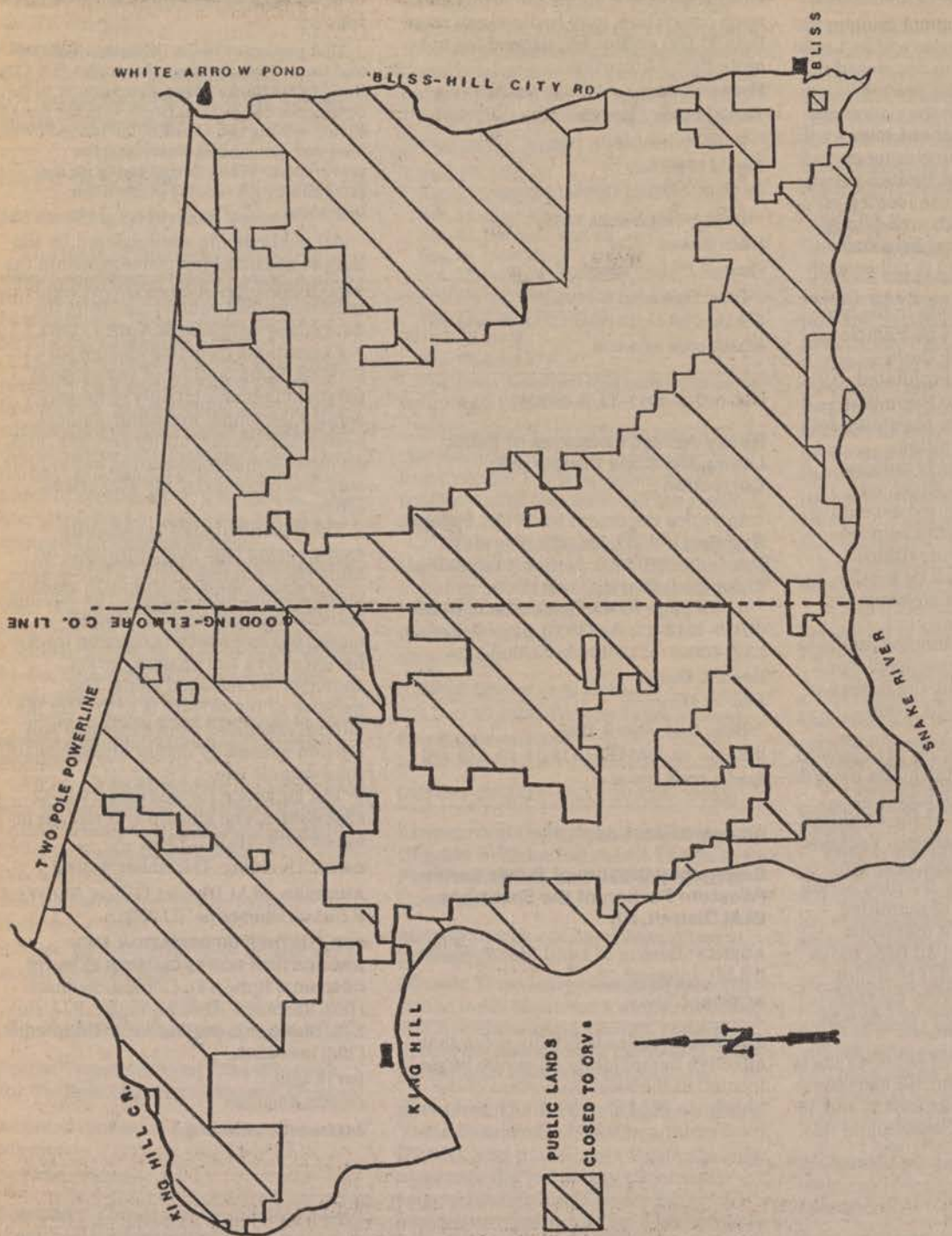
ADDRESS: BLM District Office, 400 West F Street, Shoshone, ID 83352.

FOR FURTHER INFORMATION AND APPLICATION FOR EXCLUSION PERMITS CONTACT: Robert D. Cordell, Bennett Hills Resource Area Manager, P.O. Box 2–B, Shoshone, Idaho 83352, Telephone (208) 886–2206.

Jon H. Idso,

District Manager.

BILLING CODE 4310–GG–M



[FR Doc. 88-28820; Filed 12-14-88; 8:45 am]

BILLING CODE 4310-GG-C

[(UT-040-09-4212-14); UTU-52855]

Realty Action; Sale of Public Lands in Washington County, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: The following land has been found suitable for direct sale to John Miles under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at not less than the fair market value of $6,000:

Salt Lake Base and Meridian, Utah

T. 41 S., R. 14 W.
Sec. 12: Lot 30,
Containing 2.12 acres.

The land described is hereby segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action or 270 days from the date of publication of this notice, whichever occurs first.

SUMMARY: The purpose of the sale is to dispose of public land that is difficult and uneconomic to manage by a government agency. This determination was made because of its location and uses associated with it and adjacent private land.

DATES: The land will not be offered for sale until at least 60 days after the date of this notice. For a period of up to and including January 30, 1989, interested parties may submit comments to the District Manager, Cedar City District, at the address listed below. In the absence of timely objections, this proposal shall become the final determination of the Department of the Interior.

ADDRESS: Detailed information concerning the sale is available at the Dixie Resource Area Office, 225 North Bluff, St. George, Utah 84770, (801) 673-4654. Written comments should be addressed to the District Manager, Cedar City District Office, 176 East D.L. Sargent Drive, Cedar City, Utah 84720.

SUPPLEMENTARY INFORMATION: The sale will be subject to the following reservations to the United States:

1. All minerals in the land above described, with the right to prospect for, mine and remove the same under applicable law and such regulations as the Secretary of Interior may prescribe.

2. A right-of-way thereon for ditches and canals constructed by the authority of the United States. Act of August 30, 1890 (43 U.S.C. 945).

Date: December 6, 1988.

Gordon Staker,

District Manager.

[FR Doc. 88-28809 Filed 12-14-88; 8:45 am]

BILLING CODE 4310-DQ-M

Minerals Management Service

Development Operations Coordination Document; Union Texas Petroleum

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Union Texas Petroleum has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 3159, Block 384, Eugene Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an existing onshore base located at Fourchon, Louisiana.

DATE: The subject DOCD was deemed submitted on December 7, 1988. Comments must be received within 15 days of the publication date of this Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective May 31, 1988 (53 FR 10595).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: December 8, 1988.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 88-28831 Filed 12-14-88; 8:45 am]

BILLING CODE 4310-MR-M

Bureau of Reclamation

Kellogg Unit Reformulation Study, Delta Division, Central Valley Project, Contra Costa County, CA

AGENCY: Bureau of Reclamation (USBR), Interior.

ACTION: Notice of public hearing on planning report/draft environmental statement (PR/DES); INT-DES-88-56.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Reclamation has prepared a planning report/draft environmental statement (PR/DES) on the Kellogg Unit Reformulation Study of the Central Valley Project, California. The PR/DES (INT-DES-88-56) was made available to the public on December 1, 1988. A public hearing will be held to receive comments from interested organizations and individuals on the environmental impacts of the project.

DATE: The public hearing is scheduled for 7:30 p.m. on January 19, 1989, in Concord, California.

ADDRESSES: The hearing will be held at the following location: Contra Costa Water District Headquarters, 1331 Concord Avenue, Concord, California.

Addresses for Comments, Requests to Testify, and Further Information: Regional Director, Bureau of Reclamation, Mid-Pacific Regional Office, 2800 Cottage Way, Attention: MP-720, Sacramento, CA 95825-1898; Telephone: (196) 978-4957.

FOR FURTHER INFORMATION CONTACT: Mr. Richard M. Johnson (Team Leader, Mid-Pacific Region), (916) 978-4975.

SUPPLEMENTARY INFORMATION: Organizations and individuals wishing to present statements at the hearing should contact the Bureau of Reclamation, Mid-Pacific Regional Office, at the above address, to announce their intention to participate. Requests for scheduled presentations will be accepted through 4 p.m. on January 14, 1989.

Oral comments at the hearing will be limited to 10 minutes. The hearing officer may allow any speaker to provide additional oral comment after all persons wishing to comment have been heard. Whenever possible, speakers will be scheduled according to the time preference mentioned in their letter or telephone requests. Speakers not present when called will lose their privilege in the scheduled order, and will be recalled at the end of the scheduled speakers.

Written comments from those unable to attend or those wishing to supplement their oral presentations at the hearing should be received by Reclamation's Mid-Pacific Regional Office at the above address by January 27, 1989, for inclusion in the hearing record.

Date: December 8, 1988.

Joe D. Hall,

Deputy Commissioner.

[FR Doc. 88-28800; Filed 12-14-88; 8:45 am]

BILLING CODE 4310-09-M

Office of Surface Mining Reclamation and Enforcement

Information Collecton 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 requirements should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget, Interior Department Desk Office, Washington, DC 20503, telephone (202) 395-7340.

Title: Abandoned Mine Reclamation Funds—30 CFR Part 872.

OMB Number: 1029-0054.

Abstract: Sections 401 and 402 of the Surface Mining Control and Reclamation Act of 1977, Pub. L. 95-87, provide for the creation of the Abandoned Mine Reclamation Fund and require the Secretary to make a determination regarding the use of these allocated State/Indian tribe funds which have not been expended in a three-year period. Part 872 establishes requirements for information collection to be used by the regulatory authority to determine whether delays in the use of allocated funds were due to unavoidable delays in program approval or are not necessary to carry out approved reclamation activities. These requirements serve as safeguards to protect States/Indian tribes against automatic or indiscriminate funds withdrawal.

Bureau Form Number: None.

Frequency: As required.

Description of Respondents: State and Indian tribes.

Annual Responses: One.

Annual Burden Hours: One.

Estimated Completion Time: One.

Bureau Clearance Office: Nancy Anna Baka (202) 343-5981.

Date: December 2, 1988.

Brent Wahlquist,

Assistant Director, Program Policy.

[FR Doc. 88-28900 Filed 12-14-88; 8:45 am]

BILLING CODE 4310-05-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Public Information Collection Requirements Submitted to OMB for Review

The Agency for International Development (A.I.D.) submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of the entry no later than ten days after publication. Comments may also be addressed to, and copies of the submissions obtained from the Reports Management Officer, John H. Elgin, (703) 875-1608, IRM/PE, Room 1100B, SA-14, Washington, DC 20523.

Date Submitted: December 8, 1988.

Submitting Agency: Agency for International Development.

OMB Number: 0412-0506.

Type of Submission: Extension of Approved Collection.

Title: Information Collection Elements in the A.I.D. Consultant Registry Information System (ACRIS).

Purpose: A.I.D. procuring activities are required to establish bidders mailing lists "to assure access to sources and to obtain meaningful competition." (CFR 1-2.205). In compliance with this requirement, A.I.D.'s Office of Small and Disadvantaged Business Utilizations/Minority Resource Center has responsibility for "developing and maintaining a Contractor's Index of bidders/offerors capable of furnishing services for use by A.I.D. procuring activities" (AIDPR 7-1.704-2(b)(4)). Respondents will have a submission burden of one response per year.

Reviewer: Francine Picoult (202) 395-7340, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, DC 20503.

Date: December 8, 1988.

Wayne H. Van Vechten,

Planning and Evaluation Division.

[FR Doc. 88-28810 Filed 12-14-88; 8:45 am]

BILLING CODE 6116-01-M

DEPARTMENT OF LABOR

Office of the Assistant Secretary for Administration and Management

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Labor has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: Adoption of Employee Retirement Income Security Act Class Exemptions for Purposes of the Federal Employees' Retirement System Act; No Form: and No OMB Control Number.

Type of Request: Expedited Submission—approval date requested (December 27, 1988).

Average Burden Hours/Minutes Per response: 1 hour.

Frequency of Response: On occasion.

Number of Respondents: 1.

Annual Burden Hours: 1 hour.

Annual Responses: 1.

Needs and Uses: This document adopts, for purposes of the prohibited transaction provisions of FERSA, certain prohibited transaction class exemptions granted pursuant to section 408(a) of the Employee Retirement Income Security Act of 1974. Pursuant to section 408(a) of the Employee Retirement Income Security act of 1974. Pursuant to the adoption, the prohibited transaction restrictions of section 8477(c)(2) of

FERSA or the relevant subsections thereunder will not apply to certain transactions described in the Class Exemptions, provided that the conditions of the exemptions are satisfied.

Affected Public: Business or other for profit.

Respondents Obligation: Mandatory.

Requests for Which Paperwork Reduction Act Approval is Being Sought:

PTE 75–1 Exemptions From Prohibitions Respecting Certain Classes of Transactions Involving Employee Benefits Plans and Certain Broker-Dealers, Reporting Dealers and Banks (40 FR 50845, October 31, 1975)

II. Principal Transactions Exemption

(e) The plan maintains or causes to be maintained for a period of six years form the date of such transaction such records as are necessary to enable the persons described in paragraph (f) of this exemption to determine whether the conditions of this exemption have been met, except that—

(1) Such broker-dealer, reporting dealer, or bank shall not be subject to the civil penalty which may be assessed under section 502(i) of the act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if such records are not maintained, or are not available for examination as required by paragraph (f) below; and

(2) A prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of the plan fiduciaries, such records are lost or destroyed prior to the end of such six-year period.

(f) Notwithstanding anything to the contrary in subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (e) are unconditionally available for examination during normal business hours by duly authorized employees of (1) the Department of Labor, (2) the Internal Revenue Service, (3) plan participants and beneficiaries, (4) any employer of plan participants and beneficiaries, and (5) any employee organization any of whose members are covered by such plan. For purposes of this exemption, the terms "broker-dealer," "reporting dealer" and "bank" shall include such persons and any affiliates thereof, and the term "affiliate" shall be defined in the same manner as that term is defined in 29 CFR 2510.3–21(e) and 26 CFR 54.4975–9(e).

III. Underwritings Exemption

(f) The plan maintains or causes to be maintained for a period of six years form the date of such transaction such records as are necessary to enable the persons described in paragraph (g) of this exemption to determine whether the conditions of this exemption have been met, except that a prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of the plan fiduciaries, such records are lost or destroyed prior to the end of such six-year period.

(g) Notwithstanding anything to the contrary in subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (f) are unconditionally available for examination during normal business hours by duly authorized employees of (1) the Department of Labor, (2) the Internal Revenue Service, (3) plan participants and beneficiaries, (4) any employer of plan participants and beneficiaries, and (5) any employee organization any of whose members are covered by such plan.

If such securities are purchased by the plan from a party in interest or disqualified person with respect to the plan, such party in interest or disqualified person shall not be subject to the civil penalty which may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if the conditions of this exemption are not met. However, if such securities are purchased from a party in interest or disqualified person with respect to the plan, the restrictions of section 406(a) of the Act shall apply to any fiduciary with respect to the plan and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall apply to such party in interest or disqualified person, unless the conditions for exemption of Part II of this notice (relating to certain principal transactions) are met.

IV. Market-Making Exemption

(e) The plan maintains or causes to be maintained for a period of six years from the date of such transaction such records as are necessary to enable the persons described in paragraph (f) of this exemption to determine whether the conditions of this exemption have been met, except that a prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of the plan fiduciaries, such records are lost or destroyed prior to the end of such six year periods.

(f) Notwithstanding anything to the contrary in subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (e) are unconditionally available for examination during normal business hours by duly authorized employees of (1) the Department of Labor, (2) the Internal Revenue Service, (3) plan participants and beneficiaries, (4) any employer of plan participants and beneficiaries, and (5) any employee organization any of whose members are covered by such plan.

V. Extension of Credit Exemption

(c) The plan maintains or causes to be maintained for a period of six years from the date of such transaction such records as are necessary to enable the persons described in paragraph (d) of this exemption to determine whether the conditions of this exemption have been met, except that—

(1) If such party in interest or disqualified person is not a fiduciary with respect to any assets of the plan, such party in interest or disqualified person shall not be subject to the civil penalty which may be assessed under section 502(i) of the Act or to the taxes imposed by section 4975 (a) and (b) of the Code, if such records are not maintained, or not available for examination as required by paragraph (d) below; and

(2) A prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of the plan fiduciaries, such records are lost or destroyed prior to the end of such six-year period.

(d) Notwithstanding anything to the contrary in subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (c) are unconditionally available for examination during normal business hours by duly authorized employees of (1) the Department of Labor, (2) the Internal Revenue Service, (3) plan participants and beneficiaries, (4) any employer of plan participants and beneficiaries, and (5) any employee organization any of whose members are covered by such plan.

PTE 78–19—Class Exemptions for Certain Transactions Involving Insurance Company Pooled Separate Accounts (43 FR 59915, Decemer 22, 1978)

Section III—General Conditions

(b) The insurance company maintains for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (c) of this section to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of the

insurance company, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest shall be subject to the civil penalty which may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (c) below.

(c)(1) Except as provided in subsection 2 of this paragraph and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (b) of this section are unconditionally available at their customary location for examination during normal business hours by:

(i) Any duly authorized employee or representative of the Department of Labor or the Internal Revenue Service,

(ii) Any fiduciary of a plan who has authority to acquire or dispose of the interest of the plan in the separate account, or any duly authorized employee or representative of such fiduciary,

(iii) Any contributing employer to any plan which has an interest in the pooled separate account or any duly authorized employee or representative of that employer,

(iv) Any participant or beneficiary of any plan which has an interest in the pooled separate account or any duly authorized employee or representative of such participant or beneficiary.

(2) None of the persons described in subparagraph (ii) through (iv) of this paragraph shall be authorized to examine an insurance company's trade secrets or commercial or financial information which is privileged or confidential.

PTE 80-51—Class Exemption for Certain Transactions Involving Bank Collective Investment Funds (45 FR 49709, July 25, 1980, as technically corrected at 45 FR 52949, August 8, 1980)

Section III. General Conditions

(b) The bank maintains for a period of six years from the date of the transaction, the records necessary to enable the persons described in paragraph (c) of this section to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the bank's control, the records are lost or destroyed rior to the end of the six-year period, and (2) no party in interest shall be subject to the civil penalty that may be assessed under 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (c) below.

(c)(1) Except as provided in subsection 2 of this paragraph and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (b) of this section are unconditionally available at their customary location for examination during normal business hours by:

(A) Any duly authorized employee or representative of the Department of Labor or the Internal Revenue Service,

(B) Any fiduciary of a plan who has authority to acquire or dispose of the interests of the plan in the collective investment fund, or any duly authorized employee or representative of such fiduciary,

(C) Any contributing employer to any plan that has an interest in the collective investment fund or any duly authorized employee or representative of such employer,

(D) Any participant or beneficiary of any plan that has an interest in the collective investment fund, or any duly authorized employee or representative of such participant or beneficiary.

(2) None of the persons described in subparagraphs (B) through (D) of this paragraph shall be authorized to examine a bank's trade secrets or commercial or financial information which is privileged or confidential.

PTE 82-63—Class Exemption To Permit Payment of Compensation to Plan Fiduciaries for the Provision of Securities Lending Services (47 FR 14804, April 6, 1982, as Technically Corrected at 47 FR 16437, April 16, 1982)

I. Transactions

(c) The compensation is reasonable and is paid in accordance with the terms of a written instrument, which may be in the form of a master agreement covering a series of securities lending transactions;

(d) Except as otherwise provided in paragraph (f), the arrangement under which the compensation is paid: (1) Is subject to the prior written authorization of a plan fiduciary (the "authorizing fiduciary"), who is (other than in the case of a plan covering only employees of the lending fiduciary or affiliates of such fiduciary) independent of the lending fiduciary and of any affiliate thereof, and (2) may be terminated by the authorizing fiduciary within: (i) The time negotiated for such notice of termination by the plan and the lending fiduciary, or (ii) five business days, whichever is lesser, in either case without penalty to the plan;

(e) No such authorization is made or renewed unless the lending fiduciary shall have furnished the authorizing fiduciary with any reasonably available information which the lending fiduciary reasonably believes to be necessary to determine whether such authorization should be made or renewed, and any other reasonably available information regarding the matter that the authorizing fiduciary may reasonably request; and

(f) (Special Rule for Commingled Investment Funds) In the case of a pooled separate account maintain by an insurance company qualified to do business in a state or a common or collective trust fund maintained by a bank or trust company supervised by a state or federal agency, the requirements of paragraph (d) of this exemption shall not apply: *Provided*, that

(1) The information described in paragraph (e) (including information with respect to any material change in the arrangement) shall be furnished by the lending fiduciary to the authorizing fiduciary described in paragraph (d) with respect to each plan whose assets are invested in the account or fund, not less than 30 days prior to implementation of the arrangement or material change thereto, and, where requested, upon the reasonable request of the authorizing fiduciary;

(2) In the event any such authorizing fiduciary submits a notice in writing to the lending fiduciary objecting to the implementation of, material change in, or continuation of the arrangement, the plan on whose behalf the objection was tendered is given the opportunity to terminate its investment in the account or fund, without penalty to the plan, within such time as may be necessary to effect such withdrawal in an orderly manner that is equitable to all withdrawing plans and to the nonwithdrawing plans. In the case of a plan that elects to withdraw pursuant to the foregoing, such withdrawal shall be effected prior to the implementation of, or material change in, the arrangement; but an existing arrangement need not be discontinued by reason of a plan electing to withdraw; and

(3) In the case of a plan whose assets are proposed to be invested in the account or fund subsequent to the implementation of the compensation arrangement and which has not authorized the arrangement in the manner described in paragraphs (f)(1) and (f)(2), the plan's investment in the account or fund shall be authorized in the manner described in paragraph (d)(1).

PTE 86–128—Class Exemption for Securities Transactions Involving Employee Benefit Plans and Broker-Dealers (51 FR 41686, November 18, 1986, as Amended at 53 FR 8676, March 19, 1987)

Section III. Conditions

(b) The covered transaction is performed under a written authorization executed in advance by a fiduciary of each plan whose assets are involved in the transaction, which plan fiduciary is independent of the person engaging in the covered transaction.

(c) The autorization referred to in paragraph (b) of this section is terminable at will by the plan, without penalty to the plan, upon receipt by the authorized person of written notice of termination. A form expressly providing an election to terminate the authorization described in paragraph (b) of this section with instructions on the use of the form must be supplied to the authorizing fiduciary not less than annually. the instructions for such form must include the following information:

(1) The authorization is terminable at will by the plan, without penalty to the plan, upon receipt by the authorized person of written notice from the authorizing fiduciary or other plan official having authority to terminate the authorization; and

(2) Failure to return the form will result in the continued authorization of the authorized person to engage in the covered transactions on behalf of the plan.

(d) Within three months before an authorization is made, the authorizing fiduciary is furnished with any reasonably available information that the person seeking authorization reasonably believes to be necessary for the authorizing fiduciary to determine whether the authorization should be made, including (but not limited to) a copy of this exemption, the form for termination of authorization decribed in section III(c), a description of the person's brokerage placement practices, and any other reasonably available information regarding the matter that the authorizing fiduciary requests.

(e) The person engaging in a covered transaction furnishes the authorizing fiduciary with either:

(1) A confirmation slip for each securities transaction underlying a covered transaction with ten business days of the securities transaction containing the information described in Rule 10b-10(a)(1–7) under the Securities Exchange Act of 1934, 17 CFR 240.10b-10; or

(2) At least once every three months and not later than 45 days following the period to which it relates, a report disclosing:

(A) A compilation of the information that would be provided to the plan pursuant to subparagraph (e)(1) of this section during the three-month period covered by the report;

(B) The total of all securities transaction related charges incurred by the plan during such period in connection with such covered transactions; and

(C) The amount of the securities transaction-related charges retained by such person and the amount of such charges paid to other persons for execution or other services.

For purposes of this paragraph (e), the words "incurred by the plan" shall be construed to mean "incurred by the pooled fund" when such person engages in covered transactions on behalf of a pooled fund in which the plan participates.

(f) The authorizing fiduciary is furnished with a summary of the information required under paragraph (e)(1) of this section at least once per year. The summary must be furnished within 45 days after the end of the period to which it relates, and must contain the following:

(1) The total of all securities transaction-related charges incurred by the plan during the period in connection with covered securities transactions.

(2) The amount of the securities transaction-related charges retained by the authorized person and the amount of these charges paid to other persons for execution or other services.

(3) A description of the person's brokerage placement practices, if such practices have materially changed during the period covered by the summary.

(4)(i) A portfolio turnover ratio, calculated in a manner which is reasonably designed to provide the authorizing fiduciary with the information needed to assist in discharging its duty of prudence. The requirements of this paragraph (f)(4)(i) will be met if the "annualized portfolio turnover ratio", calculated in the manner described in paragraph (f)(4)(ii), is contained in the summary.

(ii) The "annualized portfolio turnover ratio" shall be calculated as a percentage of the plan assets consisting of securities or cash over which the authorized person had discretionary investment authority, or with respect to which such person rendered, or had any responsibility to render, investment advice (the "portfolio") at any time or times ("management period(s)") during the period covered by the report. First, the "portfolio turnover ratio" (not annualized) is obtained by dividing (A) the lesser of the aggregate dollar amounts of purchases or sales of portfolio securities during the management period(s) by (B) the monthly average of the market value of the portfolio securities during all management period(s). Such monthly average is calculated by totaling the market values of the portfolio securities as of the beginning and end of each management period and as of the end of each month that ends within such period(s), and dividing the sum by the number of valuation dates so used. For purposes of this calculation, all debt securities whose maturities at the time of acquisition were one year or less are excluded from both the numerator and the denominator.

The "annualized portfolio turnover ratio" is then derived by multiplying the "portfolio turnover ratio" by an annualizing factor. The annualizing factor is obtained by dividing (C) the number twelve by (D) the aggregate duration of the management period(s) expressed in months (and fractions thereof).

Examples of the use of this formula are provided in section V of this exemption.

(iii) The information described in this paragraph (f)(4) is not required to be furnished in any case where the authorized person has not exercised discretionary authority over trading in the plan's account during the period covered by the report.

For purposes of this paragraph (f), the words "incurred by the plan" shall be construed to mean "incurred by the pooled fund" when such person engages in covered transactions on behalf of a pooled fund in which the plan participates.

(g) If an agency cross transaction to which section IV(b) does not apply is involved, the following conditions must also be satisfied:

(1) The information required under section III(d) or IV(d)(1)(B) of this exemption includes a statement to the effect that with respect to agency cross transactions the person effecting or executing the transactions will have a potentially conflicting division of loyalties and responsibilities regarding the parties to the transactions;

(2) The summary required under section III(f) of this exemption includes a statement identifying the total number of agency cross transactions during the period covered by the summary and the total amount of all commissions or other remuneration received or to be received from all sources by the persons engaging

in the transactions in connection with those transactions during the period.

Section IV: Exceptions From Conditions

(a) *Certain plans not covering employees.* Section III of this exemption does not apply to covered transactions to the extent they are engaged in on behalf of individual retirement accounts meeting the conditions of 29 CFR 2510.3–2(d), or plans, other than training programs, that cover no employees within the meaning of 29 CFR 2510.3–3.

(b) *Certain agency cross transactions.* Section III of this exemption does not apply in the case of an agency cross transaction, provided that the person affecting or executing the transaction:

(1) Does not render investment advice to any plan for a fee within the meaning of section 3(21)(A)(ii) of ERISA with respect to the transaction;

(2) is not otherwise a fiduciary who has investment discretion with respect to any plan assets involved in the transaction, see 29 CFR 2510.3–21(d); and

(3) does not have the authority to engage, retain or discharge any person who is or is proposed to be a fiduciary regarding any such plan assets.

(d) *Special rules for pooled funds.* In the case of a person engaging in a covered transaction on behalf of an account or fund for the collective investment of the assets of more than one plan (pooled fund):

(1) Section III(b), (c) and (d) of this exemption do not apply if—

(A) The arrangement under which the covered transaction is performed is subject to the prior and continuing authorization, in the manner described in this paragraph (d)(1), of a plan fiduciary with respect to each plan whose assets are invested in the pooled fund who is independent of the person. The requirement that the authorizing fiduciary be independent of the person shall not apply in the case of a plan covering only employees of the person, if the requirements of section IV(d)(2)(A) and (B) are met.

(B) The authorizing fiduciary is furnished with any reasonably available information that the person engaging or proposing to engage in the covered transactions reasonably believes to be necessary to determine whether the authorization should be given or continued, not less than 30 days prior to implementation of the arrangement or material change thereto, including (but not limited to) a description of the person's brokerage placement practices, and, where requested, any reasonably available information regarding the matter upon the reasonable request of the authorizing fiduciary at any time.

(C) In the event an authorizing fiduciary submits a notice in writing to the person engaging in or proposing to engage in the covered transaction objecting to the implementation of, material change in, or continuation of, the arrangement, the plan on whose behalf the objection was tendered is given opportunity to terminate its investment in the pooled fund, without penalty to the plan, within such time as may be necessary to effect the withdrawal in an orderly manner that is equitable to all withdrawing plans and to the nonwithdrawing plans. In the case of a plan that elects to withdraw under this subparagraph (d)(1)(C), the withdrawal shall be effected prior to the implementation of, or material change in, the arrangement; but an existing arrangement need not be discontinued by reason of a plan electing to withdraw.

(D) In the case of a plan whose assets are proposed to be invested in the pooled fund subsequent to the implementation of the arrangement and that has not authorized the arrangement in the manner described in subparagraphs (d)(1)(B) and (C) of this section, the plan's investment in the pooled fund is subject to the prior written authorization of an authorizing fiduciary who satisfies the requirements of subparagraphs (d)(1)(A).

OMB Desk Officer: Ms. Diana Rowen.

Written comments and recommendations on the information collection should be sent to Ms. Diana Rowen at Office of Management and Budget, Desk Officer, Room 3001, New Executive Office Building, Washington, DC., 20503, telephone 202/395–6880 by December 27, 1988.

A copy of the information collection proposal may be obtained from Mr. Paul Larson, Director, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–1301, Washington, DC 20210, telephone number: 202/523–6331.

Signed at Washington, DC, this 13th day of December 1988.

Marizetta Scott,

Acting Departmental Clearance Officer.

SF–83A Request for OMB Review—Pension and Welfare Benefits Administration, U.S. Department of Labor

Subject: The adoption of certain prohibited transaction class exemptions under section 408(a) of the Employee Retirement Income Security Act (ERISA) for purposes of section 8477(c)(2) of the Federal Employees' Retirement System Act of 1986 (FERSA).

Supporting Statement

1. Statutory Authority for Information Collection

Section 408(a) of the Employee Retirement Income Security Act of 1974 (ERISA) establishes the Secretary of Labor's authority to grant a conditional or unconditional exemption of any fiduciary, disqualified person, or transaction from all or part of the prohibitions imposed by section 406(b) of ERISA. Section 406(b) of ERISA prohibits, unless exempted, a fiduciary's dealing with the assets of a plan in his or her own interest, acting on behalf of a party whose interests are adverse to the interests of the plan, its participants or beneficiaries, or receiving consideration for his or her own personal account from any party dealing with the plan in connection with a transaction involving the assets of the plan.

The Secretary has authority pursuant to ERISA section 408(a) to grant either individual or class exemptions. In order to grant a class exemption, the Secretary must determine that it is: (1) Administratively feasible; (2) in the interest of the plan, as well as the interest of the plan's participants and beneficiaries; and (3) protective of the rights of participants and beneficiaries.

Section 8477(c)(3)(E) of the Federal Employees' Retirement System Act of 1986 (FERSA) provides that the Secretary of Labor may determine that a class exemption granted under section 408(a) of ERISA shall, upon publication of a notice in the **Federal Register**, also constitute a class exemption for the purposes of section 8477(c)(2) of FERSA.

FERSA section 8477(c)(2) parallels ERISA section 406(b) in its application to the FERS Thrift Savings Fund (the Fund) established under FERSA. Section 8477(c)(2)(A) prohibits a fiduciary with respect to the Fund from dealing with the assets of the Fund in his or her own interests. Section 8477(c)(2)(B) prohibits fiduciaries with respect to the Fund from acting, in an individual or any other capacity, in any transaction involving the Fund on behalf of a party, or representing a party, whose interests are adverse to the interests of the Fund or the interests of participants and beneficiaries. Section 8477(c)(2)(C) prohibits a fiduciary with respect to the Fund from receiving any consideration for his or her own personal account from any party dealing with sums credited to the Fund in connection with a transaction involving the assets of the Fund.

The following prohibited transaction class exemptions (PTEs) under ERISA

section 408(a) are being adopted for FERSA purposes:

- PTE 75–1—exempting certain classes of transactions involving employee benefit plans and certain broker dealers, reporting dealers, and banks;
- PTE 79–19—exempting certain transactions involving insurance company pooled separate accounts;
- PTE 80–26—exempting certain interest free loans to employee benefit plans;
- PTE 80–51—exempting certain transactions involving bank collective investment funds;
- PTE 82–63—exempting certain payments of compensation to plan fiduciaries for the provision of securities lending services; and
- PTE 86–128—exempting certain securities transactions involving employee benefit plans and broker-dealers.

The adoption of these exemptions would permit fiduciaries with respect to the Fund to engage in certain transactions that would otherwise be prohibited under section 8477(c)(2) of FERSA. The class exemptions will be adopted only to the same extent that they provide exemptive relief from the restrictions of sections 406(b) of ERISA, which are parallel to those of section 8477(c)(2) of FERSA. The Department is adopting these class exemptions on its own motion in accordance with the procedures set forth in section 3.01 of ERISA Procedure 75–1 (40 Fed. Reg. 18471, April 28, 1975).

2. Purpose of the Information Collection

The information collection requirements incorporated within certain of these class exemptions are intended to ensure that a class exemption is not abused, that the rights of participants and beneficiaries are protected, and that affected fiduciaries comply with a class exemption's conditions.

3. Use of Improved Information Technology

This is not applicable to the adoption of the requirements of these class exemptions.

4. Efforts to Identify Duplication

The information collection requirements contained in certain of these class exemptions are only triggered when plan fiduciaries elect to utilize that class exemptions; there are no annual reporting requirements under the exemptions.

Some of the information collection requirements contained in certain of the class exemptions resemble in limited respects information collection requirements under Rule 10b–10 of the Securities Act of 1934 (17 CFR 2240.10b–10). The supporting statement for individual class exemptions describe in detail the efforts taken to avoid duplication, and may be referred to for additional information.

5. Similar Information

Because this information is specific to the transaction for which an exemption is sought, there is no alternative source of similar information.

6. Small Businesses

Due to the size and nature of the FERS Thrift Savings Fund, it is unlikely that small businesses will act as asset managers or fiduciaries for the Fund. Nevertheless, it should be noted that each individual class exemption was drafted (for ERISA purposes) to minimize the impact on small businesses.

7. Frequency of Information Collection

The information collection requirements relating to these class exemptions are only imposed when a Fund fiduciary chooses to engage in a transaction which necessitates the utilization of a class exemption. The frequency is thus dependent on the occurrence of a particular transaction, rather than a predetermined time period (see item 13 for further discussion).

8. Special Circumstances

There are no special circumstances applicable within the meaning of 5 CFR 1320.6.

9. Consultations With Outside Agencies

The adoption of these class exemptions is in response to a request by Wells Fargo Bank, which serves as the (only) current qualified professional asset manager retained by the FERS Thrift Investment Board, pursuant to section 8438 of FERSA, with respect to the fixed income fund and the common stock index fund. In particular, Ms. Judith Nolte, Vice President and Senior Counsel, Legal Department, Wells Fargo Bank, N.A., 111 Sutter Street, San Francisco CA 94163, conferred with the Pension and Welfare Benefits Administration and provided the estimated frequency of transactions under these class exemptions upon which the Department's cost and burden hour estimates are based.

10. Confidentiality

No information is required to be sent to the government under the conditions of the class exemptions; therefore, this section is not applicable.

11. Questions of a Sensitive Nature

No sensitive questions are asked of fiduciaries utilizing the class exemptions.

12. Annualized Cost to the Federal Government

The information collection requirements contained in certain of these class exemptions will not result in costs to the government.

For reasons discussed in detail in item 13, the Department of Labor anticipates that the adoption of these class exemptions for FERSA purposes will not result (under prevailing circumstances) in any actual burden hours imposed on the public. Consequently, the Department does not anticipate that there will be any additional costs imposed on the public, unless there is a change in the current manner in which Thrift Savings Fund assets are invested.

13. Estimate of the Information Collection Burden

Under current circumstances, the adoption of these class exemptions for FERSA purposes will not result in any increased burden for the public, for the following reasons.

Presently, the FERS Thrift Investment Board has delegated investment authority to only one qualified plan asset manager: the Wells Fargo Bank, N.A. According to the bank's Vice President and Senior Legal Counsel, Wells Fargo's current practice is to invest these FERS assets in pooled investments funds, together with assets received from private pension plans for investment. Thus, while the addition of FERS assets to Wells Fargo's pooled investment funds may increase the size of any given investment transaction in which Wells Fargo engages, the total number of transactions engaged in by Wells Fargo would remain the same (according to counsel).

In the event that any of these pooled investment fund transactions necessitated that Wells Fargo utilize one of the class exemptions described, the information collection requirements under FERSA (if any) would be no greater than those under ERISA. Since Wells Fargo would already be subject to the same information collection under ERISA (by virtue of the participation of private pension plan assets in the pooled investment funds), no additional information would be necessary under FERSA.

Although the Department does not anticipate any change in circumstance for the immediate future, at some point it is possible—as a result of new investment practices that differ from

those currently engaged in by Wells Fargo Bank (e.g., a second qualified plan asset manager is retained, or Wells Fargo establishes a separate investment fund for FERS assets that are not pooled with private pension plan assets)—that an increase in burden may occur. Therefore, the Department of Labor presumes that the adoption of these class exemptions for purposes of FERSA will result in a nominal burden increase of 1 burden hour annually, even though current practices would not give rise to any actual information collection burden.

14. Reason for Change in Burden

The change in burden is the result of a statutory enactment under FERSA (and subsequent technical corrections) which has created additional regulatory, oversight and enforcement authority and responsibilities in the Department of Labor.

This information collection burden does not appear as a separate item in the PWBA FY89 Information Collection Budget because the adoption of the class exemptions was only initiated in response to a public request.

15. Collection of Information for Statistical Use

This paperwork requirement is not a collection of information for statistical use; therefore, no statistical methods have been used.

[FR Doc. 88-28983 Filed 2-14-88; 8:45 am]
BILLING CODE 4510-29-M

NATIONAL SCIENCE FOUNDATION

Permit Application Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit application received under the Antarctic Conservation Act of 1978. Pub. L. 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF published regulations under the Antarctic Conservation Act of 1978 at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to the permit application by January 17, 1989. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESS: Comments should be addressed to Permit Office, Room 627, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357-7934.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95-541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States Citizens. The Agreed measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations established such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest. Additional information was published in the **Federal Register** on June 21, 1988. The application received is as follows:

Applicant

William J.L. Sladen
P.O. Box 367
The Plains, VA 22171

Activity for Which Permit Requested

Take; Enter Site of Special Scientific Interest; Enter Specially Protected Area. The applicant requests permission to collect data on penguins (weights, sex, physiological condition) for a publication. He also requests permission to salvage dead specimens for educational purposes.

Location

Antarctic Peninsula Area

Dates

January–February 1989

Charles E. Myers,
Permit Office.

[FR Doc. 88-28832 Filed 12-14-88; 8:45 am]
BILLING CODE 7555-01-M

Materials Submitted for OMB Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, the National Science Foundation is posting this notice of information collection that will affect the public.

Agency Clearance Officer: Herman G. Fleming, (202) 357-9520.

OMB Desk Officer: Written comments to: Office of Information and Regulatory Affairs, ATTN: Jim Houser, Desk Officer, OMB, 722 Jackson Place, Room 3208, NEOB, Washington, DC 20503.

Title: Evaluation of Presidential Young Investigators Program

Affected Public: Individuals.

Responses/Burden Hours: 2113 respondents; an average of 20 minutes each.

Abstract: In the last five fiscal years NSF has made 847 Presidential Young Investigator awards, a comparatively large five-year grants (with industry matching potential) made on the basis of nominations of "star" young faculty. NSF, OMB and Congress are interested in impact of the program on faculty retention, research productivity, academic-industry cooperation.

Dated: December 9, 1988.

Herman G. Fleming,
NSF Clearance Officer.

[FR Doc. 88-28860 Filed 12-14-88; 8:45 am]
BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-416]

Mississippi Power and Light Co. et al.; Issuance of Amendment to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 52 to Facility Operating License No. NPF-29, issued to Mississippi Power and Light Company, System Energy Resources, Inc., and South Mississippi Electric Power Association, which revised the Technical Specifications for the operation of the Grand Gulf Nuclear Station, Unit 1, located in Claiborne County, Mississippi. The amendment is effective as of the date of issuance.

The amendment changes the Technical Specifications by separating the 24-hour surveillance test of emergency diesel generators from the surveillance test simulating loss of offsite power in conjunction with an ECCS acutation signal.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on August 25, 1988 (53 FR 32487). No request for a hearing or petition for

leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the Environmental Assessment, the Commission has concluded that the issuance of this amendment will not have a significant effect on the quality of the human environment.

For further details with respect to the action see: (1) The application for amendment dated July 26, 1988, (2) Amendment No. 52 to License No. NPF-29, and (3) the Commission's related Safety Evaluation and Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555 and at the Hinds Junior College, McLendon Library, Raymond, Mississippi 39154. A copy of items (2) and (3) may be obtained upon request, addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects I/II.

Dated at Rockville, Maryland this 6th day of December 1988.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Director, Project Directorate II-1, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 88-28869 Filed 12-14-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-416]

Mississippi Power and Light Co. et al.; Issuance of Amendment to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 53 to Facility Operating License No. NPF-29, issued to Mississippi Power and Light Company, System Energy Resources, Inc., and South Mississippi Electric Power Association, which revised the Technical Specifications for the operation of the Grand Gulf Nuclear Station, Unit 1, located in Claiborne County, Mississippi. The amendment is effective as of the date of issuance.

The amendment changes the Technical Specifications by separating the 24-hour surveillance test of emergency diesel generators from the surveillance test simulating loss of outside power in conjunction with an ECCS acutation signal.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on August 25, 1988 (53 FR 32487). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the Environmental Assessment, the Commission has concluded that the issuance of this amendment will not have a significant effect on the quality of the human environment.

For further details with respect to the action see: (1) The application for amendment dated July 1, 1988, (2) Amendment No. 53 to License No. NPF-29, and (3) the Commission's related Safety Evaluation and Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555 and at the Hinds Junior College, McLendon Library, Raymond, Mississippi 39154. A copy of items (2) and (3) may be obtained upon request, addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects I/II.

Dated at Rockville, Maryland this 6th day of December 1988.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Director, Project Directorate II-1, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 88-28870 Filed 12-14-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-309]

Maine Yankee Atomic Power Co.; Environmental Assessment and Finding of No Significant Impact

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-36 issued to Maine Yankee Atomic Power Company (the licensee), for operation of the Maine Yankee Atomic Power Station, located in Lincoln County, Maine.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would modify Technical Specification 1.1, "Fuel Storage". Technical Specification 1.1 describes and defines those aspects of fuel storage which relate to the prevention of criticality in the fuel storage facility. The proposed amendment changes specification D from "Spent fuel shipping casks shall not be lifted over the spent fuel storage pool", to "Spent fuel shipping casks shall not be lifted over the spent fuel storage pool until all irradiated fuel within 10 rows of the cask laydown area has cooled a minimum of 60 days."

The proposed action is in accordance with the licensee's application for amendment dated November 8, 1988.

The Need for the Proposed Action

The proposed change to TS is required in order to permit the lifting of spent fuel shipping casks over the spent fuel storage pool once the irradiated fuel within 10 rows of the cask laydown area has cooled a minimum of 60 days.

Environmental Impacts of the Proposed Action

The Commission has completed its initial evaluation of the proposed revision to the Technical Specifications. The results are summarized below:

1. Any lift of a spent fuel shipping cask at Maine Yankee will be performed in accordance with the heavy load handling guidelines specified in NUREG-0612, Section 5.1.1, thus assuring an extremely low drop probability.

2. If a drop were to occur, and the shipping cask were to fall into the spent fuel pool, a maximum pool leak rate of 5 gpm has been conservatively calculated. The Chemical Volume Control System (CVCS) has borated water make-up capabilities much greater than the postulated leak rate (i.e., 150 gpm to 200 gpm).

3. Radiological analyses (which demonstrate that doses would be well within 10 CFR, Part 100 limits, i.e., less than 25 percent of the Part 100 limits) have been performed. The analyses determined that the anticipated release from 100 fuel assemblies (i.e., the shadow area of the largest available shipping cask) would not exceed the prescribed limits providing the spent fuel had decayed for 60 days.

4. A bounding criticality analysis, assuming 4.1 weight percent U-235, pool water at 68 °F and a 2-D infinite array,

has demonstrated that K_{eff} is less than .95 even under conditions of a collapsed flux trap and optimum lattice pitch, provided credit is taken for the 1,720 ppm soluble boron. This analysis bounds consolidated fuel assemblies.

5. The travel path for the spent fuel shipping cask will not pass over any safety-related equipment.

Accordingly, the Commission concludes that this proposed action would result in no significant radiological environment impact.

With regard to potential non-radiological impacts, the proposed change to the Technical Specification involves systems located within the restricted area as defined in 10 CFR Part 20. It does not affect non-radiological plant effluents and has no significant non-radiological environmental impacts.

The Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on December 8, 1988 (53 FR 49619). No request for hearing or petition for leave to intervene was filed following this notice.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in the Final Environmental Statement for the Maine Yankee Atomic Power Station dated July 1972.

Agencies and Persons Consulted

The NRC staff has reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for the amendment dated November 8, 1988, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, and at the Local Public Document Room, Wiscasset Library, High Street, P.O. Box 367, Wiscasset, ME 04578.

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

For the Nuclear Regulatory Commission.

Richard H. Wessman,

Director, Project Directorate I-3, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 88-28868; Filed 12-14-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-424]

Georgia Power Co. et al.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-68, issued to Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and City of Dalton, Georgia (the licensee), for operation of the Vogtle Electric Generating Plant, Unit 1, located in Burke County, Georgia.

The licensee proposes to amend Technical Specifications (TS) Sections 4.8.1.1.2.a.4, 4.8.1.1.2.g.1, 4.8.1.1.2.h.5, and 4.8.1.1.2.h.7 which require that diesel generator voltage be within a specified range, 4160, +170, −410 volts, during surveillance testing. The proposed change would raise the minimum voltage for tests not requiring circuit breaker closure to ensure that the generator "ready-to-load" condition is met during surveillance.

The minimum voltage currently required by TS 4.8.1.1.2, based on worst-case loading of the diesel generators, is 3750 volts. Before a diesel generator can be loaded, however, a ready-to-load interlock must be satisfied. This interlock, internal to the diesel generator package, initiates diesel generator circuit breaker closure and acts as a signal from the diesel generator that it is ready to accept load. It has been set by the manufacturer at a voltage of 4025 volts.

The intent of these surveillance requirements is to ensure that a component will respond as required in an accident situation. The tests requiring measurement of diesel generator voltage with the breaker closed are acceptable as written, since the allowable voltage range was determined for loaded conditions. The tests which require voltage measurement with the breaker open need to be revised, because a reading between 3750 and 4025 volts, while meeting test acceptance criteria, would not satisfy the ready-to-load condition. The licensee is, therefore, proposing to raise the minimum allowable voltage in the TS for those tests not requiring breaker closure to 4025 volts (i.e., 4160 −135 volts). The licensee's application for amendment was dated December 6, 1988.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed changes in the plant TS in accordance with the standards of 10 CFR 50.92(c) and has determined that operation of Vogtle, Unit 1, in accordance with these changes would not

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change would raise the minimum required voltage for diesel generator surveillance tests where the generator circuit breaker is open. The change would not affect the method in which testing will be performed. It would merely revise one of the acceptance criteria to a more conservative value. The change would not involve any physical alteration of the plant, setpoint change, or change to an operating parameter. Since the change would not affect plant equipment involved in the initiation or mitigation of previously evaluated accidents, the probability or consequences of such accidents would not be increased.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated. The change would not introduce any new equipment into the plant or require any

existing equipment to be operated in a different manner from which it was designed to operate. Since the change would not create a new failure mode, a new or different type of accident would not be possible.

(3) Involve a significant reduction in a margin of safety. The change would not affect safety limits or limiting safety system settings. Surveillance testing of the diesel generators would continue to satisfy the basis of Technical Specification 3/4.8.1. Raising the minimum required voltage for unloaded diesel generator surveillance would assure that the ready-to-load condition is satisfied during testing. The change would reduce the probability of diesel generator degradation going undetected, hence margins of safety would not be reduced.

The NRC staff believes that the proposed changes to the Technical Specifications meet the criteria specified in 10 CFR 50.92(c), and hence, proposes to determine that they involve no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the 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, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room P–216, Phillips Building, 7920, Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, 2120 L Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene are discussed below.

By January 17, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rule of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene, which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no signficant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–800–325–6000 (in Missouri 1–800–342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to David B. Matthews: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mr. Arthur H. Domby, Troutman, Sanders, Lockerman and Ashmore, Chandler Building, Suite 1400, 127 Peachtree

Street, NE., Atlanta, Georgia 30043, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i) through (v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Dated at Rockville, Maryland, this 9th day of December 1988.

For the Nuclear Regulatory Commission.

Jon B. Hopkins,

Project Manager Project Directorate II–3 Division of Reactor Projects I/II Office of the Nuclear Reactor Regulation.

[FR Doc. 88–28866 Filed 12–14–88; 8:45 am]

BILLING CODE 7590–01–M

[Dockets Nos. 50–315 and 50–316]

Indiana Michigan Power Co.; Issuance of Amendments to Facility Operating Licenses

The United States Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 119 and 105 to Facility Operating Licenses Nos. DPR–58 and DPR–74, issued to the Indiana Michigan Power Company (the licensee), which revised the Technical Specifications (TSs) for operation of the Donald C. Cook Nuclear Plant, Units Nos. 1 and 2, located in Berrien County, Michigan. The amendments are effective as of the date of issuance.

These amendments revise the TSs to make them more consistent with NRC guidelines concerning obtaining milk samples for analysis. In addition, the TS bases change to be more consistent with the Westinghouse Standard TSs with regard to the thyroid dose release pathway for a child, and an editorial error is corrected by removing redundant ≤ signs.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commissioner's rules and regulations. The Commission has made appropriate findings, as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments.

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for Hearing in connection with this action was published in the **Federal Register** on July 14, 1988 (53 FR 26695). No request for hearing or petition to intervene was filed following this notice.

Also in connection with this action, the Commission prepared an Environmental Assessment and Finding of No Significant Impact which was published in the **Federal Register** on November 16, 1988, at 53 FR 46132.

For further details with respect to this action, see (1) the application for amendments dated February 1, 1988, (2) Amendment Nos. 119 and 105 to Licenses Nos. DPR–58 and DPR–74, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the Maude Preston Palenski Memorial Library, 500 Market Street, St. Joseph, Michigan 49085. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects—III, IV, V, and Special Projects.

Dated at Rockville, Maryland, this 6th day of December 1988.

For the Nuclear Regulatory Commission.

Wayne Scott,

Project Manager, Project Directorate III-1, Division of Reactor Projects—III, IV, V & Special Projects.

[FR Doc. 88–28867 Filed 12–14–88; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Request for Approval of SF 2800 Submitted to OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a request to extend an information collection from the public. SF 2800, Application for Death Benefits, under the Civil Service Retirement System, is completed by the survivor of an employee, former employee, or annuitant who believes he/she is eligible for death benefits. These are two types of death benefits: Survivor annuity benefits and lump sum payments. These benefits cannot be paid unless application for the benefits is made to the Office of Personnel Management. Annual use by these individuals is estimated at 57,000. The estimated average burden per respondent is 30 minutes for a total annual burden of 28,500 hours. For copies of this proposal, call Lawrence F. Dambrose on (202) 632–0199.

DATE: Comments on this proposal should be received on or before December 29, 1988.

ADDRESSES: Send or deliver comments to—

C. Ronald Trueworthy, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street, NW., Room 6410, Washington, DC 20415.

and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Managment and Budget, New Executive Office Building, NW., Room 3235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: James L. Bryson, (202) 632–5472.

U.S. Office of Personnel Management.

Constance Horner,

Director.

[FR Doc. 88–28803 Filed 12–14–88; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–16685; (812–7103)]

Structured Asset Funding Corporation; Application

December 8, 1988.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an amended order under the Investment Company Act of 1940 (the "1940 Act").

Applicant: Structured Asset Funding Corporation ("Depositor") (formerly E.F. Hutton Mortgage Capital Inc.) and certain trusts ("Trusts") created by the Depositor (collectively as "Applicant").

Relevant 1940 Act Section: Exemption requested under Section 6(c) from all provisions of the 1940 Act.

Summary of Application: The Applicant seeks an order amending an existing order (Investment Company Act Release No. 15694, April 21, 1987), and exempting the Depositor and certain Trusts that it may create from all provisions of the 1940 Act in connection with their issuance of collateralized mortgage obligations and sale of residual interests.

Filing Dates: The application was filed on August 8, 1988, amended on October 19, November 17 and December 8, and a letter was submitted on November 23, 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 29, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant 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 attorneys, by certificate. Request with proof of service by affidavit or, for attorneys, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549; Applicant, 3131 One Main Place, Dallas, TX 75270.

FOR FURTHER INFORMATION CONTACT: James E. Banks, Staff Attorney (202) 272–2190, or Brion R. Thompson, Branch Chief (202) 272–3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The 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 (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. The Depositor is an indirect, wholly-owned, limited-purpose financing subsidiary of Shearson Lehman Hutton Inc., a Delaware corporation. The Depositor was organized for certain limited purposes, including issuing one or more series of collateralized mortgage, and serving as the depositor of existing or future Trusts which will issue one or more series of Bonds and sell the beneficial interests therein. The Depositor will also invest in certain mortgage certificates (the "Mortgage Certificates") which will be used to collateralize the Bonds.

2. The Mortgage Certificates will consist of (1) "fully-modified" pass-through mortgage-backed certificates guaranteed by the Government National Mortgage Association ("GNMA Certificates"), (2) mortgage participation certificates issued by the Federal Home Loan Mortgage Corporation ("FHLMC Certificates"), and (3) guaranteed mortgage pass-through securities issued by the Federal National Mortgage Association ("FNMA Certificates"). In addition to the Mortgage Certificates directly securing the Bonds, a series may have additional collateral which may include certain collection accounts and reserve funds as specified in the related indenture.

3. In connection with the acquisition of E.F. Hutton Group Inc., the Applicant's former parent, by Shearson Lehman Hutton Inc. (formerly Shearson Lehman Brothers Inc.), the Applicant requests an order amending its prior order to (i) change its name and the identity of its parent, (ii) change the name of the variable rate Bonds to "Floating Interest Rate Short Tranche Securities" ("FIRSTS"), and (iii) change references in the limitations on future ownership of the Applicant's stock to Shearson Lehman Hutton Inc. or an affiliate of Shearson Lehman Hutton Inc.

4. Each Trust will be established under a separate deposit trust agreement (the "Deposit Trust Agreement") between the Depositor and a bank or trust company or other fiduciary acting as owner-trustee ("Owner Trustee"). Applicant will issue one or more series of Bonds under the terms of a trust indenture (the "Indenture") between the Depositor (the Owner Trustee in the case of a Trust) and an independent trustee ("Trustee"), as supplemented by one or more series supplements. The Indenture will be qualified under the Trust Indenture Act of 1939 unless an appropriate exemption is available.

5. In the case of each series of Bonds: (a) The Applicant will hold no substantial assets other than the Mortgage Certificates; (b) the Bonds will be secured by Mortgage Certificates having collateral value determined under the Indenture, at the time of issuance and following each payment date, equal to or greater than the outstanding principal balance of the Bonds; (c) distributions of principal and interest received on the Mortgage Certificates securing the Bonds and any applicable reserve funds, plus reinvestment income thereon, will be sufficient to pay all interest on the Bonds and to retire each class of Bonds by its stated maturity; and (d) the Mortgage Certificates will be assigned to the Trustee and will be subject to the lien of the related Indenture.

6. In addition to the issuance and sale of the Bonds, Applicant intends to sell the residual interests representing rights to receive excess cash flows under the conditions listed below. The Applicant will own all excess cash flows not required to pay principal of and interest on the Bonds. However, the Applicant may sell the residual interests in the right to receive such excess cash flows. If Bonds are issued by the Depositor directly rather than through a Trust, the Indenture will provide that excess cash flows that are not used to pay amounts due on the Bonds will be paid directly by the Trustee, after payment of expenses under the Indenture, to holders of residual interest certificates authorized under the Indenture. Such certificates represent beneficial ownership of the excess cash flows. If Bonds are issued by a Trust, excess cash flows will be released from the lien of the Indenture and remitted, net of expenses of the Trust to the owners of the certificates of beneficial interest in the Trusts. (For a more complete description of the Bonds and the residual interests, see the application).

Applicant's Legal Conclusion

1. The requested order is necessary and appropriate in the public interest because: (a) The Applicant should not be deemed to be an entity to which the provisions of the 1940 Act were intended to be applied; (b) the Applicant may be unable to proceed with its proposed activities if the uncertainties concerning the applicability of the 1940 Act are not removed; (c) the Applicant's activities are intended to serve a recognized and critical public need; (d) granting of the requested order will be consistent with the protection of investors because they will be protected during the offering and sale of the Bonds by the registration or exemption provisions of the 1933 Act and thereafter by the Trustee representing their interests under the Indenture; and (e) the residual interests will be held entirely by the Applicant or offered only to a limited number of sophisticated institutional investors through private placements.

Applicant's Conditions

Applicant agrees that if an order is granted it will be expressly conditioned on the following conditions:

A. Conditions Relating to the Bonds

(1) Each series of Bonds will be registered under the Securities Act of 1933, as amended (the "1933 Act"), unless offered in a transaction exempt from registration pursuant to section 4(2) of the 1933 Act.

(2) The Bonds will be "mortgage related securities" within the meaning of section 3(a)(41) of the Securities Exchange Act of 1934, as amended. The mortgage collateral directly securing the Bonds will be limited to the Mortgage Certificates.

(3) If new Mortgage Certificates are substituted, the substitute Mortgage Certificates will: (i) Be of equal or better quality than the Mortgage Certificates replaced; (ii) have similar payment terms and cash flow as the Mortgage Certificates replaced; (iii) be insured or guaranteed to the same extent as the Mortgage Certificates replaced; and (iv) meet the conditions set forth in paragraphs (2), and (5). In addition, new Mortgage Certificates may not be substituted for more than 40% of the aggregate face amount of the Mortgage Certificates initially pledged as mortgage collateral. In no event may any new Mortgage Certificates be substituted for any substitute Mortgage Certificates.

(4) Without the written consent of each Bondholder to be affected, neither the Applicant nor the holders of any residual interests in any series of Bonds will be able to impair or adversely affect the Mortgage Certificates securing such series (including, without limitation, selling the Mortgage Certificates while a series of Bonds remains outstanding).

(5) All Mortgage Certificates, funds, accounts or other collateral securing a series of Bonds ("Collateral") will be held by a Trustee, or on behalf of a Trustee by an independent custodian. Neither the Trustee nor the custodian may not be an affiliate (as the term "affiliate" is defined in Rule 405 under the 1933 Act, 17 CFR 230.405) of the Applicant. The Collateral pledged to the Trustee will be registered in the name of the Trustee or its nominee, and the Trustee will be provided with a first priority perfected security or lien interest in and to all Collateral.

(6) Each series of Bonds will be rated in one of the two highest bond rating categories by at least one nationally recognized statistical rating agency that is not affiliated with the Applicant. The Bonds will not be considered "redeemable securities" within the meaning of section 2(a)(32) of the 1940 Act.

(7) So long as applicable law requires, no less often than annually, an independent public accountant will audit the books and records of the Applicant and, in addition, will report on whether the anticipated payments of principal and interest on the Mortgage Certificates continue to be adequate to pay the principal and interest on the Bonds in accordance with their terms. Upon completion, copies of the auditor's reports will be provided to the Trustee.

B. Conditions Relating to FIRSTS

(1) Each Class of FIRSTS will have a set maximum interest rate (an interest rate cap) which, in each case, may vary from period to period.

(2) At the time of the deposit of the Collateral securing a series of Bonds with the Trustee, as well as during the life of such series of Bonds, the scheduled payments of principal and interest to be received by the Trustee on all Mortgage Certificates pledged to secure the Bonds of such series, plus reinvestment income thereon, and funds, if any, pledged to secure the Bonds will be sufficient to make all payments of principal and interest on the Bonds then outstanding, assuming the maximum interest rate for each specified period on each class of FIRSTS.[1] Such Collateral will be paid down as the mortgages underlying the Mortgage Certificates are repaid, but will not be released from the lien of the Indenture prior to the payment of the Bonds, except as permitted by the Indenture.

C. Conditions Relating to REMIC Election

(1) The election by the Applicant to treat the arrangement by which the Collateral secures a series of Bonds as a real estate mortgage investment conduit ("REMIC") will have no significant effect on the level of the expenses that would be incurred by the REMIC. In the event of such REMIC election, the Applicant will provide for the payments of administrative fees and expenses as set forth in the application in a manner satisfactory to the agency or agencies rating the Bonds. The Applicant will ensure that the anticipated level of fees and expenses will be adequately provided for regardless of which method described in the application to provide for the payment of such fees and expenses is selected.

D. Conditions Relating to the Sale of the Residual Interests

(1) Notwithstanding the sale of residual interests in excess cash flows, all of the Depositor's outstanding stock will continue to be owned by Shearson Lehman Hutton Inc. or an affiliate of Shearson Lehman Hutton Inc.

(2) Sales of the residual interests will be made only to a limited number, but in no event more than 100, of sophisticated institutional investors in transactions exempt from the registration requirements of the 1933 Act, pursuant to section 4(2) thereof. Such institutional investors may include, but are not limited to commercial and investment banks, mortgage lenders, savings and loan associations, employee benefit plans, insurance companies, real estate investment trusts, pension plans, mutual funds or other institutions that customarily engage in the purchase of mortgages and other types of mortgage collateral ("Eligible Institutions"). Each mutual fund purchasing a residual interest will be required to satisfy itself that any such purchase will comply with the provisions of section 12(d)(1) of the 1940 Act or any order of the Commission exempting such mutual fund from such provision in connection with any such purchase. Eligible Institutions will have such knowledge and experience in financial and business matters as to be capable of evaluating the risk and volatility of interest rate fluctuations as they affect the value of mortgages, mortgage-related securities and residual interests in mortgage-related securities. The subsequent transfer of the residual interests will also be limited to private placements to such Eligible Institutions. Each Eligible Institution (other than a firm engaged in investment banking, mortgage banking or commercial banking or dealing in mortgage-related securities through which such interests are sold to Eligible Institutions) will be required to represent that it is purchasing such residual interests for investment purposes only and that it will hold such residual interests in its own name and not as nominee for undisclosed investors. The Indenture related to the Bonds or the Deposit Trust Agreement, as applicable, relating to any Trust will further prohibit the transfer of any certificates for such residual interests if there would be more than 100 owners of such certificates at any time.

(3) No holder of a controlling interest in the Applicant (as the term "control" is defined in Rule 405 under the 1933 Act), will be affiliated with either (a) any custodian which may hold the Collateral on behalf of the Trustee or (b) any nationally recognized statistical rating agency rating the Bonds. Neither the Applicant nor the owners of the residual interests will be affiliated with the Trustee.

[1] In the case of a series of Bonds that contains a class or classes of FIRSTS, a number of mechanisms exist to ensure that the representations above will be valid notwithstanding subsequent potential increases in the interest rate applicable to the FIRSTS. Procedures that have been identified to date for achieving this result are described in the application. It is expected that other mechanisms may be identified in the future. The Applicant will promptly notify the SEC by letter of the use of such additional mechanisms, and shall give the SEC reasonable opportunity to raise any questions as to the appropriateness of their use. In all cases, these mechanisms will be adequate to ensure the accuracy of the representations set forth in the application. No Bonds will be issued for which this is not the case.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-28839 Filed 12-14-88; 8:45 am]

BILLING CODE 8010-01-M

TENNESSEE VALLEY AUTHORITY

Information Collection Under Review by the Office of Management and Budget (OMB)

AGENCY: Tennessee Valley Authority.

ACTION: Information collection under review by the Office of Management and Budget (OMB).

SUMMARY: The Tennessee Valley Authority (TVA) has sent to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), as amended by Pub. L. 99-591.

Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to the Agency Clearance Officer whose name, address, and telephone number appear below. Questions or comments should be directed to the Agency Clearance Officer and also to the Desk Officer for the Tennessee Valley Authority, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; Telephone: (202) 395-3084.

Agency Clearance Officer: Mark R. Winter, Tennessee Valley Authority, 100 Lupton Building, Chattanooga, TN 37401; (615) 751-2523.

Type of Request: Regular submission.

Title of Information Collection: Power Distributors Monthly Report to TVA.

Frequency of Use: Monthly.

Type of Affected Public: Businesses or other for-profit and small businesses or organizations.

Small Businesses or Organizations Affected: Yes.

Federal Budget Functional Category Code: 721.

Estimated Number of Annual Responses: 1920.

Estimated Total Annual Burden Hours: 960.

Estimated Average Burden Hours Per Response: .5.

Need For and Use of Information: This monthly collection supplies TVA with financial information to assist in making timely management decisions on electric power rates, finances, and other long- and short-term plans.

John W. Thompson,

Vice President, Services, Senior Agency Official.

[FR Doc. 88-28833 Filed 12-14-88; 8:45 am]

BILLING CODE 8120-01-M

Paperwork Reduction Act of 1980, as Amended by Pub. L. 99-591; Information Collection Under Review by the Office of Management and Budget (OMB)

AGENCY: Tennessee Valley Authority.

ACTION: Information collection under review by the Office of Management and Budget (OMB).

SUMMARY: The Tennessee Valley Authority (TVA) has sent to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), as amended by Pub. L. 99-591.

Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to the Agency Clearance Officer whose name, address, and telephone number appear below. Questions or comments should be directed to the Agency Clearance Officer and also to the Desk Officer for the Tennessee Valley Authority, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; Telephone: (202) 395-3084.

Agency Clearance Officer: Mark R. Winter, Tennessee Valley Authority, 100 Lupton Building, Chattanooga, TN 37401; (615) 751-2523.

Type of Request: Regular submission.

Title of Information Collection: Proposed Survey (Pretest) of Residential Fuelwood Users in 13 Southeastern States.

Frequency of Use: On occasion.

Type of Affected Public: Individuals or households.

Small Businesses or Organizations Affected: No.

Federal Budget Functional Category Code: 452.

Estimated Number of Annual Responses: 770.

Estimated Total Annual Burden Hours: 192.5.

Estimated Average Burden Hours Per Response: .25.

Need For and Use of Information: The Southeastern Regional Biomass Energy Program, managed under contract from the Department of Energy by the Tennessee Valley Authority's Resource Development Group, will use the information to develop a request for proposal to estimate total residential fuelwood consumption in the 13-state southeastern region.

John W. Thompson,

Vice President, Services, Senior Agency Official.

[FR Doc. 88-28807 Filed 12-14-88; 8:45 am]

BILLING CODE 8120-01-M

DEPARTMENT OF TRANSPORTATION

[Docket 37554]

Order Adjusting the Standard Foreign Fare Level Index

The International Air Transportation Competition Act (IATCA), Pub. L. 96-192, requires that the Department, as successor to the Civil Aeronautics Board, establish a Standard Foreign Fare Level (SFFL) by adjusting the SFFL base periodically be percentage changes in actual operating costs per available seat-mile. Order 80-2-69 established the first interim SFFL and Order 88-10-14 set the currently effective two-month SFFL applicable through November 30, 1988.

In establishing the SFFL for the two-month period beginning December 1, 1988, we have projected nonfuel costs based on the year ended September 30, 1988 data, and have determined fuel prices on the basis of the latest experienced monthly fuel cost levels as reported to the Department.

By Order 88-12-24 fares may be increased by the following factors over the October 1, 1979, level:

Atlantic	1.1771
Latin American	1.2335
Pacific	1.6155
Canada	1.2377

FOR FURTHER INFORMATION CONTACT: Keith A. Shangraw (202) 366-2439 or Julien R. Schrenk (202) 366-2441.

By the Department of Transportation: December 9, 1988.

Gregory S. Dole,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 88-28834 Filed 12—88; 8:45 am]

BILLING CODE 4910-62-M

Coast Guard

[CGD-8-110]

Public Hearing Concerning the Pascagoula Railroad Bridge Across the Pascagoula River, Mile 1.5, at Pascagoula, MS

AGENCY: Coast Guard, DOT.

ACTION: Notice of public hearing.

SUMMARY: Notice is hereby given that the Commandant has authorized a public hearing to be held by the Commander, Eighth Coast Guard District, at Pascagoula, Mississippi. The purpose for the hearing is to provide an opportunity to all interested persons to present data, views and comments orally or in writing concerning the alteration of the railroad bridge across the Pascagoula River, mile 1.5, at Pascagoula, Mississippi.

DATE: February 16, 1989, commencing at 2:00 p.m., until all speakers in attendance wishing to comment have provided comments.

ADDRESS: The hearing will be held at the Jackson County Courthouse, Board of Supervisors Room, 3109 Canty Street, Pascagoula, Mississippi 39561.

FOR FURTHER INFORMATION CONTACT: Mr. Perry Haynes, Eighth Coast Guard District, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 10130–3396, (504) 589–2965.

SUPPLEMENTARY INFORMATION: Section 18 of Pub. L. 100–448 declared the bridge to be an unreasonable obstruction to be altered under the Truman-Hobbs Act. All interested parties shall have full opportunity to be heard and to present evidence as to what alterations are needed; giving due consideration to the necessities of free and unobstructed navigation, the necessities of land traffic and environmental concerns.

Any person who wishes may appear and be heard at this public hearing. Persons planning to appear and be heard are requested to notify the Commander, Eighth Coast Guard District, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 10130–3396, (504) 589–2965, any time prior to the hearing, indicating the amount of time required. Depending upon the number of scheduled statements, it may be necessary to limit the amount of time allocated to each person. Any limitations of time allocated will be announced at the beginning of the hearing. Written statements and exhibits may be submitted in place of or in addition to oral statements and will be made a part of the hearing record. Such written statements and exhibits may be delivered at the hearing or mailed in advance to the Commander, Eighth Coast Guard District, at the above address. Transcripts of the hearing will be made available for purchase upon request.

(33 U.S.C. 513; 33 CFR 116.20)

Dated: December 8, 1988.

Robert T. Nelson,

Real Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 88–28857 Filed 12–14–88; 8:45 am]

BILLING CODE 4910–14–M

[CGD 88–107]

Houston/Galveston Navigation Safety Advisory Committee; Inshore Waterway Management Subcommittee Meeting

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 of a meeting of the Inshore Waterway Management Subcommittee of the Houston/Galveston Navigation Safety Advisory Committee. The meeting will be held on Thursday, January 5, 1989 at Coast Guard Base Galveston, 1 Ferry Road, Galveston, Texas. The meeting is scheduled to begin at 9:00 a.m. and end at 10:30 a.m. The agenda for the meeting consists of the following items:

1. Call to order.
2. Discussion of previous recommendations made by the full Advisory Committee and the Inshore Waterway Management Subcommittee.
3. Presentation of any additional new items for consideration to the Subcommittee.
4. Adjournment.

Attendance is open to the public. With advance notice, members of the public may present oral statements at the meeting. Prior to presentation of their oral statements, but no later than the day before the meeting, members of the public shall submit, in writing, to the Executive Secretary of the Houston/Galveston Navigation Safety Advisory Committee, the subject of their comments, a general outline signed by the presenter, and the estimated time required for presentation. Individuals making the presentation shall also provide their name, address, and, if applicable, the organization they are representing. Any member of the public may present a written statement to the Advisory Committee at any time.

Additional information may be obtained from Commander G. A. Bird, USCG, Executive Secretary, Houston/Galveston Navigation Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (oan), Room 1141, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130–3396, telephone number (504) 589–6234.

Dated: December 5, 1988.

A.E. Henn,

Captain, U.S. Coast Guard, Acting Commander, 8th Coast Guard District.

[FR Doc. 88–28853 Filed 12–14–88; 8:45 am]

BILLING CODE 4910–14–M

[CGD 88–108]

Houston/Galveston Navigation Safety Advisory Committee; Meeting

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 of the nineteenth meeting of the Houston/Galveston Navigation Safety Advisory Committee. The meeting will be held on Thursday, January 26, 1989 in the conference room of the Houston Pilots Office, 8150 South Loop East, Houston, Texas. The meeting is scheduled to begin at approximately 9:30 a.m. and end at approximately 1:00 p.m. The agenda for the meeting consists of the following items:

1. Call to order.
2. Presentation of the minutes of the Inshore and Offshore Waterways Subcommittees and discussion of recommendations.
3. Discussion of previous recommendations made by the Committee.
4. Presentation of any additional new items for consideration of the Committee.
5. Adjournment.

The purpose of this Advisory Committee is to provide recommendations and guidance to the Commander, Eighth Coast Guard District on navigation safety matters affecting the Houston/Galveston area.

Attendance is open to the public. Members of the public may present written or oral statements at the meeting.

Additional information may be obtained from Commander G.A. Bird, USCG, Executive Secretary, Houston/Galveston Navigation Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (oan), Room 1141, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130–3396, telephone number (504) 589–6234.

Dated: December 5, 1988.

A.E. Henn,

Captain, U.S. Coast Guard, Acting Commander, 8th Coast Guard District.

[FR Doc. 88–28852 Filed 12–14–88; 8:45 am]

BILLING CODE 4910–14–M

[CGD 88-106]

Houston/Galveston Navigation Safety Advisory Committee; Offshore Waterway Management Subcommittee Meeting

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 of a meeting of the Offshore Waterway Management Subcommittee of the Houston/Galveston Navigation Safety Advisory Committee. The meeting will be held on Thursday, January 5, 1989 at Coast Guard Base Galveston, 1 Ferry Road, Galveston, Texas. The meeting is scheduled to begin at 10:30 a.m. and end at 12:00 p.m. The agenda for the meeting consists of the following items:

1. Call to order.
2. Discussion of previous recommendations made by the full Advisory Committee and the Offshore Waterway Management Subcommittee.
3. Presentation of any additional new items for consideration by the Subcommittee.
4. Adjournment.

Attendance is open to the public. With advance notice, members of the public may present oral statements at the meeting. Prior to presentation of their oral statements, but no later than the day before the meeting, members of the public shall submit, in writing, to the Executive Secretary of the Houston/Galveston Navigation Safety Advisory Committee, the subject of their comments, a general outline signed by the presenter, and the estimated time required for presentation. Individuals making the presentation shall also provide their name, address, and, if applicable, the organization they are representing. Any member of the public may present a written statement to the Advisory Committee at any time.

Additional information may be obtained from Commander G.A. Bird, USCG, Executive Secretary, Houston/Galveston Navigation Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (oan), Room 1141, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130-3396, telephone number (504) 589-6234.

Dated: December 5, 1988.

A.E. Henn,

Acting Captain, U.S. Coast Guard, Commander, 8th Coast Guard District.

[FR Doc. 88-28854 Filed 12-14-88; 8:45 am]

BILLING CODE 4910-14-M

[CGD 88-109]

Lower Mississippi River Waterway Safety Advisory Committee; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-403; 5 U.S.C. App. I) notice is hereby given of a meeting of the Lower Mississippi River Waterway Safety Advisory Committee. The meeting will be held on Tuesday, January 10, 1989, in the Ambassador Room of the Plimsoll Club of the World Trade Center, 2 Canal Street, New Orleans, LA at 9:00 a.m. The agenda for the meeting consists of the following items:

1. Call to order.
2. Minutes of the 12 October 1988, meeting.
3. Report by the Coast Guard on items discussed from 12 October 1988, meeting.
4. New business.
5. Adjournment.

The purpose of this Advisory Committee is to provide consultation and advice to the Commander, Eighth Coast Guard District on all areas of maritime safety affecting this waterway.

The meeting is open to the public. Members of the public may present written or oral statements at the meeting.

Additional information may be obtained from Commander, G.A. Bird, USCG, Executive Secretary, Lower Mississippi River Waterway Safety Advisory Committee, c/o Commander Eighth Coast Guard District (oan), Room 1141, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130-3396, telephone number (504) 589-6234.

Dated: December 5, 1988.

A.E. Henn,

Captain, U.S. Coast Guard, Acting Commander, 8th Coast Guard District.

[FR Doc. 88-28855 Filed 12-14-88; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: December 9, 1988.

The Department of the 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 on the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0065.

Form Number: 4070, 4070PR, 4070-A, and 4070A-PR.

Type of Review: Extension.

Title: Employee's Report of Tips to Employer, Informe al Patrono de Propinas Recibidas por el Empleado; Employee's Daily Record of Tips, Registro Diario de Propinas Recibidas por el Empleado.

Description: Employees receiving at least $20 a month in tips must report the tips to their employers monthly for purposes of permitting employment taxes to be withheld. Forms 4070 and 4070PR (Puerto Rico only) are used for this purpose. Employees must maintain a daily record of tips received. Forms 4070-A and 4070A-PR (Puerto Rico only) are used for this purpose.

Estimated Number of Respondents: 525,000.

Estimated Burden Hours Per Response/Recordkeeping:

	4070	4070A	4070PR	4070A-PR
Recordkeeping	7 min	3 hours 23 min	7 min	3 hours 23 min.
Learning about the law or the form	2 min	2 min	2 min	1 min.
Preparing the form	8 min	69 min	8 min	56 min.
Copying, assembling, and sending the form	10 min		10 min	

Frequency of Response: Monthly.

Estimated Total Recordkeeping/Reporting Burden: 31,497,000 hours.

Clearance Officer: Garrick Shear, (202) 535-4297, Internal Revenue

Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 88–28846 Filed 12–14–88; 8:45 am]

BILLING CODE 4810-25-M

Fiscal Service

Bureau of the Public Debt; Privacy Act of 1974; Computer Matching Program; Bureau of the Public Debt/Social Security Administration

AGENCY: Fiscal Service, Bureau of the Public Debt, Treasury.

ACTION: Notice of Matching Program—Department of the Treasury, Bureau of the Public Debt with Department of Health and Human Services, Social Security Administration.

SUMMARY: The Department of the Treasury, Bureau of the Public Debt, is providing notice of its plans to conduct a computer match of its records of ownership of United States Savings Bonds, Series E and EE, with Department of Health and Human Services, Social Security Administration, records of individuals who receive benefits under the Supplemental Security Income Program. This information is contained in systems of records subject to the provisions of the Privacy Act of 1974.

DATE: The match is expected to be completed early in 1989.

ADDRESS: Send any comments to Volney M. Taylor, Information Officer, Bureau of the Public Debt, E Street Building, Room 553, Washington, DC 20239–0001. Copies of all written comments will be available for public inspection and copying at the Treasury Department Library, Room 5030, Main Treasury Building, Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: Volney M. Taylor, Information Officer, (202) 376–4300.

SUPPLEMENTARY INFORMATION: The Social Security Administration (SSA) requires information for purposes of verifying eligibility for, and amount of, Supplemental Security Income benefits (SSI). The Bureau of the Public Debt (BPD) has agreed to provide information by acting as a matching agency for a computer match that will compare its savings bond registration records for United States Savings Bonds, Series E and EE, against SSA records of individuals who receive SSI benefits. The disclosure of data through the match will provide SSA with information necessary to verify the accuracy of eligibility factors for the SSI program. This match and any follow up matches will be conducted as further described in the "Report" below.

Set forth below is the information regarding the matching program, including the authority for the program, a description of the matching program, a description of the records to be matched, the projected start and ending dates of the matching program, the security safeguards to be used, and plans for disposition of the records, that is required by paragraph 5.f.(1) of the Revised Supplemental Guidance for Conducting Computer Matching Programs issued by the Office of Management and Budget, (47 FR 21656, May 19, 1982). A copy of this notice has been provided to both Houses of Congress and the Office of Management and Budget.

Report of a Matching Program: Bureau of the Public Debt With the Social Security Administration

a. *Authority:* Section 1631(f) of the Social Security Act (42 U.S.C. 1383(f)).

b. *Program Description:* Under this program, BPD will conduct the following match. SSA will provide BPD with magnetic tape from SSA's system of records on individuals receiving Supplemental Security Income Benefits (SSI). The tape will contain identifying data including Social Security number (SSN) for approximately 4.8 million individuals currently receiving benefits. The magnetic tape will be IBM compatible and will adhere to the characteristics and data format requirements agreed upon by both parties. Using the SSNs provided by SSA, BPD will match the data on the magnetic tape against BPD's registration data for United States Savings Bonds, Series E and EE (Treasury/BPD.002, United States Savings-Type Securities). For those social security numbers common to both tapes (hits), BPD will provide to SSA the following information: For each SSN that shows a bond registered to it, BPD will provide the denomination, serial number, issue date, and current redemption value of the bond.

The validity of the information will be verified by SSA by contacting the individual under whose SSN the bond is registered to confirm ownership. In the event that the individual disputes ownership, SSA will obtain a signed authorization from the individual to obtain additional information concerning the bond's registration.

c. *Description of the Records:* Each match under this program will compare the records within the BPD's savings bond records (Treasury/BPD.002, United States Savings-Type Securities (most recently published in 53 FR 6471, March 1, 1988)). Disclosure of information for purposes of this program is authorized by that system's routine use number 15 (published in 53 FR 1885, January 22, 1988).

d. *Projected Starting and Ending Dates:* The initial match will be a single one in fiscal year 1989 and is expected to be initiated before the end of 1988 and completed shortly thereafter. The agreement between SSA and BPD may be renewed each year and, if done, future matches will be conducted as described in this report.

e. *Security Safeguards:* (1) Access to the information will be restricted to only those authorized employees and officials who need it to perform their official duties in connection with the uses authorized under the agreement signed by BPD and SSA; (2) information exchanged between SSA and BPD will be stored by each agency in rooms with controlled access and which are locked when authorized personnel are not present; (3) the information will be processed under the immediate supervision and control of authorized personnel in a manner which will protect the confidentiality of the information, and in such a way that unauthorized persons cannot retrieve the information by means of a computer, remote terminal, or other means; and (4) all personnel who will have access to the information will be advised of the confidential nature of the information, the safeguards required to protect the information, and the civil and criminal sanctions for noncompliance contained in the applicable Federal and State laws.

f. *Plans for Disposition of Records:* Magnetic tapes provided by SSA will be returned to SSA upon completion of the match. Information provided to SSA by BPD will only be for those items which match and will be used by SSA only for the purpose of determining eligibility for benefits as provided in the agreement and for no other purpose. BPD will retain one copy of the information provided to SSA as its record of disclosure as required by the Privacy Act of 1974, as amended. SSA will dispose of records provided to it as provided in its records disposition schedules for the SSI benefits program. The tapes provided shall remain the property of SSA and shall be returned when the match is completed. The BPD will retain one copy of the information

provided to SSA as its record of disclosure as required by the Privacy Act of 1974.

g. *Other Comments:* No changes will be made to an individual's eligibility for benefits or payments solely on the basis of a "hit." No changes will be made to an individual's eligibility for, or amount of benefits, without SSA first providing due process to the individual concerned.

Jill E. Kent,

Assistant Secretary of the Treasury (Management).

[FR Doc. 88-28848; Filed 12-14-88; 8:45 am]

BILLING CODE 4810-40-M

[Dept. Circ. 570, 1988 Rev., Supp. No. 5]

Surety Companies Acceptable on Federal Bonds: Integrity Mutual Insurance Co.

A Certificate of Authority as an acceptable surety on Federal bonds is hereby issued to the following company under sections 9304 to 9308, Title 31, of the United States Code. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1988 Revision, on page 25066 to reflect this addition:

INTEGRITY MUTUAL INSURANCE COMPANY. Business Address: 526 West Wisconsin Avenue, Appleton, Wisconsin 54912-0539. Underwriting Limitation *b/*: *$583,000.* Surety Licenses *c/*: MN, WI. Incorporated in: Wisconsin.

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

Copies of the Circular may be obtained from the Surety Bond Branch, Finance Division, Financial Management Service, Department of the Treasury, Washington, DC 20227, telephone (202) 287-3921.

Mitchell A. Levine,

Assistant Commissioner, Comptroller, Financial Management Service.

Dated: December 10, 1988.

[FR Doc. 88-28826 Filed 12-14-88; 8:45 am]

BILLING CODE 4810-35-M

Surety Company Application and Renewal Fees; Increase in Fees Imposed

The Department of the Treasury, Financial Management Service, will be increasing the fees imposed and collected as referred to in 31 CFR 223.22. This increase is to cover costs incurred by the Government for services performed relative to qualifying corporate sureties to write Federal business.

The new fees are effective December 31, 1988, and are determined in accordance with the Office of Management and Budget Circular A-25, as amended. The increase in fees is the result of a thorough analysis of costs associated with the Surety Bond Branch.

Revenues collected in fiscal year 1988 fell short of covering actual costs due to an increase in full-time personnel. In addition, we have projected increased expenses for fiscal year 1989 to allow for continued computerization efforts.

The new rate schedule is as follows:

(1) Examination of a company's application for a Certificate of Authority as an acceptable surety or as an acceptable reinsuring company on Federal bonds—$2,500.

(2) Determination of a company's continued qualification for annual renewal of its Certificate of Authority—$1,250.

(3) Examination of a company's application for recognition as an Admitted Reinsurer (except on excess risks running to the United States)—$600.

(4) Determination of a company's continued qualification for annual renewal of its authority as an Admitted Reinsurer—$400.

Questions concerning this notice should be directed to the Surety Bond Branch, Finance Division, Financial Management Service, Department of the Treasury, Washington, DC 20227, Telephone (202) 287-3921.

Dated: December 10, 1988.

Mitchell A. Levine,

Assistant Commissioner, Comptroller.

[FR Doc. 88-26827; Filed 12-14-88; 8:45 am]

BILLING CODE 4810-35-M

Sunshine Act Meetings

Federal Register
Vol. 53, No. 241
Thursday, December 15, 1988

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

December 8, 1988.

TIME AND DATE: 10:00 a.m., Thursday, December 15, 1988.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Robert Simpson v. Kenta Energy & Roy Dan Jackson*, Docket No. KENT 83-155-M
(Issues include those on remand from the Court of Appeals.)

Any person intending to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 20 CFR § 2706.150(a)(3) and § 2706.160(e).

CONTACT PERSON FOR MORE INFORMATION: Sandra G. Farrow (202) 653-5629/(202) 566-2673 for TDD Relay.

[FR Doc. 88-2900 Filed 12-13-88; 3:36 pm]

BILLING CODE 6735-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Wednesday, December 21, 1988.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: December 13, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-2900 Filed 12-13-88; 3:36 pm]

BILLING CODE 6210-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Notice forwarded to Federal Register on December 9, 1988.

REVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Friday, December 16, 1988.

CHANGES IN THE MEETING: Addition of the following open item(s) to the meeting:

Proposal regarding disclosure of Federal Reserve examination ratings to member banks and bank holding companies.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Date: December 13, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-28945 Filed 12-13-88; 12:57 pm]

BILLING CODE 6210-01-M

POSTAL RATE COMMISSION

Amended Notice of Meeting

AGENCY HOLDING THE MEETING: Postal Rate Commission.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Federal Register of December 13, 1988

PREVIOUSLY ANNOUNCED DATE OF THE MEETING: December 14, 1988, 2:30 p.m.

CHANGE: Change time of meeting from 2:30 p.m. on December 14, 1988 to 10:00 a.m. on December 14, 1988.

Charles L. Clapp,

Secretary.

[FR Doc. 88-28907 Filed 12-13-88; 12:36 pm]

BILLING CODE 7715-01-M

Corrections

Federal Register
Vol. 53, No. 241
Thursday, December 15, 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.

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6938]

Proposed Flood Elevation Determinations; Alabama et al.

Correction

In proposed rule document 88-23561 beginning on page 40098 in the issue of Thursday, October 13, 1988, make the following corrections:

PART 67—[CORRECTED]

1. On page 40101, in the table, in the second column, under **NEW HAMPSHIRE**, the first line should read "**NEWFIELDS (TOWN), ROCKINGHAM COUNTY**".

2. On page 40103, in the same table, in the third column, in the 18th line from the bottom, "**Cranesville**" was misspelled and "borough" should read "Borough".

3. On page 40105, in the same table, in the first column, in the 20th line from the bottom, "**LONDONDERRY**" was misspelled.

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Office of Surface Mining and Reclamation Enforcement

30 CFR Parts 780, 784, 816 and 817

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Performance Standards; Permanent and Temporary Impoundments

Correction

In rule document 88-24536 beginning on page 43584 in the issue of Thursday, October 27, 1988, make the following correction:

On page 43597, in the third column, the ninth line should read "See § § 816.84(b)(2)/817.84(b)(2)".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 515

Cuban Assets Control Regulations

Correction

In rule document 88-27089 beginning on page 47526 in the issue of Wednesday, November 23, 1988, make the following correction:

§ 515.560 [Corrected]

On page 47527, in the third column, in § 515.560(d)(1), in the eighth line, "to" should read "in".

BILLING CODE 1505-01-D

federal register

Thursday
December 15, 1988

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 71

Establishment of an Airport Radar Service Area; Colorado Springs, CO; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 87-AWA-52]

Establishment of an Airport Radar Service Area; Colorado Springs, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action designates an Airport Radar Service Area (ARSA) at the City of Colorado Springs Municipal Airport, CO. The location designated is a public airport at which a nonregulatory Terminal Radar Service Area (TRSA) is currently in effect. Establishment of this ARSA will require that pilots maintain two-way radio communication with air traffic control (ATC) while in the ARSA. Implementation of ARSA procedures at this location will reduce the risk of midair collision in terminal areas and promote the efficient control of air traffic.

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

FOR FURTHER INFORMATION CONTACT: Betty Harrison, 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) 267-9254.

SUPPLEMENTARY INFORMATION: .

History

On April 22, 1982, the National Airspace Review (NAR) plan was published in the **Federal Register** (47 FR 17448). The plan encompassed a review of airspace use and the procedural aspects of the air traffic control (ATC) system. The FAA published NAR Recommendation 1-2.2.1, "Replace Terminal Radar Service Areas (TRSA) with Model B Airspace and Service (Airport Radar Service Areas)," in Notice 83-9 (48 FR 34286, July 28, 1983) proposing the establishment of ARSA's at Columbus, OH, and Austin, TX. Those locations were designated ARSA's by SFAR No. 45 (48 FR 50038, October 28, 1983) in order to provide an operational confirmation of the ARSA concept for potential application on a national basis. The original expiration dates for SFAR 45, December 22, 1984, (Austin, TX) and January 19, 1985, (Columbus, OH) were extended to June 20, 1985 (49 FR 47176, November 30, 1984).

On March 6, 1985, the FAA adopted the NAR recommendation and amended Parts 71, 91, 103 and 105 of the Federal Aviation Regulations (14 CFR Parts 71, 91, 103 and 105) to establish the general definition and operating rules for an ARSA (50 FR 9252), and designated the Austin and Columbus airports as ARSA's, as well as the Baltimore/Washington International Airport, Baltimore, MD (50 FR 9250). Thus far, the FAA has designated 125 ARSA's as published in the **Federal Register** in the implementation of this NAR recommendation.

On January 11, 1988, the FAA proposed to designate ARSA's at Baton Rouge Metro Ryan Field, LA; Charleston Yeager Airport, WV; City of Colorado Springs Municipal Airport, CO; Palm Springs Municipal Airport, CA; and Santa Barbara Municipal Airport, CA (53 FR 674). Interested parties were invited to participate in this rulemaking proceeding by submitting comments on the proposal to the FAA. Additionally, the FAA has held informal airspace meetings on the establishment of the Colorado Springs, CO, ARSA. Section 71.501 of Part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6D, dated January 4, 1988.

Discussion of Comments

Few comments were received concerning this rulemaking action. Original concerns expressed by the Department of Defense have been resolved and are encompassed in the final ARSA design.

The Meadow Lake Airport Association requested that the cutout around Meadow Lake Airport be extended from 2 to 2½ nautical miles. The FAA finds merit in this request and has extended the cutout by using visual landmarks which are more than 2½ miles from the airport reference point.

On commenter requested the floor of the 10-mile area be raised to 8,600 feet MSL to assist general aviation pilots in transitioning the Colorado Springs area. After careful study of the requested alteration, the FAA has decided to raise the floor of the 10-mile area north of highway 94 to 8,500 feet MSL, and the southern portion to 7,500 feet MSL. The FAA believes that the floor of the ARSA, as designed, represents the optimum configuration from an aviation safety perspective.

Other comments were received concerning the geographical design of the ARSA. Portions of the boundary of the Colorado Springs ARSA are depicted by visual landmarks as well as references to the geographical center of the airport.

Regulatory Evaluation Summary

The FAA has conducted a Regulatory Evaluation of this final rule to establish this additional ARSA site. The major findings of that evaluation are summarized below, and a copy of the detailed regulatory evaluation is available in the regulatory docket.

a. Costs

Costs which potentially could result from the establishment of additional ARSA sites fall into the following categories:

(1) Air traffic controller staffing, controller training, and facility equipment costs incurred by the FAA.

(2) Costs associated with the revision of charts, notification of the public, and pilot education.

(3) Additional operating costs for circumnavigating or flying over the ARSA.

(4) Potential delay costs resulting from operations within an ARSA rather than a TRSA.

(5) The need for some operators to purchase radio transceivers.

(6) Miscellaneous costs.

It has been the FAA's experience, however, that these potential costs do not materialize to any appreciable degree, and when they do occur, they are transitional, relatively low in magnitude, or attributable to specific implementation problems that have been experienced at a very small minority of ARSA sites. The reasons for these conclusions are presented below. The FAA expects that the additional ARSA sites in this rule can be implemented without requiring additional controller personnel above currently authorized staffing levels, due to participation at these TRSA locations, which is already quite high. Moreover, the reduced separation standards permitted in ARSA's will allow controllers to absorb the slight increase in participating traffic by handling all traffic much more efficiently. Further, since controller training will be conducted during normal working hours, and existing TRSA facilities already operate the necessary radar equipment, the FAA does not expect to incur any appreciable implementation costs. Essentially, the FAA will modify its terminal radar procedures at the proposed ARSA sites in a manner that will make more efficient use of existing resources.

No additional costs are expected to be incurred because of the need to revise sectional charts to remove TRSA airspace depictions and incorporate the new ARSA airspace boundaries.

Changes of this nature are routinely made during charting cycles, and the planned effective dates for newly established ARSA's are scheduled to coincide with the regular 6-month chart publication intervals.

This rulemaking proceeding and process will satisfy most of the need to notify the public and educate pilots about ARSA operations. The informal public meeting being held at each location where an ARSA is being proposed provides pilots with the best opportunity to learn both how an ARSA works and how it will affect their local operations. The expenses associated with these public meetings are considered costs attributable to the rulemaking process; however, any public information costs following establishment of a new ARSA are strictly attributable to the ARSA. The FAA expects to distribute a Letter to Airmen to all pilots residing within 50 miles of each ARSA site, explaining the operation and configuration of the ARSA finally adopted. The FAA also has issued an Advisory Circular on ARSA's. The combined Letter to Airmen and prorated Advisory Circular costs have been estimated to be approximately $500 for each ARSA site. This cost is incurred only once upon the initial establishment of an ARSA.

Information on ARSA's following the establishment of additional sites will also be disseminated at aviation safety seminars conducted throughout the country by various district offices. These seminars are regularly provided by the FAA to discuss a variety of aviation safety issues and, therefore, will not involve additional costs strictly as a result of the ARSA program. Additionally, no significant costs are expected to be incurred as a result of the follow-on user meetings that will be held at each site following implementation of the ARSA. These meetings will allow users to provide feedback to the FAA on local ARSA operations. These meetings are being held at public or other facilities which are being provided free of charge or at nominal cost. Further, because these meetings are being conducted by local FAA facility personnel, no travel, per diem, or overtime costs will be incurred by regional or headquarters personnel.

The FAA anticipates that some pilots who currently transit a TRSA without establishing radio communications or participating in radar services may choose to circumnavigate the mandatory participation airspace of an ARSA rather than participate. Some minor delay costs will be incurred by these pilots because of the additional aircraft variable operating cost and lost crew and passenger time resulting from the deviation. Other pilots may elect to overfly the ARSA, or transit below the 1,200 feet above ground level (AGL) floor between the 5- and 10-nautical-mile rings. Although this will not result in any appreciable delay, a small additional fuel burn will result from the climb portion of the altitude adjustment, which will be offset somewhat by the descent.

The FAA recognizes that the potential exists for delay to develop at some locations following the establishment of an ARSA. The additional traffic that the radar facilities will be handling as a result of the mandatory participation requirement may, in some instances, result in minor delays to aircraft operations. The FAA does not expect such delay to be appreciable. The FAA expects that the greater flexibility afforded controllers in handling traffic as a result of the reduced separation standards will keep delay problems to a minimum. Those delays that do occur will be transitional in nature, diminishing as facilities gain operating experience with ARSA's and learn how to tailor procedures and allocate resources to take fullest advantage of the increased efficiencies. This has been the experience at most of the locations where ARSA's have been in effect for the longest period of time and is the recurring trend at the locations that have been designated more recently.

The FAA does not expect that any operator will find it necessary to install radio transceivers as a result of establishing the ARSA in this rule. Aircraft operating to and from primary airports are already required to have two-way radio communications capability because of existing airport traffic areas and, therefore, will not incur any additional costs as a result of the new ARSA. Further, the FAA has made an effort to minimize these potential costs throughout the ARSA program by providing airspace exclusions, or cutouts, for satellite airports located within 5 nautical miles of the ARSA center where the ARSA would otherwise have extended down to the surface. Procedural agreements between the local ATC facility and the affected airports have also been used to avoid radio installation costs.

At some new ARSA locations, special situations might exist where the establishment of an ARSA could impose certain costs on users of that airspace. However, exclusions, cutouts, and special procedures have been used extensively throughout the ARSA program to alleviate adverse impacts on local fixed based and airport operators. Similarly, the FAA has eliminated potential adverse impacts on existing flight-training practice areas, as well as soaring, ballooning, parachuting, ultralight and banner towing activities, by developing special procedures to accommodate these activities through local agreements between ATC facilities and the affected organizations. For these reasons, the FAA does not expect that any such adverse impact will occur at the ARSA site in this rule.

b. Benefits

Most of the benefit that will result from ARSA's is nonquantifiable and attributable to simplification and standardization of ARSA configurations. This standardization should eliminate most of the confusion currently experienced by pilots operating in nonstandard TRSA's. Further, once experience is gained in ARSA operations, the air traffic controllers will obtain greater flexibility in handling traffic within an ARSA, which will enable them to move traffic more efficiently than under the current TRSA's. These expected savings may or may not offset the delay that some sites may experience after the initial establishment of an ARSA, but are expected to eventually provide overall time savings to all traffic, IFR as well as VFR, as both pilots and controllers become more familiar with ARSA operating procedures.

Some of the benefits of the ARSA cannot be specifically attributed to individual candidate airports, but rather will result from the overall improvements in terminal area ATC procedures realized as ARSA's are implemented throughout the country. ARSA's have the potential of reducing both near and actual midair collisions at the airports where they are established. Based upon the experience at the Austin and Columbus ARSA confirmation sites, the FAA estimates that near midair collisions may be reduced by approximately 35 to 40 percent. Further, the FAA estimates that the national implementation of the ARSA program may prevent approximately one midair collision every 1 to 2 years throughout the United States. The quantifiable benefits of preventing a midair collision can range from less than $100,000, due to the prevention of a minor, nonfatal accident between general aviation aircraft, to $300 million or more, due to the prevention of a midair collision involving a large air carrier aircraft and the numerous fatalities associated with such an incident. Establishment of an ARSA at the site in this final rule will

contribute to these improvements in safety.

c. Comparison of Costs and Benefits

A direct comparison of the costs and benefits of this rule is difficult for a number of reasons. Many of the benefits of the rule are nonquantifiable, and it is difficult to specifically attribute the standardization benefits, as well as the safety benefits, to individual ARSA sites.

The FAA expects any adjustment problems that may be experienced at the ARSA location established in this rule will be only temporary, and that once established, the ARSA will result in an overall improvement in efficiency in terminal area operations. This has been the experience at the vast majority of ARSA sites that have already been implemented. In addition to these operational efficiency improvements, establishment of this ARSA site will contribute to a reduction in near and actual midair collisions. For these reasons, the FAA expects that the establishment of this ARSA site will produce long term, ongoing benefits which will far exceed their costs, which are essentially transitional in nature.

International Trade Impact Analysis

This final rule will only affect terminal airspace operating procedures at selected airports within the United States. As such, it will have no affect on the sale of foreign aviation products or services in the United States, nor will it affect the sale of United States aviation products or services in foreign countries.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. Small entities are independently owned and operated small businesses and small not-for-profit organizations. The RFA requires agencies to review rules that may have a significant economic impact on a substantial number of small entities.

The small entities that could be potentially affected by implementation of the ARSA program include fixed-base operators, flight schools, agricultural operators, and other small aviation businesses located at satellite airports within 5 nautical miles of the ARSA center. If the mandatory participation requirement were to extend down to the surface at these airports, where under current regulations participation in the TRSA and radio communication with ATC is voluntary, operations at these airports might be altered, and some business could be lost to airports outside the ARSA core. The FAA intends to exclude many satellite airports located within 5 nautical miles of the primary airport at candidate ARSA sites, to avoid any adverse impact on their operations and to simplify the coordination of ATC responsibilities between primary and satellite airports. In some cases, the same purposes will be achieved through Letters of Agreement, between ATC and the affected airports, establishing special procedures for operating to and from these airports. In this manner, the FAA expects to eliminate any adverse impact on the operations of small satellite airports that could result from the ARSA program. Similarly, the FAA expects to eliminate potentially adverse impacts on existing flight training practice areas, as well as soaring, ballooning, parachuting, ultralight, and banner towing activities, by developing special procedures that will accommodate these activities through local agreements between ATC facilities and the affected organizations. The FAA has utilized such arrangements extensively in implementing the ARSA's that have been established to date.

Further, because the FAA expects any delay problems that may initially develop following implementation of an ARSA will be transitory, and because the airports that will be affected by the ARSA program represent only a small proportion of all the public-use airports in operation within the United States, no small entities of any type that use aircraft in the course of their business will be adversely impacted.

For these reasons, the FAA has determined that this rulemaking action is not expected to affect a substantial number of small entities. Therefore, the FAA certifies that this regulatory action will not result in a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Federalism Implications

The regulations adopted herein would not have substantial direct effects on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The Rule

This action designates an Airport Radar Service Areas (ARSA) at the City of Colorado Springs Municipal Airport, CO. The location designated is a public airport at which a nonregulatory Terminal Radar Service Area (TRSA) is currently in effect. Establishment of this ARSA will require that pilots maintain two-way radio communication with air traffic control (ATC) while in the ARSA. Implementation of ARSA procedures at this location will reduce the risk of midair collision in terminal areas and promote the efficient control of air traffic.

For the reasons discussed above, the FAA has determined that this regulation (1) is not a "major rule" under Executive Order 12291; and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

List of Subjects in 14 CFR Part 71

Aviation safety, Airport radar service 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.

§ 71.501 [Amended]

2. Section 71.501 is amended as follows:

Colorado Springs, CO [New]

That airspace within a 5-mile radius of the City of Colorado Springs Municipal Airport (lat. 38° 48' 31" N., long. 104° 42' 35" W.)

extending upward from the surface to and including 10,200 feet MSL; and that airspace extending upward from 8,500 feet MSL to 10,200 feet MSL between the 5- and 10-mile radius beginning at a line drawn from the 270° bearing from the airport at 5 miles direct to the 333° at 10 miles clockwise to Colorado State Highway 94, excluding that airspace east of Meridian Road and north of Garret Road, and that airspace extending upward from 7,500 feet MSL to 10,200 feet MSL from Colorado State Highway 94 clockwise to a line drawn from the 188° bearing from the airport at 10 miles direct to the 197° bearing from the airport at 5 miles.

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

William C. Davis,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 88-28838; Filed 12-14-88; 8:45 am]

BILLING CODE 4910-13-M

federal register

Thursday
December 15, 1988

Part III

Department of Agriculture

Cooperative State Research Service

Special Research Grants Program for Fiscal Year 1989; Solicitation of Applications; Notice

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

Special Research Grants Program for Fiscal Year 1989; Solicitation of Applications

Applications are invited for competitive grant awards under the Special Research Grants Program for fiscal year 1989.

The authority for this program is contained in section 2(c)(1) of the Act of August 4, 1965, Pub. L. 89–106, as amended (7 U.S.C. 450i(c)(1)). This program is administered by the Cooperative State Research Service (CSRS) of the U.S. Department of Agriculture (USDA). Under this program, and subject to the availability of funds, the Secretary may award grants for periods not to exceed five years, for the support of research projects to further the programs discussed below. Proposals may be submitted by any land-grant college or university, research foundation established by a land-grant college or university, State agricultural experiment station, and any college or university having a demonstrable capacity in food and agricultural research. Proposals from scientists at non-United States organizations will not be considered for support.

Applicable Regulations

Regulations applicable to this program include the following: (a) The Administrative Provisions governing the Special Research Grants Program, 7 CFR Part 3400 (50 FR 5498, February 8, 1985), as amended (53 FR 49640, December 8, 1988), which sets forth procedures to be followed when submitting grant proposals, rules governing the evaluation of proposals and the awarding of grants, and regulations relating to the post-award administration of grant projects; and (b) the USDA Uniform Federal Assistance Regulations, 7 CFR Part 3015. It should be noted that the weight allocated to the criteria for the evaluation of proposals has been changed by the recent amendment to 7 CFR 3400.15(a). The amended weighting system is applicable to the evaluation of proposals submitted in response to this solicitation.

Introduction to Program Description

Standard grants will be awarded to support basic studies in selected areas of (1) animal health research and (2) aquaculture research. Consideration will be given to proposals that address innovative as well as fundamental approaches to the research areas outlined below and that are consistent with the mission of USDA. The following specific program areas and guidelines are thus provided as a base from which proposals may be developed:

Program Area

1.0 Animal Health Research

CSRS Contacts: Dr. Dyarl D. King; Telephone: (202) 447–6428, Dr. Howard S. Teague; Telephone: (202) 447–3847.

Funds will be awarded to support research seeking solutions to health problems of livestock and poultry and major aquaculture species. A total of $5,408,340 is available for this program area for fiscal year 1989. Up to $150,000 will be awarded for the support of any one project under this program area, except in Aquaculture where the limit on a single award will be $80,000. A proposal will not be awarded by more than one peer panel in the Animal Health program area.

Investigators and co-investigators who have received Special Research Grant awards in the Animal Health area during the past five years must include a brief summary of progress and a list of publications resulting from such grants.

The overall objective of this research is to develop and/or refine methodologies for suppression of animal losses due to infectious and noninfectious diseases and internal and external parasites of livestock, poultry and major aquaculture species.

Research should be directed toward: (1) Basic studies to clarify high-priority infectious and noninfectious diseases and parasites and their interactive effects on animal health; and (2) development of practical, implementable management systems for the producer to prevent or alleviate these significant causes of animal losses. Interdisciplinary research is encouraged or predisposing factors to animal disease including the effects of production environment. Studies to more clearly define the condition of the well-being of animals used in agricultural research is encouraged. Other studies to define the needs for proper animal care in Animal Health Research and Teaching will receive consideration for funding, especially in the Swine and Poultry areas. Research may include clarification of complex or unknown etiologies including nutritional, physiological, genetic, and environmental interactions; development of improved methods of detecting disease agents or antibodies in animals; animal products, tissues, etc.; clarification of disease pathogenesis; determination of methods of disease transmission including transmission by embryo transfer, artificial insemination and importation of animal products (such studies should mimic as closely as possible the conditions in practice of collection, preparation and use of embryos, semen or such products); development of improved methods of immunization against disease agents that will provide solid and persistent protection without compromising diagnosis; development of alternative disease eradication methods so as to limit the use and dependence on biotoxic substances (such alternatives may include biologic methods, sterile male techniques, artificial pheromones, etc.); development of other disease prevention, control and eradication technology; and epidemiology and the evaluation of the economics of disease and disease prevention or control.

Emphasis on enteric diseases of Beef and Dairy Cattle, Swine, Chickens and Turkeys will receive special consideration, especially proposals which offer solutions to the *Salmonella enteritidis* and other Salmonella problems facing these industries.

The specific commodity areas, and their subcategories (not prioritized), in which projects will be funded are listed below. The commodity areas will be funded in the approximate percentages shown. Utilizing the recommendations of the peer panels, the Administrator of CSRS will make the final determination on specific grants to be awarded.

1.1 Beef Cattle (Approximately 41 Percent of Available Funds)

(1) Respiratory diseases.
(2) Reproductive diseases.
(3) Digestive and enteric dieseases (including Salmonellosis).
(4) Parasitic diseases.
(5) Metabolic diseases.

1.2 Dairy Cattle (Approximately 18 Percent of Available Funds)

(1) Mastitis.
(2) Reproductive diseases.
(3) Respiratory diseases.
(4) Digestive and enteric diseases (including Salmonellosis).
(5) Metabolic diseases.

1.3 Swine (Approximately 18 Percent of Available Funds)

(1) Enteric diseases (including Salmonellosis).
(2) Respiratory diseases.
(3) Reproductive diseases.
(4) Metabolic and musculoskeletal diseases.
(5) Parasitic diseases.

1.4 Poultry (Approximately 13 Percent of Available Funds)

(1) Respiratory diseases.
(2) Metabolic and immunologic diseases.
(3) Enteric diseases (Special emphasis on *Salmonella enteritidis* in Turkeys and Chickens).
(4) Skeletal diseases.

1.5 Sheep and Goats (Approximately 5 Percent of Available Funds)

(1) Musculoskeletal diseases.
(2) Respiratory diseases.
(3) Digestive and enteric diseases.
(4) Internal parasitic diseases.

1.6 Horses (Approximately 3 Percent of Available Funds)

(1) Respiratory diseases.
(2) Digestive and enteric diseases.
(3) Reproductive diseases.
(4) Musculoskeletal diseases.
(5) Parasitic diseases.

1.7 Aquaculture (Approximately 2 Percent of Available Funds)

(1) Infectious diseases.
(2) Parasitic diseases.

Program Area

2.0 Aquaculture Research

CSRS Contacts: Dr. Meryl Broussard; Telephone: (202) 475–5158, Dr. Howard S. Teague; Telephone: (202) 447–3847.

A total of $137,460 is available for this program area for fiscal year 1989. No more than $80,000 will be awarded for support of any one project under this program area. The objective of this research is to provide and improve upon the scientific and technical base needed by the aquaculture industry.

Because of the limited funds for this program area, only proposals focused on commercially important aquaculture species in the following *specific area of inquiry* will be considered:

2.1 Disease and parasite control

How to Obtain Application Materials

Copies of this solicitation, the Grant Application Kit, and the Administrative Provisions governing this program, 7 CFR Part 3400 (50 FR 5498, February 8, 1985), as amended (53 FR 49640, December 8, 1988), may be obtained by writing to the address or calling the telephone number which follows: Proposal Services Unit, Grants Administrative Management, Office of Grants and Program Systems, Cooperative State Research Service, U.S. Department of Agriculture, Suite 303, Aerospace Building, 901 D Street, SW., Washington, DC 20250–2200, Telephone: (202) 475–5048.

What to Submit

An original and nine copies of each proposal submitted are requested. This number of copies is necessary to permit thorough, objective peer evaluation of all proposals received before funding decisions are made.

Each copy of each proposal must include a Form CSRS–661, "Grant Application." Proposers should note that one copy of this form, preferably the original, must contain pen-and-ink signatures of the principal investigator(s) and the authorized organizational representative. (Form CSRS–661 and the other required forms and certifications are contained in the Grant Application Kit.)

Members of review committees and the staff expect each project description to be complete in itself. Grant proposals must be limited to 15 pages (single-spaced) exclusive of required forms, the summary of progress for any prior Animal Health Special Research grants, bibliography, and vitae of the principal investigator(s), senior associate(s) and other professional personnel. Reduction by photocopying or other means for the purpose of meeting the 15-page limit is not permitted. Attachment of appendices is discouraged and should be included only if pertinent to understanding the proposal. Reviewers are not required to read beyond the 15-page maximum to evaluate the proposal.

All copies of a proposal must be mailed in one package. Also, please see that each copy of each proposal is stapled securely in the upper left-hand corner. DO NOT BIND. Information should be typed on one side of the page only. *Every effort should be made to ensure that the proposal contains all pertinent information when initially submitted.* Prior to mailing, compare your proposal with the guidelines contained in the Administrative Provisions which govern the Special Research Grants Program, 7 CFR Part 3400.

Applicants should not submit the same research proposal twice in the same fiscal year to different research program area categories within the Animal Health and Aquaculture Special Research Grants program areas. Duplicate proposals will be returned without review.

Where and When to Submit Grant Applications

Each research grant application must be submitted by the date set forth below to: Proposal Services Unit, Grants Administrative Management, Office of Grants and Program Systems, Cooperative State Research Service, U.S. Department of Agriculture, Suite 303, Aerospace Building, 901 D Street SW., Washington, DC 20250–2200.

To be considered for funding during fiscal year 1989, *proposals must be postmarked by February 27, 1989,* for both the Animal Health Research and the Aquaculture Research Program areas.

One copy of each proposal not selected for funding will be retained for a period of one year. The remaining copies will be destroyed.

Special Instructions

On Form CSRS–661 provided in the Grant Application Kit, the Special Research Grants Program should be indicated in Block 7, and the applicable program area and commodity area should be indicated in Block 8. *Select one program area only.* The number assigned to the commodity area must also be cited in Block 8. Example: (Animal Health, 1.5 Sheep and Goats). The final determination of the program area and commodity area will be made by agency staff members and/or the appropriate peer review panel. The code numbers assigned to commodity areas and specific areas of inquiry are listed below:

1.0 *Animal Health Research (use appropriate commodity area 1.1 through 1.7).*
1.1 *Beef Cattle.*
1.2 *Dairy Cattle.*
1.3 *Swine.*
1.4 *Poultry.*
1.5 *Sheep and Goats.*
1.6 *Horses.*
1.7 *Aquaculture.*
2.0 *Aquaculture Research.*
2.1 *Disease and Parasite Control.*

Supplementary Information

The Special Research Grants Program is listed in the Catalog of Federal Domestic Assistance under No. 10.200. For reasons set forth in the final Rule-

related Notice to 7 CFR Part 3015, Subpart V (48 FR 29115, June 24, 1983), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)), the collection of information requirements contained in this Notice have been approved under OMB Document No. 0524–0022.

Done at Washington, DC, this 12th day of December 1988.

John Patrick Jordan,

Administrator, Cooperative State Research Service.

[FR Doc. 88–28888 Filed 12–14–88; 8:45 am]

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federal register

Thursday
December 15, 1988

Part IV

Department of Health and Human Services

Alcohol, Drug Abuse, and Mental Health Administration

Initial List of Laboratories Which Meet Minimum Standards to Engage in Urine Drug Testing for Federal Agencies; Notice

Part IV

Department of Health and Human Services

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Initial List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: National Institute on Drug Abuse, ADAMHA, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services notifies Federal agencies of the laboratories initially certified to meet standards of Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (53 FR 11986). A similar notice listing all currently certified laboratories will be published monthly, updated to include laboratories which successfully complete the certification process. If any listed laboratory fails to maintain its certification, it will be omitted from updated lists until such time as it is recertified as meeting the Guidelines' requirements.

FOR FURTHER INFORMATION CONTACT: Office of Workplace Initiatives, National Institute on Drug Abuse, Room 10a-53, 5600 Fishers Lane, Rockville, Maryland 20857

SUPPLEMENTARY INFORMATION: Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Pub. L. 100-71. Subpart C of the Guidelines, "Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies," sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus on-site inspection. To maintain that certification a laboratory must participate in an every-other-month performance testing program plus periodic, on-site inspections. In accordance with Subpart C of the Guidelines, the following laboratories meet the standards set forth in the Guidelines:

Maryland Medical Laboratories, 1901 Sulpher Spring Road, Baltimore, MD 21227, 301-247-9100

International Clinical Laboratories, 8000 Sovereign Row, Dallas, TX 75247, 214-638-1301

American Medical Laboratories, Inc., 11091 Main Street, P.O. Box 188, Fairfax, VA 22030 703-691-9100

ChemWest Analytical Laboratories, Inc., 600 West North Market Blvd., Sacramento, CA 95834, 916-923-0840

CompuChem Laboratories, Inc., 3308 Chapel Hill/Nelson Hwy., P.O. Box 12652, Research Triangle Park, NC 27709, 919-549-8263, 919-248-6494

Medtox Laboratories, Inc., 402 West County Road D, St. Paul, MN 55112, 612-636-7466

Nichols Institute, 7323 Engineer Road, San Diego, CA 92111, 619-278-5900

Med Arts/South Community Hospital, 1001 Southwest 44th Street, Oklahoma City, OK 73109, 405-636-7041

South Bend Medical Foundation, Inc., 530 North Lafayette Blvd., South Bend, IN 46601, 219-234-4176

International Toxicology Laboratories, 2201 W. Campbell Park Drive, Chicago, IL 60612, 312-633-3360.

Richard A. Millstein,

Deputy Director, National Institute on Drug Abuse.

[FR Doc. 88-29053 Filed 12-14-88; 12:08 pm]

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LIST OF PUBLIC LAWS

Note: The list of public laws enacted during the second session of the 100th Congress has been completed.

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The list will be resumed when bills are enacted into public law during the first session of the 101st Congress, which convenes on January 3, 1989. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 523–6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202–275–3030).

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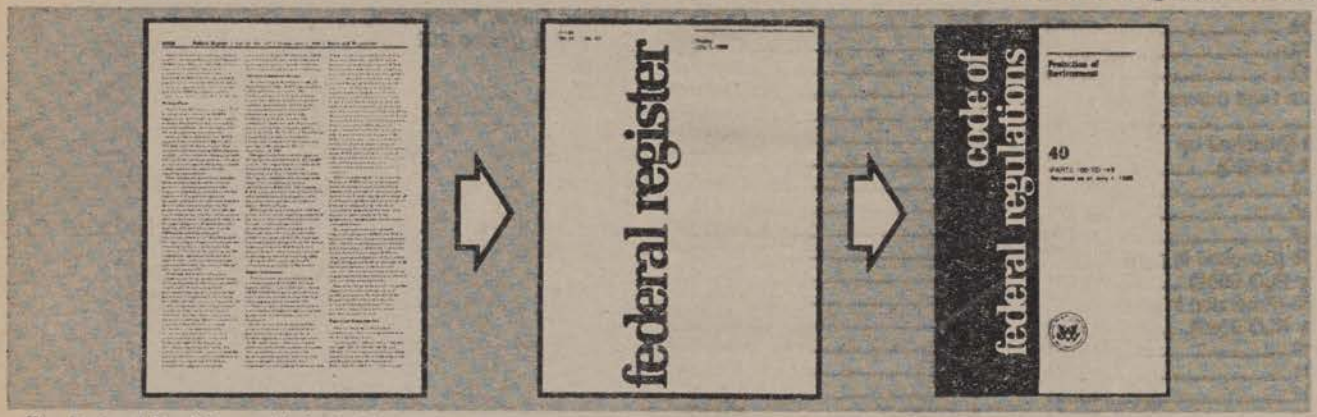

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