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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

RIN 1115-AB05

8 CFR Parts 103 and 210a

[INS No. 1201-89]

Powers and Duties of Service Officers; Availability of Service Records; Admission or Adjustment of Status of Replenishment Agricultural Workers

AGENCY: Immigration and Naturalization Service; Justice.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule adds a new Part 210a of 8 CFR, to conform with section 210A of the Immigration and Nationality Act, established by the Immigration Reform and Control Act of 1986 (IRCA), Pub. L. 99-603, and makes related conforming amendments to the existing Part 103 of 8 CFR. This rule sets forth the criteria and procedures to be used to admit or adjust the status of replenishment agricultural workers (RAW) for temporary residence, should there be a determination that RAW workers are required, and to address the rights and obligations of aliens admitted or adjusted under this section. This rule is necessary to ensure that there is a sufficient supply of labor to harvest perishable crops in the United States.

EFFECTIVE DATE: This interim rule is effective July 17, 1989. Comments must be received on or before August 16, 1989.

ADDRESSES: Written comments should be mailed in triplicate to the Deputy Assistant Commissioner, Special Agricultural Worker Programs, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536, or delivered to Room 5250 at the same address.

FOR FURTHER INFORMATION CONTACT: Aaron Bodin, Deputy Assistant Commissioner, Special Agricultural Worker Programs (SAW), 202-786-3658.

SUPPLEMENTARY INFORMATION: In section 210 of the Immigration and Nationality Act, added by section 302 of the Immigration Reform and Control Act of 1986 (IRCA), Pub. L. 99-603, Congress provided for the expansion of the legally available workforce by giving resident status to foreign field workers in perishable crops. These "Special Agricultural Workers" (SAWs) are not required to remain in agricultural work upon acquiring lawful status. To replenish the supply of labor for perishable crops, should SAWs abandon this work, section 210A of the Act provides resident status to additional foreign workers if a shortage of seasonal agricultural workers is determined by the Secretary of Agriculture and the Secretary of Labor. Unlike SAWs, these "replenishment agricultural workers" (RAWs) are obligated to perform seasonal agricultural services in each of the first three years after having been accorded temporary residence. RAWs who fulfill this condition may be given the status of permanent resident. A RAW who fails to perform the requisite seasonal agricultural services is deportable. RAWs who desire to become citizens of the United States are obligated to perform seasonal agricultural services in each of two additional years.

Section 210A(c) of the Act directs the Attorney General to provide for the admission or adjustment of aliens to lawful temporary resident status to meet the projected shortage, if any, of workers to perform seasonal agricultural services, as determined by the Departments of Agriculture and Labor.

History of This Regulation

On August 15, 1988, a notice of availability for public comment of a preliminary working draft of regulations to implement section 210A(c) was published in the **Federal Register** at 53 FR 30685. The many comments received from farmworker and grower representatives, members of Congress and others helped the Service to refine its views and many of the suggestions were adopted in drafting the proposed rule.

On March 3, 1989, the proposed rule was published in the **Federal Register** at 54 FR 9054. The comment period expired on April 3, 1989. Thirty three comments were received, representing the views of a much larger number of employer and farmworker advocacy organizations, state and federal government agencies, members of Congress, and individuals. The Service believes that the widest range of opinions has been expressed and greatly appreciates these comments. Each has been considered and many commentors will see the effects of their comments on this rule. Due to the number of changes that have occurred since publication of the proposed rule, the Service has opted to issue this regulation as an interim rule, with request for comments. This will enable the Service to take action to implement the RAW program while affording concerned persons an opportunity to comment on changes which have been incorporated into this rule since the proposed rule was published.

To aid the reader in fully appreciating how the RAW program will work, we will discuss the program generally, and then by specific areas which elicited the major comments regarding the proposed rule.

Determination of Need for Additional Workers

The number of aliens admitted or adjusted each fiscal year under the provisions of section 210A(c), which is referred to as the "shortage number", is determined jointly by the Secretaries of Labor and Agriculture with the Bureau of the Census from data collected during the prior fiscal year. If the determination is made that there will be no shortage of workers in any year, no RAW shall be admitted or adjusted in that year unless the Emergency Procedure for Increase in Shortage Number at section 210A(a)(7) is implemented.

Basic Characteristics of the Program

It is important to understand the nature of this program and to differentiate the RAW program from the recently concluded legalization programs also authorized by the Immigration Reform and Control Act of 1986. With regard to the sections 210 (SAW) and 245A (Legalization) programs, Congress delineated precise standards, entitlement and benefits for applicants. Also specifically provided by the SAW Program statute, were procedures for administering the

programs, including an administrative appeals process and strict confidentiality of applicant's records. These provisions were not included in section 210A.

Section 210A of the Act merely states that the Service must adjust or admit the number of replenishment agricultural workers determined by the Secretaries of Agriculture and Labor. It does not stipulate when the Service must begin to admit or adjust replenishment workers, who is eligible, how the selection and petition process is to be conducted, how the programs are to be administered or what protections must be accorded applicants.

The Service has developed in these regulations a program to admit or adjust aliens most likely to perform the required work in seasonal agricultural services. This rule is balanced by concerns for fairness and equity and is responsive to commentor's suggestions.

Definition of "Agricultural Employment"

The definition of "Agricultural Employment" has been changed from that contained in the proposed rule. The definition in the proposed rule was an attempt by the Service to simplify the Department of Labor definition of "Agricultural Labor and Services", as used in the H-2A program. For purposes of consistency, and to minimize confusion, that language has been deleted and in its place the Service has referenced the Department of Labor definition in its entirety, as set forth at 29 CFR 655.100(c)(1). However, to help registrants, the simplified definition is presented in the information which accompanies registration cards, for illustrative purposes only.

Single Registration for the Duration of the RAW Program

The proposed rule described a procedure to be employed for the admission or adjustment of RAWs only during fiscal year 1990, if required. Several commentors stated that the Service should promulgate a consistent standard for the duration of the RAW program to avoid confusion. The Service has adopted this recommendation.

Outreach and Advertising of the Program

Several commentors expressed concerns that the RAW program would be ignored or that eligible aliens might not become aware of the benefits of participation if the Service did not mount a large scale public relations campaign. Other commentors stated that the Service should again make use of community outreach organizations, or Qualified Designated Entities (QDEs), as it had during the SAW and Legalization programs. The Service has modified the rule to include participation of qualified designated entities (QDEs). QDEs in good standing may amend their agreements with the Service and will be able to provide assistance and disseminate information to the public concerning the RAW program. The rule also permits these QDEs to certify copies of original documents submitted to the Service as part of the petitioning process. QDEs would also serve as the sole point for distribution of registration cards to aliens who reside outside of the United States.

Bilingual Forms

Some commentors expressed concern that the response to a call for registration by eligible aliens might be lowered if registration forms were not published in languages other than English. The Service is persuaded by these comments and will produce the instructions accompanying the registration card and petition form for status as a RAW in a combination English and Spanish format. All forms will remain in English, although instructions will be in English and Spanish.

Eligibility Criteria and Priority Consideration

Minimum age—Most commentors supported the proposal that RAWs be at least 18 years of age by October 1, 1989. Some suggested, however, that this restriction discriminates against many otherwise qualified, able and willing young workers and could preclude the unification of farmworking families here. The Service acknowledges the validity of these arguments and the humanitarian concern behind them but believes that there are more compelling reasons to maintain this minimum age standard. Some states have laws restricting the exposure of minors to certain substances used in the performance of seasonal agricultural services and prohibiting minors from operating certain farm machinery. There are many jobs that would satisfy the RAW work requirement which would not expose minors to these risks, however, such employment may not always be available. The Service is concerned that to avoid deportation for failure to perform the 90 days of required work, some minors may feel compelled to leave school and/or to take these jobs which could be injurious to their health.

The Service will not change the requirement that aliens must be eighteen years of age or older to be invited to petition for RAW status. However, aliens who are not yet, but, who will become eighteen years old during the period beginning October 1, 1989, and ending October 1, 1992, may register but will not be invited to petition for temporary resident status until they have reached their eighteenth birthday.

Qualifying work standard—Most commentors supported the eligibility requirement of a minimum of 20 man-days of prior agricultural employment in the United States between May 1, 1985, and November 30, 1988. There was some dissent on the requirement that qualifying work must have been in the United States with reference to a colloquy between Senators Gramm and Simpson. This colloquy emphasized that RAW status would be available to any alien without preference or discrimination with respect to national origin. The Service recognizes that this requirement would yield a larger number of eligible aliens from certain nations due to recent patterns of immigration. We note, however, that applications under the SAW program, which required at least 90 days of prior employment in seasonal agricultural services in the United States, were received from nationals of almost every country in the world. The Service believes that this requirement will yield a population of eligible aliens more likely to fulfill the work requirement because of their familiarity with agricultural standards and practices in this country and that it is not inconsistent with the policy agreed to in the colloquy. It will be retained.

Disqualification for illegal entry after November 6, 1986—Most commentors, for a variety of reasons, urged the Service not to disqualify aliens who entered the United States illegally subsequent to the enactment of IRCA on November 6, 1986. A majority of them recommended November 30, 1988 as the disqualification date, to coincide with the end of the period in which qualifying work for RAW status could be performed and the beginning of full enforcement of employer sanctions in perishable agriculture. The latter date, it was argued, would make available many more otherwise qualified farmworkers. The disqualification date for illegal entry to the United States has been changed to November 30, 1988.

Ineligibility of aliens in H-2A status—Several commentors representing agricultural employers urged that the RAW program should not disrupt the H-2A program. Congress attempted to make the pre-IRCA H-2 program more usable to agricultural employers by enacting the H-2A program in IRCA. The Service believes it would be

contrary to the intent of Congress if the RAW program were to conflict with the operation of the H–2A program. This rule provides a solution similar to that adopted in the SAW program. Aliens in H–2A status on the date of filing their petition for RAW status will, if their petition is approved, be given temporary resident status effective the date the H–2A status expires. So that the requisite number of aliens will be admitted or adjusted during the fiscal year as required by statute, aliens whose H–2A status continues into the next fiscal year will be granted temporary resident status as of the last week day of the current fiscal year. Similarly, temporary employment will not be authorized for these petitioners until their H–2A status expires.

Priority consideration—Many commentors recommended that one class of aliens or another within the eligible population be given priority in selection. The classes described were generally the classes identified in the proposed rule, although the recommended order of priority varied considerably. There was near unanimous approval, however, of preference for otherwise qualified aliens who are the immediate relatives of IRCA legalized aliens. In this connection, one commentor pointed out that, unless the Service imposed a reasonable cutoff date on when a marriage creating a family relationship to an IRCA legalized alien may have occurred, there could be a "wave of holy matrimony" to gain preference in selection. This rule gives preference for selection, within each priority class, to spouses and unmarried sons and daughters of IRCA legalized aliens. The rule further provides that to be qualifying any marriage or adoption creating the claimed family relationship must have occurred on or before November 30, 1988.

Priority issues—The differences between the variable registration standards of the proposed rule have shaped the discussion of priority consideration in the comments received. There are two issues: (1) Whether or not priority should be given to eligible aliens whose qualifying employment was in seasonal agricultural services; and (2) whether or not priority should be given to eligible aliens who are residing in the United States.

With respect to the nature of qualifying employment, although there were some comments favoring a priority for experience in seasonal agricultural services, most commentors, including organizations representing employers of seasonal agricultural workers, recommended against this priority. Since the purpose of the RAW program is to provide a seasonal agricultural workforce, the views of employers of this workforce are especially important with respect to qualifying experience for RAW status. This rule does not provide for priority in selection based on the type of prior agricultural work experience.

There were numerous comments on the issue of whether registration should be limited to aliens in the United States. Comments by farmworker advocates that it would be better to legalize the status of workers already here before importing additional workers from overseas, are particularly persuasive. The Service also believes that this policy would support the policy of promoting family unity by legalizing the status of qualified family members already here. Moreover, such a limitation would simplify administration and public understanding of the program. The only alternative to a requirement of U.S. residence under the statute is to allow registration and subsequent petition from aliens anywhere in the world. From the experience of the Service and the Department of State in the SAW program, many fraudulent SAW applications were proffered by aliens abroad. The service believes that any eligible alien should have an opportunity to register. It is, however, also mindful of an overriding requirement of the statute that a number of aliens equal to the shortage number be admitted or adjusted during the fiscal year. The Service is, therefore, concerned that the time required for the Department of State to contact and interview possibly large numbers of ineligible aliens abroad would jeopardize the administration of the RAW program. Therefore, to expand the registrant pool to include those aliens outside the United States who are most likely to be eligible, overseas registration will be allowed but only through QDEs. This restriction would avoid a possibly confusing and time consuming worldwide program. Priority in selection will be given to aliens in the United States.

Timing of Registration

The proposed rule provided for a registration to be held only if a shortage number is announced or a formal earlier estimate is received from the Departments of Agriculture and Labor as to the probable size of a shortage number, including a reasonable margin for a possible emergency increase. The Service was concerned about raising the expectations of aliens which be frustrated if there were no shortage number and was reluctant to commit resources to gear up for a registration process in the absence of a shortage number.

Commentors from the Congress and the agricultural industry felt strongly that a registration be conducted as early as June 1, 1989 to allow the Service to begin admitting or adjusting RAWs shortly after October 1, 1989.

On June 16, 1989, the Departments of Agriculture and Labor provided a joint letter to the Service which advised of the need for 50,000 potential RAWs to be available to be adjusted or admitted and urged that this number should be available for possible fall 1989 shortages. The letter stated that reports of shortages in California, the anticipated growth in the seasonal agricultural industry, reports of seasonal agricultural workers leaving agricultural employment and the absence of indications that the availability of domestic farmworkers would increase, all indicated that RAWs would be needed. The Service will, therefore, conduct a registration during the period beginning September 1, 1989 and ending October 31, 1989. Upon announcement of a shortage number, the Service will randomly select up to 20 percent of the shortage number from the existing pool of registrants. These registrants will be invited to petition under an expedited procedure which provides temporary employment authorization prior to adjudication of the petition. If no shortage number is announced by the Secretaries, registrants will not be invited to petition. However, the Service will retain registration cards for potential future selection and invitation to petition.

The Service appreciates the cooperation of the Departments of Agriculture and Labor in providing information indicating the need for a registration prior to the announcement of a shortage number.

Registration of Denied SAW Applicants

Many persons commented on the proposed first use of aliens whose SAW application had been denied by the Service as a source of RAWs. The comments were split between those who approved of this policy and those who believed that persons who filed SAW applications only to obtain work authorization, should not be favored over aliens who, in good faith and often on the advice of counsel, did not file because they knew that they were not qualified. Some commentors who approved of using denied SAWs advocated the inclusion in this category

of aliens who had filed skeletal applications pursuant to court order. The Service finds merit in the question of equity raised by commentors who opposed priority consideration for denied SAWs and believes that a further question of equity would occur because not all SAW applications will have been adjudicated by the registration period. This rule, therefore, provides no special consideration for denied SAW applicants. Denied SAWs meeting the RAW eligibility standard may, of course, register.

Registration Fee

Many commentors were critical of the restrictive requirements for accepting registration cards and the policy of the proposed rule that the Service would not respond to status inquiries. The Service has made concessions in response to some of these comments and will have a toll-free inquiry service. Because of this and improvements in the initial processing of all registration cards and the random selection methodology to support the information system, start-up costs have surpassed initial estimates. Because of this, the Service has found it necessary to place a ten dollar ($10.00) fee on registration. However, to balance this, and to not increase the overall cost to a selected alien, the Service has reduced the petition fee from the proposed $185.00 to one hundred and seventy-five dollars ($175.00). The registration fee of ten dollars ($10.00) must be paid at the time the registration card (Form I–807) is returned to the Service. The Service is providing a pre-addressed envelope to make this easier.

Receipt and Sorting of Registration Forms

The proposed rule contained provisions for receipt and handling of registration cards and the consequences of the Service receiving unusable cards. Many commentors urged the Service to accept registration cards no matter how filed, issue a receipt to every alien submitting a registration card, and return unusable cards to aliens with an explanation of any deficiencies and opportunity for correction and resubmission. The Service appreciates these comments and recognizes the concerns of aliens who have registered or are awaiting word on selection or further information on their petitions. Having evaluated each of the comments received, the Service believes that were it to accede to commentors requests for handling of registration cards, the random selection process would become invalidated. Moreover, as the registration period for the RAW program will be sixty (60) days long, the Service would have to commit a great deal of resources to just processing the mail that would be generated by these concessions.

The Service's policy with regard to the filing, receipt and initial processing of registration cards (Form I–807) will not change with regard to the manner of filing which will be accepted. Registration cards will not be accepted by any means other than by regular mail, nor at any other location or address than the one specified in instructions accompanying these forms. Forms submitted by any means requiring any form of written acknowledgement will not be processed. Registration forms may not be submitted in person. Only one registration card per person will be permitted. Persons who submit multiple registration cards will not be considered for selection.

However, following the processing of the required fee for registration, a fee receipt will be mailed to the address provided by the alien on the registration card. In addition to the fee receipt, this document will provide information helpful to the alien including how to notify the Service of a change of address and how to use the new toll-free telephone inquiry system.

With regard to commentor requests that illegible or incomplete registration cards be returned to aliens for correction and resubmission, Service policy will not change. Service and contractor personnel will make every effort at using registration cards as submitted. Commentors, in general, failed to realize that a registration period must be necessarily brief and that the integrity of the random selection process to be used to select aliens to be invited to petition requires a definitive end to the time allowed for submission and receipt of registration cards. The Service believes that if aliens and their representatives read the bilingual instructions and complete the relatively simple registration card carefully, there will be little question of whether a card can be interpreted by the Service, or need for returning incomplete or illegible cards to aliens. The responsibility to submit a properly completed, legible registration card on time with the correct fee is the responsibility of each alien or his or her representative. The Service will not delay registration or compromise the integrity of the random selection process to follow up on such errors.

Registration cards received on time at the Service's central processing location will be sorted according to priority class listed in § 210a.2(b). Within each class, these cards will be again sorted according to family preference for aliens claiming immediate family relationship to an alien legalized under IRCA. Those registrants in the first priority tier and within the pool claiming family relationship to an IRCA legalized alien will be used first in the random selection process.

Inquiry System

The proposed rule indicated that the Service would not respond to inquiries on either the registration or petition processes. Many commentors strongly believed that the Service should respond to these inquiries. To address this concern, the Service will provide a toll free telephonic inquiry capability for the RAW program. Aliens who have mailed registration cards according to the instructions provided with the card will be able to call this toll free system, from anywhere in the country, from any touch tone telephone. Using this system, a caller will receive information as to whether a registration card was received, whether the alien was selected to be invited to petition, if the alien was selected to petition, and if a petition package has been sent to the alien. After the completed petition package is returned to the Service, callers can verify whether an interview has been scheduled.

In addition, the Service plans to expand this service to include the voice reporting of changes in address, in conjunction with the present policy of requiring the submission of a change of address Form (I–697A) and notifying the post office of a forwarding address.

The Service is attempting in the registration process to be as helpful and as fair to registrants as possible. To go further, such as to provide an appellate procedure and other enhancements, would work against the basic purpose of the program, which is to select a given number of people in a specified period of time to meet potential labor shortages. It is important to keep in mind that, the RAW program does not carry with it the same entitlement as the Legalization and SAW programs. The purpose of the statute is fulfilled when the specific number of eligible aliens are admitted or adjusted.

Random Selection of Persons Invited to Petition

Although commentors did not mention the random selection process, we would like the public to know how it will work. The selection process shall proceed in two stages: (1) The Service will establish registers of potentially eligible aliens who will be sorted into classes for priority consideration. Registrants

within the first priority class, claiming family preference, will be randomly selected in a number equal to the shortage number. If this number is insufficient, then registrants in the first priority class, not claiming family preference, will be randomly selected until the shortage number is met. If this number is not sufficient to meet the shortage number, the same procedure will be followed for the second priority class until the shortage number is reached. (2) Selected registrants will be invited to file petitions for temporary residence as a RAW. During the petition process, eligibility will be determined and the admission or adjustment of the alien accomplished.

The names of aliens in excess of the initial shortage number requirements will be retained for possible random selection later in FY 1990, or in subsequent years. Excess cards will be retained until the end of FY 1993. Beyond this time, these registration cards will be destroyed.

Filing of Petition for RAW Status

The proposed rule envisioned that registered aliens who were selected to petition for RAW status would bring their completed application package, together with the required fee and all supporting documentation, to a Service office at the time of their scheduled interview. Commentors did not address this area of the proposed rule; however, internal staff comments and deliberation on the logistics of the RAW program have led the Service to a finding that the RAW program will operate more efficiently and cost-effectively if the return of petitions were made to a central location. An exception is made for the expedited petition process referenced above.

Selected registrants will receive a petition package containing all forms and instructions necessary to complete the petition process. The Service will also include a pre-addressed return envelope to be used by the petitioner to return the petition, fee and supporting materials to a central location specified in the instructions and on the enclosed return envelope. Because of government-wide restrictions concerning the use of government franked mail for return purposes, petitioners must affix the proper postage to the return envelope.

After receipt at the central location, the petition package will be reviewed for completeness and returned to the alien, without processing, if any deficiencies are found. Once a properly completed package is received by the Service, the fee will be processed and a fee receipt sent to the petitioner. The fee receipt will also authorize employment until the date of the interview. An interview will be scheduled according to the petitioner's zip code and a schedule notice will b= mailed to the petitioner.

Burden of Proof

The proposed rule provided that petitioners must submit documentary proof of qualifying work experience in the form of government records, a variety of employer or union records, payroll records or income tax returns. The proposed rule also specifically stated that affidavits cannot be used to establish the performance of qualifying work.

Most industry commentors urged that aliens should be able to submit affidavits because of the difficulty aliens would have in obtaining documents. Many of these commentors also suggested that the Service not require documents, but approve applicants on the basis of credibility, as determined by specially trained officers at the time of interview. They cited the paucity of valid employment documentation in agriculture and the potential for fraud and victimization of farmworkers by unscrupulous employers and vendors should documents be required. They further suggested that the oral credibility determination should be made first, with an opportunity for non-credible petitioners to submit documentation to rebut a notice of intent to deny.

The Service has adopted the suggestion that documents not be required but encourages aliens to bring to the interview documents which would enhance their credibility with respect to the performance of qualifying work. By not requiring documents to establish performance of qualifying employment, the adjudication of petitions will be expedited.

Petitioners who are not able to establish eligibility or the performance of qualifying work at the interview will have 30 days to rebut an intent to deny with documentary proof, including affidavits. To establish the performance of qualifying work, only affidavits from employers will be considered. Absent credible proof, or after 30 days, the petition would be denied.

The Service may attempt to verify any evidence submitted during the petition process that it deems necessary. This ability is inherent on the Service's authority to make determinations regarding qualifications and to render a decision on any application or petition filed.

Reopening and Reconsideration of Decisions

Though not contained in the proposed rule, the Service is concerned that in some cases temporary resident status could be gained through the use of fraud or willful misrepresentation. The Service's position is that the temporary resident status improperly gained was *void ab initio*, or never held. Further, the Service believes that the intent of the Congress would be undermined by allowing temporary status improperly held to be retained, and that this would be unfair to other aliens who complied with the requirements. Therefore, the rule contains a provision which empowers the Service to reopen *sua sponte*, reconsider, and render a new decision on any proceeding under part 210a. This decision may reverse a prior favorable decision when fraud during the registration or petition processes is determined. If the decision of the Service, after reconsideration, is to deny a petition or application, the petitioner will be accorded the same denial and appeal due process protections provided petitioners whose applications or petitions are denied.

Appeal Process

The proposed rule did not contain a provision for administrative appeal of denied petitions. Many commentors urged the Service to provide such due process to petitioners. The Service is persuaded and will accord denied petitioners an administrative appeal through the Director of the Regional Processing Facility (RPF) to the Legalization Appeal Unit (LAU). The fee ($50.00) and Form I–694 used for the previous two IRCA programs will be retained for use during the RAW program.

Confidentiality

The proposed rule contained a provision which extended confidentiality to RAW records unless the alien had committed fraud or made a willful misrepresentation of a material fact in connection with the registration and petition processes or if the Service developed information that the alien had entered the country illegally after the November 6, 1986 cutoff date stated in the proposal. Many commentors took issue with the exception of information developed concerning illegal entry and others felt strongly that RAW files should be accorded the same grant of strict confidentiality that was provided by statute in the SAW and Legalization programs.

The Service wishes to point out that the statute governing the two

legalization programs contained a clear and unequivocal confidentiality provision which precluded use of information contained in these files from being used for any purpose but to make a determination with respect to the application and to prosecute persons who committed fraud or made willful misrepresentation of material facts in connection with those application processes. There is no similar provision in section 210A of the Act. In the absence of a statutory grant of confidentiality, the Service developed its own version of the more restrictive standard that appeared in sections 210 and 245A.

After reviewing all comments received concerning this issue, the Service has modified the confidentiality provision in the interim rule to prohibit the use of information contained in RAW records for deportation unless: Fraud is discovered during the registration or petition processes; an alien has failed to maintain status as a RAW; or a person is the subject of an outstanding arrest warrant.

Requirement to Perform Seasonal Agricultural Services

The proposed rule states that, upon approval of a petition, the alien will be granted work authorization for 18 months. Several commentors urged the Service to verify the performance of requisite seasonal agricultural services every year for three years. While the Service understands the concerns presented, annual verification does not warrant the costs of the increased workload on the Service and the increased traffic through Service offices.

The Service believes that verification of the first year's work, plus knowledge that verifying the next two year's work will occur prior to adjustment to permanent residence status, combined with the knowledge that failure to perform the required work leads to deportation, should be enough motivation for an RAW to comply with the statutory work requirement. This provision will not be changed.

Many commentors pointed out that the proposed rule made permissive the issuance of a subpoena by a district director to obtain employment records which had been refused an alien by an employer. These commentors urged that subpoena issuance be made mandatory, consistent with existing regulations at 8 CFR Part 210. This rule makes the issuance of a subpoena to obtain employment records denied to an alien mandatory. However, a district director will not issue a subpoena until all of the prerequisite conditions have been met, including the requirement that the alien must have made reasonable efforts to obtain these required documents. This authority will be used to assist temporary resident RAWs in establishing performance of the required seasonal agricultural services each year, but will not be used to compel the production of employment records for petitioners.

Because section 210A of the Act is silent on provisions for waiver of the required work in seasonal agricultural services, the proposed rule similarly contained no language addressing this issue. Several commentors suggested that the Service should include provisions in the final rule that provided for waiver of the requirement in selected situations which were beyond the control of the RAW. The Service has found legislative history that would support such a waiver and has included in the interim rule a provision designed to provide a remedy to aliens who are injured or otherwise disabled after the date they are adjusted to temporary residence.

The proposed rule provided no appeal from a Service determination that a RAW alien was deportable for failure to perform the required work in seasonal agricultural services. Many commentors felt that the Service must provide full due process to these RAWs. The Service believes that due process protections are afforded an alien through the deportation process. When a Service officer determines that a RAW has failed to perform the work required to maintain status, an Order to Show Cause is issued and the alien is entitled to a hearing in the ensuing deportation proceeding.

Conforming Regulation Changes

8 CFR Part 103 establishes the authority of Service officers designated to administer and make determinations with regard to applications and petitions filed pursuant to the Act and 8 CFR. In addition, this part provides authorities for the processing of appeals and waivers, and for the reopening or reconsideration of any application or petition filed under these same authorities. The addition to 8 CFR of a new Part 210a necessitates conforming changes in Part 103.

Other Issues

The Service intends, at the interview, to provide approved RAWs with information on the dates and locations of the various seasonal agricultural activities in the United States. It will refer RAWs to state job service offices for placement assistance. All state agencies cooperate in the interstate clearance system of the United States Employment Service and through this system RAWs may be directed to areas of greatest need.

The Service reiterates its advice in the proposed rule that it is in the interest of agricultural employers to remain in contact with undocumented former workers so that they may contact these workers with necessary information in the event that the Service announces a registration.

The Service also wishes to again note here that it is important for employers to understand that SAWs and RAWs are legal resident aliens and are to be treated as such for tax purposes. They should not be confused with nonimmigrant temporary workers admitted under the H–2A program.

Several commentors stated that INS should be able to sanction employers for noncompliance with the statutory requirement that employers provide a certificate of employment in seasonal agricultural services to RAWs. There is no authority for the Service to penalize such employers; however, when it believes that an employer has failed to meet this statutory obligation, the Service will provide evidence of non-compliance to the Department of Labor, which has such statutory authority.

Commentors also stated that the Service should include in the final rule regulations for certain provisions of section 210A regarding transportation assistance to migrant workers and provisions of the Migrant and Seasonal Agricultural Worker Protection Act (MSAWPA). These provisions are not within the jurisdiction of the Service but are within the purview of the Secretary of Labor, and are addressed in Department of Labor regulations at 29 CFR Part 502.

In accordance with 5 U.S.C. 605(b), the Commissioner of the Immigration and Naturalization Service certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This rule is not a major rule within the meaning of 1(b) of E.O. 12291, nor does this rule have federalism implications warranting the preparation of a Federal Assessment in accordance with Executive Order 12612.

The information collection requirements contained in this rule have been cleared by Office of Management and Budget under the provisions of the Paperwork Reduction Act.

List of Subjects

8 CFR Part 103

Aliens, Delegations of Authority, Fees, Availability of Service Records.

8 CFR Part 210a

Aliens, Temporary resident status, Reporting and recordkeeping requirements, Permanent resident status.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

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

Authority: 5 U.S.C. 522(a); 8 U.S.C. 1101, 1103, 1201, 1301–1304, 1443; 28 U.S.C. 1746; 7 U.S.C. 2243; 31 U.S.C. 9701; E.O. 12356, 3 CFR, 1982 Comp., p. 166; 8 CFR Part 2.

2. In § 103.1, paragraphs (f)(2) (xxxi), (xxxii) and (t) are revised, and paragraphs (f)(2)(xxxiii) and (n)(4) are added to read as follows:

§ 103.1 Delegations of authority.

* * * * *

(f) * * *

(2) * * *

(xxxi) Application for waiver of grounds of excludability under Parts 210, 210a, and 245a of this title;

(xxxii) Application for status as permanent resident under § 245.6 of this title; and

(xxxiii) Petition for temporary or permanent resident status as a Replenishment Agricultural Worker (RAW) under Part 210a of this title.

* * * * *

(n) * * *

(4) Petitions and waivers filed incident to section 210A of the Act shall be approved by the district director having jurisdiction of the office where a petition or waiver is filed, when an alien meets the requirements of Part 210a of this title. District directors shall deny petitions and waivers incident to section 210A of the Act where the alien fails to meet the requirements of Part 210a of this title.

* * * * *

(t) *Regional Processing Facility Directors.* Under the direction of their respective regional commissioners, regional processing facility directors have program, administrative and supervisory responsibility for all personnel assigned to their facilities. Regional processing facility directors are delegated the authority and responsibility to approve or deny applications or petitions for adjustment of status and for waivers of grounds of excludability or other regulatory requirements under sections 210, 210A, and 245A of the Act.

* * * * *

3. In § 103.2, a new paragraph (d) is added to read as follows:

§ 103.2 Applications, petitions, and other documents.

* * * * *

(d) *Filing of petitions for adjustment of status under section 210A of the Act, as amended.* (1) The filing of a petition for temporary resident status as a Replenishment Agricultural Worker, and waivers incident to such filing, under section 210A of the Act must conform to the provisions of Part 210a of this title.

(2) A petition for adjustment to temporary resident status pursuant to section 210A of the Act shall be accepted only by the Service, or by personnel employed under contract to the Service, who are under Service supervision, and are specifically designated responsibility for the initial processing of petitions and waivers. Only Service officers may make decisions with respect to the granting or denial of petitions and waivers filed under section 210A of the Act and Part 210a of this title.

(3) Petitions and waivers filed with the Service pursuant to Part 210a of this title shall not be considered as complete until accepted for adjudication by and until the appropriate fee has been paid to the Immigration and Naturalization Service.

4. In § 103.3, a new paragraph (a)(3) is added to read as follows:

§ 103.3 Denials, appeals, and precedent decisions.

(a) * * *

(3) *Denials and appeal of Replenishment Agricultural Worker petitions and waivers and termination of lawful temporary resident status under section 210A.* (i) Whenever a petition for Replenishment Agricultural Worker status, or a request for a waiver incident to such filing, is denied in accordance with the provisions of Part 210a of this title, the alien shall be given written notice setting forth the specific reasons for the denial or termination on Form I–692, Notice of Denial. Form I–692 shall also contain advice to the alien that he or she may appeal the decision and that such appeal must be taken within thirty (30) days after service of the notification of decision accompanied by any additional new evidence, and a supporting brief is desired. The Form I–692 shall additionally provide a notice to the alien that if he or she fails to file an appeal from the decision, the Form I–692 shall serve as a final notice of ineligibility.

(ii) Form I–694, Notice of Appeal, in triplicate, shall be used to file the appeal, and must be accompanied by the appropriate fee. Form I–694 shall be furnished with the notice of denial at the time of service on the alien.

(iii) Upon receipt of an appeal, the administrative record will be forwarded to the Administrative Appeals Unit as provided by § 103.1(f)(2) of this part for review and decision. The decision on the appeal shall be in writing, and if the appeal is dismissed, shall include a final notice of ineligibility. A copy of the decision shall be served upon the petitioner and his or her attorney or representative of record. No further administrative appeal shall lie from this decision, nor may the petition be filed or reopened before an immigration judge or the Board of Immigration Appeals du2ing exclusion or deportation proceedings.

(iv) Any appeal which is filed that: fails to state the reason for the appeal; is filed solely on the basis of a denial for failure to file the petition for adjustment of status under Part 210a of this title in a timely manner; or is patently frivolous, will be summarily dismissed. An appeal received after the thirty (30) day period has tolled will not be accepted for processing.

* * * * *

5. In § 103.5, a new paragraph (c) is added to read as follows:

§ 103.5 Reopening or reconsideration.

* * * * *

(c) *Motions to reopen or reconsider decisions on replenishment agricultural worker petitions.* (1) The director of a regional proceeding facility may *sua sponte* reopen any proceeding under Part 210a of this title which is within his or her jurisdiction and may render a new decision. This decision may reverse a prior favorable decision when it is determined that there was fraud during the registration or petition processes and the petitioner was not entitled to the status granted. The petitioner must be given an opportunity to offer evidence in support of the petition and in opposition to the grounds for reopening the petition before a new decision is rendered.

(2) The Associate Commissioner, Examinations or the Chief of the Administrative Appeals Unit may *sua sponte* reopen any proceeding conducted by that unit under Part 210a of this title and reconsider any decision rendered in such proceeding.

(3) Motions to reopen a proceeding or reconsider a decision under Part 210a of this title shall not be considered.

6. In § 103.7, paragaph (b)(1) is amended by revising the entry for Forms I–690 and I–694, and by adding the following forms in numerical sequence to read as follows:

§ 103.7 Fees.

* * * * *

(b) * * *

(1) * * *

Form I–690. For filing application for waiver for ground of excludability under section 212(a) of the Act as amended, in conjunction with the application under section 210 or 245A of the Act, or a petition under § 210A. A fee of thirty-five dollars ($35.00) is to be remitted in the form of a cashier's check, certified bank check or money order.

Form I–694. For appealing the denial of application under section 210 or 245A of the Act, or a petition under § 210A. A fee of fifty dollars ($50.00) is to be remitted in the form of a cashier's check, certified bank check or money order.

* * * * *

Form I–805. For filing a petition for status as a temporary resident under § 210A. A fee of one hundred and seventy-five dollars ($175.00) for each petition, is to be remitted in the form of a cashier's check, certified bank check or money order at the time of filing with the Immigration and Naturalization Service.

Form I–807. For filing a request for consideration as a replenishment agricultural worker (RAW) during an announced period of registration under 8 CFR 210a.3. A fee of ten dollars ($10.00) is to be remitted in the form of a cashier's check, certified bank check or money order at the time of mailing to the Immigration and Naturalization Service.

* * * * *

7. A new Part 210a is added to read as follows:

PART 210a—REPLENISHMENT AGRICULTURAL WORKERS

Sec.

210a.1 Definition of terms used in this part.
210a.2 Eligibility and priority consideration.
210a.3 Registration process.
210a.4 Admissibility.
210a.5 Petition for temporary resident status.
210a.6 Evidence.
210a.7 Decision and appeal.
210a.8 Status, benefits and obligations.
210a.9 Adjustment to permanent resident status.

Authority: 8 U.S.C. 1103; 8 CFR Part 2.

§ 210a.1 Definition of terms used in this part.

(a) *Act.* The Immigration and Nationality Act, as amended by the Immigration Reform and Control Act of 1986, Pub. L. 99–603.

(b) *ADIT.* Alien Documentation, Identification and Telecommunications card, Form I–89. Used to collect key data concerning an alien. When processed together with an alien's photographs, fingerprints and signature, this form becomes the source document for generation of Form I–551 Alien Registration Receipt Card.

(c) *Agricultural employment.* The term "agricultural employment" has the meaning of "agricultural labor and services" as defined by the Department of Labor at 20 CFR 655.100(c)(1).

(d) *Application under IRCA.* The term "application under IRCA" means an application filed by any alien with the Immigration and Naturalization Service under sections 245a (Legalization) and 210 (Special Agricultural Worker) of the Immigration and Nationality Act and section 202 (Cuban/Haitian adjustees) of the Immigration Reform and Control Act of 1986 (IRCA) which has been approved.

(e) *Man-day.* The term "man-day" is used to quantify work performed for the purpose of establishing eligibility under § 210a.2(a)(1)(iii) of this part and means the performance during any day of not less than one (1) hour of agricultural employment or seasonal agricultural services for wages paid or any day in which piece rate work was performed. Work for more than one employer in a single day shall be counted as no more than one man-day for purposes of this part.

(f) *Public cash assistance.* Public cash assistance means income or needs-based monetary assistance, to include but not limited to supplemental security income, received by the alien or his or her immediate family members through Federal, state or local programs designed to meet subsistence levels. It does not include assistance in kind, such as food stamps, public housing, or other non-cash benefits, nor does it include work-related compensation or certain types of medical assistance (Medicare, Medicaid, emergency treatment, services to pregnant women or children under 18 years of age, or treatment in the interest of public health).

(g) *Qualified Designated Entity (QDE).* Qualified designated entity or QDE means those entities designated pursuant to sections 210 and 245A of the Act, whose cooperative agreements were not suspended or terminated by the Service or those whose agreements were not allowed to lapse by the Service prior to January 30, 1989 (the expiration date of the INS cooperative agreements for all designated entities), or those whose agreements were not terminated for cause by the Service subsequent to January 30, 1989. A QDE must have amended its agreement with the Service to include such participation in the RAW program as is sanctioned in these regulations.

(h) *Regional Processing Facility (RPF).* Service offices established in each of the four Service regions to process or adjudicate applications for adjustment of status under sections 210, 210A, 245A(a) or 245A(b)(1) of the Act.

(i) *Replenishment Agricultural Worker (RAW).* Any individual granted temporary resident status or permanent resident status under section 210A(c) of the Act.

(j) *Seasonal Agricultural Services.* Defined in section 210(h) of the Act as the performance of field work related to planting, cultivating, cultural practices, growing and harvesting of fruits and vegetables of every kind and other perishable commodities, as defined by the Secretary of Agriculture. Regulations further defining these terms can be found at 7 CFR Part 1d.

(k) *Secretaries.* The term "Secretaries" means the Secretaries of Labor and Agriculture.

(l) *Shortage number.* The number, if any, of replenishment agricultural workers to be adjusted or admitted to the United States during a fiscal year as determined by the Departments of Labor and Agriculture under the provisions of section 210A (a) and (b) of the Act. The numerical limitations of sections 201 and 202 of the Act do not apply to the admission or adjustment of aliens for lawful temporary or permanent resident status under section 210A(c) of the Act.

(m) *Special Agricultural Worker (SAW).* Any individual granted temporary or permanent resident status under section 210(a) of the Act.

(n) *Work-day.* The term "work-day" quantifies the work required of RAWs in order to maintain temporary resident status as described in § 210a.8(b) of this part and means a calendar day during which at least four (4) hours of work in seasonal agricultural services is performed.

Note.—The term "work-day" is used here in lieu of the statutory term "man-day" to conform with its usage in Department of Labor regulations at 29 CFR Part 502 and to distinguish between the term "man-day" as defined elsewhere in this section.

§ 210a.2 Eligibility and priority consideration.

(a) *Eligibility.* (1) An alien eligible for status as an alien lawfully admitted for temporary residence under section 210A(c) of the Act is one who:

(i) Is eighteen (18) years of age or older;

(ii) Is admissible to the United States as an immigrant, or if inadmissible, has had the grounds of excludability waived in accordance with the provisions of § 210a.4(d) of this part;

(iii) Has performed at least 20 man-days of employment in agricultural work in the United States during any 12 consecutive months during the period beginning May 1, 1985 and ending on November 30, 1988; and

(iv) Certifies that he or she is able and intends to perform seasonal agricultural services as required under § 210a.8(b) of this part.

(2) An alien who entered the United States illegally after November 30, 1988, is not eligible for RAW status.

(b) *Priority consideration.* General registration is limited to aliens who meet the eligibility criteria as provided at § 210a.2(a) of this part. Registrants will be selected at random and invited to petition in accordance with the following priority classes in descending order (i.e.; if there are sufficient numbers of registrants to meet a shortage number in the higher priority class, registrants in the lower priority class will not be considered for selection, but, will be held for possible future selection):

(1) Aliens, in the United States, who have performed at least 20 man-days of employment in agricultural work in the United States during any 12 consecutive months during the period beginning May 1, 1985 and ending on November 30, 1988, and who meet all the eligibility criteria provided at § 210a.2(a).

(2) Aliens, outside the United States, who have performed at least 20 man-days of employment in agricultural work in the United States during any 12 consecutive months during the period beginning May 1, 1985 and ending on November 30, 1988, and who meet all the eligibility criteria provided at § 210a.2(a).

(c) *Family preference.* (1) Within each of the two (2) registration priority classes, preference in selection will be given to the qualified spouses and unmarried sons or daughters (18 years of age or older) of aliens who have filed an application under IRCA which have been approved. Any marriage or adoption which created the claimed family relationship must have occurred on or before November 30, 1988.

(2) Registrants will be sorted into the two (2) priority classes and within each class, into family preference and non-preference groups.

§ 210a.3 Registration process.

(a) *General.* The general registration is intended to provide an adequate number of persons to satisfy shortage number requirements for several years. Registration cards which are excess to the current year's shortage number requirement will be retained for potential future selection. Aliens who are not yet eighteen (18) years of age but who will become eighteen (18) during the period October 1, 1989, through October 1, 1992, may register. These registrants will not be invited to petition for temporary resident status as a RAW until they have turned eighteen (18) years of age.

(b) *Registration period.* The Service will conduct a general registration period beginning on September 1, 1989, and ending on October 31, 1989.

(c) *Obtaining registration Form (I-807).* Registration cards (Form I-807) will be available from all Service district, legalization and sub-offices. Registration forms will also be available from participating QDEs.

(d) *Filing of registration Form (I-807).* (1) Aliens must mail their registration card only to the address provided in the instructions accompanying the registration card and pre-printed on the registration card. All registration cards shall be submitted by regular domestic or international surface or airmail to the address provided on the registration card.

(2) A separate registration form must be filed by each eligible registrant. Only one registration form per registrant will be permitted. Aliens who file more than one registration card will not be considered.

(e) *Filing of registration fee.* The required registration fee of ten dollars ($10.00) shall be submitted to the Service in the envelope provided with the registration card. All fees for registration shall be paid in United States funds in the form of a money order, cashier's check, or bank check made payable to the Immigration and Naturalization Service. No personal checks or currency will be accepted. Each registration card must be accompanied by a separate fee. Group payment of registration fees is not permitted. Registration fees will not be waived or refunded under any circumstances.

(f) *Appeal.* No appeal shall lie from failure to be registered, to be placed in a priority class, or to be given family preference.

(g) *No benefit for registration.* Neither employment authorization nor any other benefit shall derive from filing a registration form, being placed in a registry pool, or being invited to petition for RAW status.

(h) *Invitation to petition.* (1) After completion of the registration period registrants will be invited to petition for temporary residence as a RAW, up to the shortage number, if a shortage number has been announced.

(2) Invitations to submit a petition and necessary materials will be mailed to registrants who are eighteen (18) years of age or older in the order of their random selection from the registration pool, beginning with registrants selected at random from the group claiming family relationship to IRCA legalized aliens in the first registration priority class. The invitation process will continue through priority classes, in order, with successive random selection of registrants until the shortage number for that year is reached.

(3) If a shortage number is announced before the conclusion of the registration period, the Service will select at random up to twenty (20) percent of the shortage number from the existing pool of registrants, in the priority order provided at § 210a.2(b). These registrants will be invited to petition according to the expedited interview and petition processing procedure provided at § 210a.5(i) of this part.

(4) Registrants in excess of the current shortage number will be retained for future random selection and invitation to petition for temporary resident status as a RAW.

§ 210a.4 Admissibility.

(a) *General.* An alien seeking temporary resident status as a replenishment agricultural worker must be admissible to the United States as an immigrant. This means that the alien must not be excludable under the provisions of section 212(a) of the Act. However, section 210A(e) of the Act provides that certain grounds of excludability are not applicable, that certain grounds may be waived, and that other grounds cannot be waived.

(b) *Grounds of exclusion not to be applied.* The following paragraphs of section 212(a) of the Act shall not apply to petitioners for temporary resident status: (14), workers entering without Labor Certification; (20), immigrants not in possession of a valid entry document; (21), visas issued without compliance with section 203; (25), illiterates; and (32), graduates of non-accredited medical schools.

(c) *Special rule for determination of public charge.* Section 212(a)(15) of the Act shall not apply to an alien who demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance. Consideration of the use of the special rule for determination of public charge will occur only after a determination is made that a petitioner appears to be subject to the provisions of section 212a(15) of the Act. The alien will not be considered to be reliant on public cash assistance received by an immediate family member unless the alien's sole means of support was

incident to the eligibility for cash assistance by the family member.

(d) *Waiver of grounds for exclusion.* (1) Except as provided in paragraph (e) of this section, the Service may waive any other provision of section 212(a) of the Act only in the case of individual aliens for humanitarian purposes, to assure family unity, or when the granting of such a waiver is in the public interest. When an application for waiver of grounds of excludability is filed jointly with a petition for temporary residence under this part, it shall be accepted for adjudication at the regional processing facility. If an alien is determined to be excludable on grounds which may be waived as set forth in this paragraph, during the petition interview, then he or she shall be advised of the procedures for applying for a waiver of grounds of excludability. If an application for waiver of grounds of excludability is filed at the time of the initial petition interview, it shall be accepted at the interview office and adjudicated under the designated authority of the district director where filed. If an application for waiver of grounds of excludability is filed subsequent to the initial petition interview, it shall be filed with and adjudicated by the Service processing facility with jurisdiction over the alien's place of residence, unless otherwise directed by the Service. District directors and directors of Service regional processing centers are delegated authority to adjudicate applications for waivers of grounds of excludability.

(2) Applications for grounds of excludability are filed on Form I–690. All applications for waivers of grounds of excludability must be accompanied by the correct fee in the exact amount. All fees for applications must be in the form of a money order, cashier's check, or bank check. No personal checks or currency will be accepted. Fees will not be waived or refunded under any circumstances.

(3) The applicant will be notified of the decision on their application for waiver in writing and, if denied, the reason therefore. The applicant may appeal the decision within thirty (30) days after the service of the notice pursuant to the provisions of § 103.3(a)(3) of this chapter.

(e) *Grounds of exclusion that may not be waived.* The following provisions of section 212(a) of the Act may not be waived:

(1) Paragraphs (9) and (10) (relating to criminals);

(2) Paragraph (23) (relating to narcotics), except for a single offense of simple possession of thirty grams or less of marijuana;

(3) Paragraphs (27), (28), and (29) (relating to national security and members of certain organizations);

(4) Paragraph (33) (relating to those who assisted in the Nazi persecutions).

(f) *Exchange visitors.* An alien who was at any time a nonimmigrant exchange visitor (as defined in section 101(a)(15)(J) of the Act), must establish that he or she was not subject to the two-year foreign residence requirement of section 212(e) of the Act or has fulfilled that requirement or has received a waiver of such requirement. Requests for waiver of this requirement must be filed with the District Director having jurisdiction over the alien's place of residence and must be approved by the Service prior to the petition interview.

§ 210a.5 Petition for temporary resident status.

(a) *General.* Registrants who have been selected pursuant to § 210a.3 of this part will be invited to petition for temporary resident status as a RAW. To address the variety of circumstances which might be expected to occur during the RAW program, there are two different processing plans for the return of completed petition packages. Qualified Designated Entities (QDEs) are authorized to assist petitioners with the preparation of their petitions and will be advised of determinations on such petitions.

(b) Registrants who are invited to petition and will be sent petition materials consisting of:

(1) Instructions in English and Spanish for completing all required forms;

(2) Petition for Temporary Resident Status as a Replenishment Agricultural Worker (RAW) Section 210A of the Immigration and Nationality Act, Form I–805;

(3) Change of Address Card for Replenishment Agricultural Workers (RAW), Form I–697A;

(4) Fingerprint card, Form FD–258;

(5) Medical Examination of Aliens Seeking Adjustment of Status (Pub. L. 99–603), Form I–693; and

(6) ADIT photo instruction sheet.

(c) *Changes to petitioner's address.* (1) The petition package will be mailed to the address supplied on the registration form. If a registrant changes address prior to an invitation to petition, it is his or her responsibility to notify the Service of a change of address and to file a notice of a change of address with the postal service so that the petition package may be forwarded to the current address.

(2) If a petition package is returned as undeliverable by the postal service because of an insufficient address or because the registrant has moved and left no forwarding address, he or she will lose the opportunity to petition and will be placed back into the appropriate registration pool. If a registrant is selected a second time and the petition package is again returned as undeliverable, the registrant will be disqualified from further consideration.

(d) *Return of completed petition package.* (1) Except as otherwise provided in paragraph (i) of this section, petitioners must complete the Form I–805 petition according to the instructions supplied and return the petition, together with the appropriate fee, fingerprint card, 1 ADIT photograph and any waiver(s) of ground(s) of excludability that the petitioner wishes to file, to the Service in the envelope provided with the petition form.

(2) Following the receipt and initial processing of a petition meeting the requirements for completeness, as provided in paragraph (d)(1) of this section, the petitioner will be sent a fee receipt. The fee receipt will provide temporary work authorization until the date of the scheduled interview, except that aliens in H–2A nonimmigrant status will not be granted temporary work authorization until their H–2A status expires.

(e) *Filing of fee.* The required fee of one hundred and seventy five dollars ($175.00) shall be submitted at the time the petition is returned to the Service, except as provided in paragraph (i) of this section. All fees for petitions shall be in the form of a money order, cashier's check, or bank check made payable to the Immigration and Naturalization Service. No personal checks or currency will be accepted. Fees will not be refunded under any circumstances.

(f) *Late filing.* Except as otherwise provided in paragraph (i) of this section, invited registrants will have sixty (60) days to complete the petition package and return it to the Service as provided in paragraph (d)(1) of this section. Petitions returned to the Service after sixty (60) days will be returned to the registrant unprocessed. Registrants who fail to return petitions on time will lose their chance at petitioning and will be placed back into the appropriate priority class. If a registrant is selected again and fails to respond a second time, that registrant will be disqualified from further consideration.

(g) *Interview.* Except as otherwise provided in paragraph (i) of this section, registrants will be invited to appear for

an interview at an INS office or U.S. consulate for the purpose of petitioning for admission or adjustment to temporary resident status under this part. At that time, the petitioner must submit proof of identity and age, two ADIT photographs, proof of family relationship to an IRCA legalized alien (if claimed), and the results of the medical examination on Form I–693. The immigration or consular officer shall judge the sufficiency of the documents submitted. Additional documentation may be required, including the filing of additional requests for waiver of a ground(s) of exclusion, to establish eligibility under this part.

(h) *Inability to establish IRCA family relationship.* Where a petitioner is unable to substantiate a claim to family preference and fraud has not been established, the petitioner will lose his or her present chance at petitioning and will be placed into the priority class of qualifying aliens not claiming a priority based on family relationship. In this case, the petition will be held in abeyance until such time as the petitioner may again be selected at random and invited to petition. Temporary employment authorization obtained incident to the original petition will be terminated. Fees will not be refunded; however, if the alien is subsequently selected from the non-family pool of registrants, the fee for the filing of a second petition will be waived.

(i) *Expedited interview and petition filing.* If the Service determines that exigent circumstances exist, the procedures in paragraphs (d), (e), (f) and (g) of this section relating to filing a completed petition with the Service, complying with deadlines for return of completed petitions, and appearing for interviews may be superseded, for a specified limited number of petitioners, by the following procedure:

(1) The Service will mail a petition package to the address supplied on the registration form, accompanied by a cover letter which directs the petitioner to appear for an interview immediately at any Service office listed on an attachment to the letter. The petitioner must appear with the cover letter, completed I–805 petition, two ADIT photographs, correct fee, proof of identity, age, and proof of family relationship to an IRCA legalized alien, if claimed at registration.

(2) On appearing at a listed Service office and after acceptance of the correct fee, the petitioner will be interviewed to determine identity, age, claimed preference based on a family relationship to an IRCA legalized alien, and performance of qualifying employment. A petitioner who appears eligible will be granted six (6) months employment authorization on Form I–688A, to allow time for return of the completed petition package to the Service and a final determination of eligibility for temporary resident status as a RAW. Temporary employment authorization obtained incident to this paragraph may be extended, renewed or reissued at the discretion of the district director. Petitioners who are in H–2A status on the filing date of their petition will not be granted employment authorization until the expiration of their H–2A status.

(3) The petitioner must complete the remainder of the required documents according to the instructions supplied in the cover letter and return the fingerprint card, 1 ADIT photograph, any waiver(s) of ground(s) of excludability required, and the results of the required medical examination on Form I–693, to the Service in the envelope provided with the petition package within sixty (60) days from the date of issuance of temporary employment authorization on Form I–688A. The Service will remind the petitioner of this responsibility and the deadline for compliance with these requirements, in writing, at the time of the initial interview.

(4) After the initial processing of a petition which meets the requirements for completeness set forth in this section, the petitioner will be provided a fee receipt. Until the fee receipt is obtained by the petitioner, the temporary work authorization provided on Form I–688A will serve as evidence that a fee was paid.

(5) If all required documentation and evidence is provided to the Service within the sixty (60) day period beginning with the date of the issuance of temporary work authorization, the petitioner will be informed in writing of the Service's decision regarding the petition. If the petition is approved, the petitioner will be instructed to return to a Service office to exchange Form I–688A for a Temporary Resident Card (Form I–688). If the petition is denied, the petitioner will be informed in writing of his or her appeal rights and procedures to be followed in accordance with § 210a.7(g).

(6) Petitioners who fail to return requested documentation within the sixty (60) days allowed will be issued a Notice of Intent to Deny for failure to pursue their petition for temporary residence. This notice will specify what additional evidence is required to prevent denial of the petition. Petitioners will be granted thirty (30) days to return the required evidence to the Service. If the petitioner fails to meet his or her burden of proof by the end of this thirty (30) day period, the petition will be denied.

§ 210a.6 Evidence.

(a) *Proof of eligibility*—(1) *General.* Except as otherwise provided in § 210a.5(i), the completed petition form (I–805), correct fee, completed fingerprint card, and one photograph meeting Service specifications, must be mailed to the Service's central location to be considered properly filed. Proof of identity and age, proof of claimed family relationship to an IRCA legalized alien, results of the required medical examination (Form I–693) and two photographs shall be provided to the Service at the time of the petition interview. Documentation of claimed qualifying employment may also be presented at this time.

(2) *Burden of proof.* An alien seeking admission or adjustment of status under this part has the burden of proof in establishing each of the eligibility requirements set forth in § 210a.2(a), the basis for placement in a priority class as provided in § 210a.2(b), and family relationship as provided in § 210a.2(c), if claimed on the registration form.

(b) *Proof of identity and age.* (1) The petitioner may establish identity and age by submitting the following documents:

(i) Passport;

(ii) Birth certificate;

(iii) Any national identity document from the alien's country of origin bearing a photograph and/or fingerprint (e.g. "cedula", "cartilla", "carte d'identite", etc.);

(iv) Driver's license or similar document issued by the state, if it contains a photograph;

(v) Baptismal record or marriage certificate;

(vi) Affidavits; or,

(vii) Such other documentation which may establish the identity and age of the petitioner.

(2) *Assumed names.* (i) In cases where a petitioner claims to have met any of the eligibility criteria under an assumed name, the petitioner has the burden of proving that the petitioner was, in fact, the person who used that name. The petitioner's true identity is established pursuant to the requirements of paragraph (b)(1) of this section. The assumed name must appear in documents provided by the petitioner to establish eligibility. To meet the requirements of this paragraph, documentation must be submitted to prove that the assumed name was, in fact, used by the petitioner.

(ii) *Proof of common identity.* The most persuasive proof of common identity is a document issued in the assumed name which identifies the petitioner by photograph, fingerprint or detailed physical description. Other evidence which will be considered are affidavit(s) by a person or persons other than the petitioner, made under oath, which identify the affiant by name and address, state the affiant's relationship to the petitioner and the basis of the affiant's knowledge of the petitioner's use of the assumed name. Affidavits accompanied by a photograph which have been identified by the affiant as the individual known to affiant under the assumed name in question will carry greater weight.

(c) *Evidence of family relationship.* (1) *Spouse of legalized alien.* If the petitioner is the spouse of a legalized alien, then a certificate of marriage between the petitioner and legalized alien is required. If either the husband or wife was married before, then documents must be submitted to show that all previous marriages were legally ended (e.g., divorce decree, death certificate).

(2) *Unmarried son or daughter of a legalized alien.* (i) If the legalized alien is the mother, then the birth certificate of the unmarried son or daughter showing the name of the mother is required.

(ii) If the legalized alien is the father, a certificate of marriage of the parents and the unmarried son or daughter's birth certificate showing the names of the parents must be provided.

(iii) If the legalized alien is the stepparent, the unmarried son or daughter's birth certificate showing the names of both natural parents, the marriage certificate of the parent to the stepparent, and proof of legal termination of their prior marriages must be provided.

(iv) If the unmarried son or daughter was born out of wedlock, and the father is the legalized alien, the parent/child relationship must be established by providing the unmarried son or daughter's birth certificate showing the father's name, and evidence that he supported the child.

(v) If the unmarried son or daughter is the adoptive child of a legalized alien, a certified copy of the adoption decree, the legal custody decree if the custody of the unmarried son or daughter was obtained before adoption, and a statement showing the dates and places the unmarried son or daughter and adoptive parent lived together must be submitted.

(3) *Documents not available.* If the documents listed in this section are not available, the following evidence may be submitted. The Service may require a statement from the appropriate authority certifying that the needed document is not available (blood test may be required):

(i) *Church record.* A certificate under the seal of the church of baptism, dedication, or comparable rite showing the date and place of the child's birth, date of the religious ceremony, and the names of the child's parents;

(ii) *School record.* A letter from the authorities of the first school attended showing the date of admission to the school, the child's date and place of birth, and the names and places of birth of the parents, if shown in the school records;

(iii) *Census record.* State or federal census record showing the name, place of birth, and date of birth or the age of the person listed;

(iv) *Affidavits.* Written statements sworn to or affirmed by two persons who were living at the time who have personal knowledge of the event the petitioner is trying to prove. The affidavit must include the affiant's full name, address, date and place of birth, and his or her relationship to the petitioner, if any; full information concerning the event; and complete details concerning how the person acquired knowledge of the event.

(d) *Employment documentation.* Documents which may be submitted to establish performance of qualifying employment include: government employment records; records maintained by agricultural producers, farm labor contractors, collective bargaining organizations and other groups or organizations which maintain records of employment; worker identification issued by employers or collective bargaining organizations; union membership cards or other union records such as dues receipts; other records of the applicant's involvement with organizations providing services to farm workers; work records such as pay stubs, piece work receipts, W–2 forms; certification of filing income tax returns on IRS Form 6166; state verification of the filing of state income tax returns; or affidavits from employers.

(e) *Documents*—(1) *Original documents.* Original documents must be presented wherever possible, except the following: Official government records; employment or employment related records maintained by employers, unions or collective bargaining organizations; medical records; school records maintained by a school or school board; or other records maintained by a party other than the applicant. Copies or records maintained by parties other than the petitioner which are presented in evidence must be certified as true and complete by such parties and must bear their seal or signature or the signature and title of persons authorized to act in their behalf. If at the time of the interview the return of original documents is desired by the petitioner, then they must be accompanied by notarized copies or copies certified true and complete by a qualified designated entity or by the petitioner's attorney or accredited representative in the format prescribed at 8 CFR 204.2(j) (1) or (2).

(2) At the discretion of the district director, original documents, even if accompanied by certified copies, may be temporarily retained for forensic examination by the Service. Original documents will be retained only for the period of time necessary to determine their authenticity. Documents will be returned to petitioners at a Service office whenever possible and will be returned by mail at the option of the petitioner.

(3) *Documents in a foreign language.* Documents in a language other than English must be accompanied by a summary translation into English. A summary translation is a condensation or abstract of the document's text but includes all pertinent facts. The translator must certify that the translation is accurate and that he or she is competent to translate from the language in which the original document is written.

(f) *Medical examination.* A petitioner under this part must be examined by a designated civil surgeon at no expense to the government. The medical report setting forth the findings concerning the mental and physical condition of the applicant shall be incorporated into the record on Form I–693, Medical Examination of Aliens Seeking Adjustment of Status. This form will be sent to the petitioner with the petition package. The results of the medical examination on Form I–693 must be submitted at the time of the interview, except as provided in § 210a.5(i). Any petitioner certified under paragraphs (1), (2), (3), (4), or (5) of section 212(a) of the Act may appeal to a Board of Medical Officers of the U.S. Public Health Service as provided in section 24 of the Act and Part 235 of this chapter.

(g) *Confidentiality of information.* Information furnished pursuant to registration or petitioning under this part will not be used to deport or prosecute any person unless fraud is discovered during the registration or petition processes, an alien has failed to maintain status as a RAW, or a person

is the subject of an outstanding arrest warrant.

§ 210a.7 Decision and appeal.

(a) *General.* Based on all information provided with the petition, at the interview, or as otherwise provided in § 210a.5(i), a district director or the director of a regional processing facility may decide to approve, continue, or deny a petition for adjustment to temporary resident status as a RAW.

(b) *Approval.* If the petitioner has submitted a complete petition, has been interviewed, has established his or her admissibility and eligibility, and record check(s) initiated by the Service are returned without adverse information concerning the petitioner, the petition shall be approved by the Service. The petitioner will be issued Form I–688, Temporary Resident Card, valid for a period of 18 months from the filing date of the petition. This card may be renewed, extended or reissued for the remainder of the three year period of temporary residence upon a finding by the Service that the alien has completed the first required 90 man-days of employment in seasonal agricultural services as provided in § 210a.8 of this part.

(c) *Continuance—General.* Except as provided in § 210a.5(i), a petitioner who has provided all required evidence to meet the burden of proof but in whose case the Service has not completed required record checks or other processing, may be granted a six (6) months period of employment authorization on Form I–688A (Employment Authorization Card). This card may be renewed, extended or reissued at the discretion of the district director. Petitioners who are in H–2A nonimmigrant status on the filing date of their petition will not be granted work authorization until the expiration of their H–2A status.

(d) *Notice of Intent to Deny.* The Service shall issue a Notice of Intent to Deny where a petitioner has been interviewed and found not eligible, fails to meet the standard for the priority class from which he or she was selected, or is the subject of adverse information that would render the petitioner ineligible. This notice is a statement by the Service that specifies the basis for the intended denial of the petition and what additional evidence is required to prevent denial of the petition. Petitioners will be granted thirty (30) days, without additional work authorization, to return to the Service with the required evidence. If the petitioner fails to meet the burden of proof by the end of this thirty (30) day period, the petition will be denied.

(e) *Denial.* When a petition for temporary resident status as a RAW is denied, the alien will be given written notice setting forth the specific reasons for the denial on Form I–692. Form I–692 shall also contain advice to the petitioner that he or she may appeal the decision and that such appeal must be taken within thirty (30) days after service of the notification of the decision accompanied by any additional new evidence, and a copy of a supporting brief if desired. The Form I–692 shall additionally provide a notice to the alien that if he or she fails to file an appeal from the decision, the Form I–692 will serve as a final notice of ineligibility.

(f) *Reopening or reconsideration of decisions.* The director of a regional processing facility may *sua sponte* reopen any proceeding under this part within his or her jurisdiction, and may render a new decision. This decision may reverse a prior favorable decision when it is determined that there is evidence of fraud during the registration or petition processes, and the petitioner was not entitled to the status granted. If the decision of the director, after reconsideration, is to deny the petition, the petitioner shall be accorded the due process provisions contained in paragraphs (d), (e) and (g) of this section related to the notice of intent to deny, denial and appeal processes.

(g) *Appeal process.* Denial of a petition for status as a RAW and denial of an application for waiver of grounds of excludability may be appealed to the Associate Commissioner, Examinations (Administrative Appeals Unit). Any appeal, with the required fee of fifty dollars ($50.00), shall be filed with the Regional Processing Facility within thirty (30) days after service of the Notice of Denial in accordance with the procedures of 8 CFR 103.3(a)(3). The thirty (30) day period includes any time required for service or receipt by mail.

(h) *Date of adjustment.* (1) The status of an alien whose petition for temporary resident status is approved by the Service shall be adjusted to that of a lawful temporary resident as of the filing date. The filing date is the date on which the fee for filing the petition was accepted by the Service.

(2) An exception to paragraph (h)(1) of this section occurs if an alien is in H–2A nonimmigrant status as of the filing date of their petition. Such petitioners will be adjusted to temporary resident status as of the date H–2A status expires, or on the last week day of the current fiscal year, whichever occurs earlier.

(i) *Fraud or willful misrepresentation.* If fraud or willful misrepresentation of a material fact is found in the petition process, the petition will be denied. If, during the petition process, the fraud or willful misrepresentation of a material fact is determined to have occurred during the registration phase of this program, the petition will be denied. If the petitioner is in the United States, he or she will be subject to deportation under section 241 of the Act and/or referral to the United States Attorney for possible prosecution.

(j) In the case of a petition which was denied for failure of the petitioner to meet the priority class standard from which he or she was selected, absent a finding of fraud, the petitioner will be placed into the next lower priority class for which he or she appears eligible. If selected again, a new petition may be required; however, the petition fee will be waived.

§ 210a.8 Status, benefits and obligations.

(a) *Employment and travel authorization.* (1) An alien whose petition for temporary residence has been approved under section 210A(c) of the Act has the right to reside in the United States, to travel abroad (including commuting from a residence abroad), and to accept employment in the United States in the same manner as an alien lawfully admitted for permanent residence. Employment and travel abroad will be authorized on Temporary Resident Card (Form I–688).

(2) An alien who has been granted temporary work authorization incident to a continuance during the petition interview process will be issued an Employment Authorization Card (Form I–688A) for the duration of the approved period of employment. Travel outside the United States is authorized by Form I–688A.

(b) *Obligation to perform seasonal agricultural services.* (1) An alien who has obtained temporary resident status as a replenishment agricultural worker must establish to the Service as set forth in this section that he or she has performed ninety (90) work-days of seasonal agricultural services in each of three successive twelve (12) month periods following the date the alien's status was adjusted, unless the required number of work days has been adjusted pursuant to paragraph (c) of this section.

(2) An alien granted lawful permanent residence on the basis of temporary residence under section 210A(c) of the Act may not be naturalized as a citizen of the United States under any provision in Title III of the Act unless the alien has performed ninety (90) work-days of seasonal agricultural services in each of two (2) additional years beyond the three (3) twelve (12) month periods

required by paragraph (b)(1) of this section.

(3) A replenishment agricultural worker who fails to establish to the Service that he or she has fulfilled the requirements of section 2l0A(d)(5)(A) of the Act to perform seasonal agricultural services in any one of the twelve (12) month periods shall be subject to deportation proceedings under section 241(a)(20) of the Act.

(c) *Adjustment of required work-days.* The number of work-days of required employment in seasonal agricultural services specified in this part is subject to adjustment by the Department of Labor and the Department of Agriculture under section 210A(a)(8) of the Act. The Secretaries will make a determination in this regard and will publish a notice of any such adjustment in the **Federal Register.**

(d) *Proof of performance of seasonal agricultural services.* (1) The burden is on the RAW temporary resident or permanent resident to collect, maintain and have available for inspection evidence that he or she has performed the requisite number of work-days of seasonal agricultural services for each year as described in this section.

(2) Such evidence may consist of certificates provided to employees by employers as required in section 210A(b)(2) of the Act and under Department of Labor regulations located at 29 CFR 502.13, or the same type of documentation as may be submitted under section 210(b)(3) of the Act.

(3) Aliens are required to establish performance of required work-days in seasonal agricultural services annually for each of the three 12 month periods of temporary residence.

(e) *Waiver of requirement to perform work.* Where an alien is unable to perform the 90 work days of seasonal agricultural services required by the Act and this part, because of extraordinary, unusual, and unique circumstances such as a disabling injury, disease or condition which is beyond an alien's control, the Service may waive this requirement.

(f) *Securing RAW employment records.* (1) When a RAW temporary resident or permanent resident alleges that an employer refuses to provide him or her with records relating to his or her employment and the petitioner has reason to believe such records exist, the Service shall attempt to secure such records.

(2) Prior to any attempt by the Service to secure the employment records, the followinq conditions must be met: the alien must be in approved temporary resident status as a Replenishment Agricultural Worker; the alien must have made reasonable attempts to secure the documentation from the employer; the alien's testimony must support credibly his or her claim; the Service must determine that temporary resident status is in jeopardy in the absence of employer records.

(3) Provided each of the conditions in paragraph (f)(2) of this section have been met, and after unsuccessful attempts by the Service for voluntary compliance, district directors shall issue a subpoena in accordance with 8 CFR 287.4, in such cases where the employer or farm labor contractor refuses to release the needed employment records.

(g) *Reissuance of Temporary Resident Card (Form I–688).* (1) Upon a finding by the Service that the 90 work-days in seasonal agricultural services required during the first twelve (12) month period have been completed, a second Temporary Resident Card (Form I–688) shall be issued and will be valid through the end of the required thirty-six (36) month period of temporary residence.

(2) Form I–688 shall not be issued, reissued or extended and shall lose its validity if the temporary resident status of the alien has been terminated as provided in paragraph (i) of this section.

(h) *Ineligibility for immigration benefits.* An alien who is admitted for or whose status is adjusted to that of a lawful temporary resident under section 210A(c) of the Act is not entitled to submit a petition pursuant to section 203(a)(2) of the Act or receive any other benefit or consideration accorded under the Act to aliens lawfully admitted for lawful permanent residence, except as provided in paragraph (a) of this section.

(i) *Termination of temporary resident status.* (1) Upon a finding by the Service that an alien is deportable under sections 235, 236, 237 or 241 of the Act as amended, to include failure to meet the work-day requirement of section 210A(d)(5)(A) of the Act, the Service shall issue an Order to Show Cause and place the alien in deportation proceedings. Temporary resident status as a replenishment agricultural worker shall be terminated upon a finding by an Immigration Judge that an alien is deportable.

(2) *Retention of Form I–688.* The alien shall be entitled to retain his or her I–688 Temporary Resident Card while deportation proceedings are pending and until a determination is made by an Immigration Judge that the alien is deportable. This card shall be reissued or extended as required during the period of time that the deportation proceedings are pending.

(3) *Surrender of Form I–688.* An alien whose status as a temporary resident has been terminated as a consequence of an order of deportation by an immigration judge shall, upon demand, promptly surrender Form I–688, Temporary Resident Card, to the district director having jurisdiction over the alien's place of residence, or, in the case of a commuter, employment.

§ 210a.9 Adjustment to permanent resident status.

The status of an alien lawfully admitted to the United States for temporary residence as a RAW shall be adjusted to that of an alien lawfully admitted to the United States for permanent residence only after performance of the required work-days in seasonal agricultural services has been verified by the Service. However, once adjustment of status has been approved by the Service, the effective date of permanent residence shall be as of the end of the three (3) year period that began on the date the alien was granted such temporary resident status.

Dated: July 6, 1989.

James L. Buck,

Acting Commissioner, Immigration and Naturalization Service.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 89–ACE–16]

Alteration of Transition Area—Colby, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to alter the transition area description at Colby, Kansas. The Colby, Kansas, Municipal Airport has been renamed Shalz Field. Accordingly, the transition area description is being altered to reflect this name change.

EFFECTIVE DATE: 0901 u.t.c., November 16, 1989.

FOR FURTHER INFORMATION CONTACT: Lewis G. Earp, Airspace Specialist, Traffic Management and Airspace Branch, Air Traffic Division, ACE–540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426–3408.

The Rule

The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71.181) is

to alter the transition area description at Colby, Kansas. The Colby, Kansas, Municipal Airport has been renamed Shalz Field. Accordingly, alteration of the Colby, Kansas, transition area description is necessary to reflect this name change. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

Since this action is a minor technical amendment in which the public would not be particularly interested, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the FAR (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.

2. By amending § 71.181 as follows:

Colby, KS [Revised]

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Shalz Field (lat. 39°25'30" N., long. 101°02'40" W.), and within 3 miles each side of the 017° bearing from Shalz Field extending from the 5.5-mile radius area to 8 miles north of the airport.

This amendment becomes effective at 0901 U.t.c., November 16, 1989.

Issued in Kansas City, Missouri, on June 23, 1989.

William Behan,

Acting Manager, Air Traffic Division.

[FR Doc. 89–16671 Filed 7–14–89; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 89–ACE–19]

Alteration of Transition Area—McPherson, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to alter the McPherson, Kansas, transition area by deleting therefrom the 1,200-foot transition area designation. Since the Kansas transition area already provides for that airspace, it is redundant to repeat it in the McPherson, Kansas, transition area description.

EFFECTIVE DATE: 0901 U.t.c., November 16, 1989.

FOR FURTHER INFORMATION CONTACT: Lewis G. Earp, Airspace Specialist, Traffic Management and Airspace Branch, Air Traffic Division, ACE–540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426–3408.

SUPPLEMENTARY INFORMATION:

The Rule

The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71.181) is to alter the transition area at McPherson, Kansas. This transition area presently includes a 1,200-foot airspace description. Since the Kansas transition area already provides for that airspace, it is unnecessary to have it reiterated in the McPherson, Kansas, transition area designation. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989. Accordingly, action is taken herein to make this deletion.

Since this action eliminates a redundancy, does not require charting changes, and decreases the size of the transition area, it is an amendment in which the public would not be particularly interested. Therefore, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

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

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

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

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

§ 71.181 [Amended]

2. By amending § 71.181 as follows:

McPherson, KS [Revised]

That airspace extending upward from 700 feet above the surface within a 7-mile radius of McPherson Airport (lat. 38°21'19" N., long. 97°41'29" W.)

This amendment becomes effective at 0901 U.t.c. November 16, 1989.

Issued in Kansas City, Missouri, on June 23, 1989.

William Behan,

Acting Manager, Air Traffic Division.

[FR Doc. 89–16670 Filed 7–14–89; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 89–ACE–20]

Alteration of Transition Area—Newton, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter the transition area description at Newton, Kansas. The Newton, Kansas, Municipal Airport has been renamed the Newton-City-County Airport. Accordingly, the transition area

description is being altered to reflect this name change.

EFFECTIVE DATE: 0901 u.t.c. November 16, 1989.

FOR FURTHER INFORMATION CONTACT: Lewis G. Earp, Airspace Specialist, Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426-3408.

SUPPLEMENTARY INFORMATION:

The Rule

The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71.181) is to alter the transition area description at Newton, Kansas. The Newton, Kansas, Municipal Airport has been renamed the Newton-City-County Airport. Accordingly, alteration of the Newton transition area description is necessary to reflect this name change. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

Since this action is a minor technical amendment in which the public would not be particularly interested, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the FAR (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.

§ 71.18 [Amended]

2. By amending § 71.181 as follows:

Newton, KS [Revised]

That airspace extending upward from 700 ft. above the surface within an 8.5-mile radius of Newton-City-County Airport (lat. 38°03'20" N., long. 97°16'35" W.).

This amendment becomes effective at 0901 u.t.c. November 16, 1989.

Issued in Kansas City, Missouri, on June 23, 1989.

James H. Snow,

Acting Manager, Air Traffic Division.

[FR Doc. 89-16669 Filed 7-14-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 89-ACE-01]

Alteration of Transition Area—Sheldon, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter the 700-foot transition area at Sheldon, Iowa, to provide additional controlled airspace for aircraft executing a new approach procedure to Runway 33 at the Sheldon, Iowa, Municipal Airport utilizing the Sheldon VOR/DME.

EFFECTIVE DATE: 0901 u.t.c., November 16, 1989.

FOR FURTHER INFORMATION CONTACT: Lewis G. Earp, Airspace Specialist, Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426-3408.

SUPPLEMENTARY INFORMATION:

History

On April 19, 1989, the FAA published a Notice of Proposed Rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Sheldon, Iowa (54 FR 15778). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the transition area at Sheldon, Iowa. To enhance airport usage, Runway 33 at the Sheldon, Iowa, Municipal Airport is being provided with additional controlled airspace for aircraft executing a new instrument approach procedure utilizing the Sheldon VOR/DME (DDL). The establishment of this instrument approach procedure based on this navigational aid entails alteration of the transition area at Sheldon, Iowa, at or above 700 feet above the ground within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under instrument flight rules (IFR) from aircraft operating under visual flight rules (VFR).

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the FAR (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; 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. By amending § 71.181 as follows:

Sheldon, IA [Revised]

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Sheldon Municipal Airport (Lat. 43°12'37" N., Long. 95°50'04" W.); and within 3 miles each side of the 165° bearing from the airport extending from the 5-mile radius to 8 miles southeast of the airport; and within 3 miles each side of the 160° bearing from the airport extending from the 5-mile radius to 8.5 miles southeast of the airport.

This amendment becomes effective at 0901 u.t.c. November 16, 1989.

Issued in Kansas City, Missouri, on June 23, 1989.

Elizabeth S. Wallis,

Acting Manager, Air Traffic Division.

[FR Doc. 89-16667 Filed 7-14-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 89-ACE-21]

Alteration of Transition Area—St. Francis, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter the transition area description at St. Francis, Kansas. This transition area description incorrectly lists the airport name as Cheyenne Municipal Airport. The correct airport name is Cheyenne County Municipal Airport. Accordingly, the transition area description is being altered to reflect the correct name of the airport.

EFFECTIVE DATE: 0901 u.t.c., November 16, 1989.

FOR FURTHER INFORMATION CONTACT: Lewis G. Earp, Airspace Specialist, Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426-3408.

SUPPLEMENTARY INFORMATION:

The Rule

The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71.181) is to alter the transition area description at St. Francis, Kansas. The Cheyenne County Municipal Airport, St. Francis, Kansas, is incorrectly referred to in the transition area description as the Cheyenne Municipal Airport. Accordingly, alteration of the St. Francis transition area description is necessary to reflect the correct name of the airport. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

Since this action is a minor technical amendment in which the public would not be particularly interested, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the FAR (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; 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. By amending § 71.181 as follows:

St. Francis, KS [Revised]

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Cheyenne County Municipal Airport, St. Francis, KS (lat. 39°45'39" N., long. 101°47'47" W.), and within 3 miles each side of the 143° bearing from the St. Francis NDB (lat. 39°43'37" N., long. 101°45'56" W.) extending from the 5.5-mile radius area to 8.5 miles southeast of the NDB facility.

This amendment becomes effective at 0901 u.t.c., November 16, 1989.

Issued in Kansas City, Missouri, on June 23, 1989.

James H. Snow,

Acting Manager, Air Traffic Division.

[FR Doc. 89-16672 Filed 7-14-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 88-ACE-19]

Revocation of Transition Area—Ida Grove, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to revoke the 700-foot transition area at Ida Grove, Iowa. The nondirectional radio beacon (NDB) at the Ida Grove, Iowa, airport has been removed, thereby canceling the instrument approach procedure based on this navigational aid. Accordingly, the transition area is no longer required.

EFFECTIVE DATE: 0901 u.t.c., November 16, 1989.

FOR FURTHER INFORMATION CONTACT: Lewis G. Earp, Airspace Specialist, Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426-3408.

SUPPLEMENTARY INFORMATION:

History

On April 19, 1989, the FAA published a Notice of Proposed Rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to revoke the transition area at Ida Grove, Iowa (54 FR 15774). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) revokes the Ida Grove, Iowa, transition area. The NDB at the Ida Grove, Iowa, Municipal Airport has been removed. That action, in turn, canceled the instrument approach procedure predicated on this navigational aid. Accordingly, the Ida Grove, Iowa, transition area is no longer required and is hereby revoked.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT

Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the FAR (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; 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. By amending § 71.181 as follows:

Ida Grove, IA [Amended]

Revoke the Ida Grove, Iowa, transition area.

This amendment becomes effective at 0901 u.t.c., November 16, 1989.

Issued in Kansas City, Missouri, on June 23, 1989.

James H. Snow,

Acting Manager, Air Traffic Division.

[FR Doc. 89-16668 Filed 7-14-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 91

[Docket No. 25530; Amendment No. 91-204]

Cockpit Voice Recorders (CVR) and Flight Recorders; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Correction of Amendment number.

SUMMARY: This Notice corrects the Amendment Number previously published in the **Federal Register**, July 7, 1989, (54 FR 28769). Please change the Amendment from 91-205 to read 91-204.

FOR FURTHER INFORMATION CONTACT: Mike Smith, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; Telephone (202) 267-9684.

Michael Triplett,

Program Management Staff.

[FR Doc. 89-16584 Filed 7-14-89; 8:45 am]

BILLING CODE 4910-13-M

PENSION BENEFIT GUARANTY CORPORATION

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 multiemployor 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 August 1989.

EFFECTIVE DATE: August 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, 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
August 1989	.08875	.08625	.08375	.08	.07625	.01725	.07125	.07125	.07125	.07125	.065	.065	.065	.065	.065	.05875

Issued at Washington, DC, on this 11th day of July 1989

James B. Lockhart III,

Executive Director, Pension Benefit Guaranty Corporation

[FR Doc. 89-16701 Filed 7-14-89; 8:45 am]

BILLING CODE 7708-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3614-9]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Reasonably Available Control Technology for Two Pratt & Whitney Facilities; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; corrrection.

SUMMARY: This document corrects an error in the numbering of an addition to 40 CFR § 52.370(c) which was published in the **Federal Register** on May 30, 1989 (54 FR 22890).

FOR FURTHER INFORMATION CONTACT: David B. Conroy, (617) 565-3252; FTS 835-3252.

Dated: June 30, 1989.

Paul G. Keough,

Acting Regional Administrator, Region I.

The following correction is made to the amendment to 40 CFR § 52.370(c) that appeared on page 22892 in the issue of May 30, 1989.

1. On page 22892, in the middle of column two, the designation (c)(50) is correctly designated as (c)(51) both places it appears.

[FR Doc. 89-16579 Filed 7-14-89; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[FRL-3578-1]

Approval and Promulgation of Implementation Plans; State of Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On June 15, 1982, the state of Kansas adopted regulations revising portions of its new source permitting regulations. These regulations were adopted to satisfy conditions placed on the state's Part D plan revision (46 FR 20164, April 3, 1981). EPA approved most of these regulations on January 12, 1984 (49 FR 1491), but deferred action on the regulatory changes related to the definition of source due to pending litigation. Because the litigation issues have now been resolved, and because the state has demonstrated that it did not rely on the "dual source" definition in its attainment demonstration, EPA is today taking action to approve these rules that were related to the definition of source.

DATE: This action will become effective on September 15, 1989, unless notice is received within 30 days of publication that adverse or critical comments will be submitted. Such notice may be submitted to Wayne Kaiser at the EPA office listed below. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Documents relevant to this submittal are available for public inspection during normal business hours at: the Environmental Protection Agency, Region VII, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; Kansas Department of Health and Environment, Bureau of Air Quality and Radiation Control, Forbes Field, Topeka, Kansas 66620; and Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Wayne A. Kaiser at (913) 236-2893; (FTS 757-2893).

SUPPLEMENTARY INFORMATION: On October 9, 1981, the state of Kansas submitted draft regulations to revise portions of the new source permitting regulations. Final regulations were adopted and submitted to EPA on June 15, 1982. These regulations were adopted to satisfy conditions placed on the state's Part D plan revision (46 FR 20164, April 3, 1981). EPA approved most of the revised new source regulations on January 12, 1984 (49 FR 1491), but deferred action on the regulatory changes related to the definition of source due to pending litigation as discussed below. The Kansas regulatory revisions for which action was deferred earlier and which are the subject of this rulemaking are: Regulations K.A.R. 28-19-16, 28-19-16a(d), 28 19-16b, 28-19-16c, 28-19-16f, 28-19-16h, and 28-19-16i. Regulations K.A.R. 28-19-16a(o) and 28-19-16a(v) are deleted.

The Kansas definition of "Installation" was revised by deleting the old definition at 28-19-16a(o) and adding the term to Regulation 28-19-16a(d). Because the terms "Building," "Structure," "Facility," or "Installation" were used in the definition of "Stationary Source" in Regulation 28-19-16a(x), the effect was to alter the Kansas source definition for new source review (NSR) in nonattainment areas. Because the litigation issues have now been resolved, as discussed below, EPA is today taking action to approve the aforementioned state regulations.

On October 14, 1981, the EPA revised the NSR regulations in 40 CFR Part 51 to give states the option of adopting the "plantwide" definition of stationary source in nonattainment areas (see 46 FR 50766). This definition provides that only physical or operational changes that result in a significant net increase in emissions at the entire plant require a major source NSR permit. For example, if a plant increased emissions at one piece of process equipment but reduced emissions by the same amount at another piece of process equipment at the plant, then there would be no net increase in emissions at the plant and therefore no "modification" to the "source." The plantwide definition is in contrast to the so-called "dual" definition [or a definitional structure like that in the 1979 offset ruling (44 FR 3274), which has much the same effect as the dual definition]; under the dual definition, the emissions from each physical or operational change are gauged without regard to reductions elsewhere at the plant.

In the October 1981 **Federal Register** notice, EPA set forth its rationale for allowing use of the plantwide definition (46 FR 50766-69). In its view, allowing use of the plantwide definition was a reasonable accommodation of the conflicting goals of Part D of the Clean Air Act (Act); on the one hand, reasonable further progress (RFP) and timely attainment of national ambient air quality standards (NAAQS), and on the other, maximum state flexibility and economic growth. The EPA recognized that use of the plantwide definition would bring fewer plant modifications into the nonattainment permitting process, but emphasized that this generally would not interfere with RFP and timely attainment primarily because the states under the demands of Part D eventually would have adequate state implementation plans (SIP) in place. For instance, EPA stated:

> Since demonstration of attainment and maintenance of the NAAQS continues to be required, deletion of the dual definition increases state flexibility without interfering with timely attainment of the ambient standards and so is consistent with Part D [46 F.R. 50767 col. 2].

The EPA added that in any event the use of a dual definition, by bringing more plant modifications through the NSR process or subjecting them to the construction ban (40 CFR 52.24), may discourage replacement of older, dirtier processes and hence retard not only

economic growth, but also progress toward clean air. The EPA also pointed out that under the plantwide definition new equipment would still be subjected to any applicable new source performance standard and that wholly new plants, as well as any modifications that resulted in a significant net emissions increase, would still be subject to NSR. Thus, EPA saw no significant disadvantage in the plantwide definition from the environmental standpoint, which would outweigh the advantages from the standpoints of state flexibility and economic growth.

As a result, EPA determined that a state wishing to adopt a plantwide definition generally has complete discretion to do so, with one restriction on that discretion. If a state had specifically projected emission reductions from its NSR program as a result of a dual or similar definition and had relied on those reductions in an attainment strategy that EPA later approved, then the state needed to revise its attainment strategy as necessary to accommodate reduced NSR permitting under the plantwide definition (46 FR 50767 col. 2, 50769 col. 1).

In 1984, the Supreme Court upheld EPA's action as a reasonable accommodation of the conflicting purposes of Part D of the Act, and hence well within EPA's broad discretion. *Chevron, U.S.A., Inc.* v. *NRDC. Inc.*, 104 S.Ct. 2778. Specifically, the Court agreed that the plantwide definition is fully consistent with the Act's goal of maximizing state flexibility and allowing reasonable economic growth. Likewise, the Court recognized that EPA had advanced a reasonable explanation for its conclusion that the plantwide definition serves the Act's environmental objectives as well (see 104 S.Ct. at 2792). EPA has not received any empirical information since the 1981 rulemaking that would require a departure from the basic reasoning in support of the plantwide definition.

On July 2, 1986, the state of Kansas submitted a SIP revision that would substitute a plantwide definition of source for the existing dual definition in the state's nonattainment NSR program. The EPA previously approved the Part D SIP for the relevant nonattainment area on the basis of an attainment demonstration. The state has certified, by letter dated April 12, 1989, that it did not rely on any reduction from the operation of the existing NSR program in that demonstration, and EPA's examination of the demonstration confirms that it did not. Therefore, EPA hereby fully approves the switch to a plantwide definition inasmuch as it satisfies the only restriction EPA placed on such changes.

Final Action: EPA is approving revisions to the state of Kansas new source permitting regulations in K.A.R. 28–19–16 *et seq.* related to the definition of source.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action, will be effective September 15,1989 unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective September 15, 1989.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities (see 46 FR 8709). The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the U.S. Court of Appeals for the appropriate circuit by September 15, 1989. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen oxides, Ozone, Particulate matter, Sulfur dioxides.

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

Date: May 22, 1989.

Morris Kay,

Regional Administrator.

40 CFR Part 52, Subpart R, is amended as follows:

PART 52—[AMENDED]

Subpart R—Kansas

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.870 is amended by adding paragraph (c)(25) to read as follows:

§ 52.870 Identification of plan.

* * * * *

(c) * * *

(25) Revised regulation K.A.R. 28–19–16 pertaining to new source permit requirements were submitted by the Secretary of the Kansas Department of Health and Environment on June 15, 1982.

(i) Incorporation by reference.

(A) Revised regulations K.A.R. 28–19–16, 28–19–16a(d), 28–19–16b, 28–19–16c, 28 19–16f, 28–19 16h, and 28–19–16i effective May 1, 1982. Regulations K.A.R. 28–19–16a(o) and 28–19–16a(v) are deleted effective May 1, 1982.

(ii) Additional material.

(A) Letter from the state of Kansas Department of Health and Environment, dated April 12, 1989, confirming that the state did not rely on the "dual source" definition in its attainment demonstration.

[FR Doc. 89–16680 Filed 7–14–89; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[FRL–3601–5]

Approval and Promulgation of Implementation Plans; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving amended Iowa Chapter 22, Control Pollution, subrule 22.1(2)"d" pertaining to exemptions to the state's air permit requirements. The state's revision requires that certain equipment used for removing fungicide from seed grain have permits to construct or modify. This rule revision strengthens the state's permit requirements in its State Implementation Plan (SIP).

DATE: This rulemaking is effective September 15, 1989 unless someone

notifies EPA by August 16, 1989 that they wish to provide adverse or critical comments on this rulemaking. If the effective date is delayed, timely notice will be published in the Federal Register.

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

Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101
Iowa Department of Natural Resources, 900 East Grand, Des Moines, Iowa 50319
Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Robert J. Chanslor at (913) 236–2893 (FTS 757–2893).

SUPPLEMENTARY INFORMATION: The seed grain industry in Iowa coats seed grain with a fungicide to retard rot, mold, and mildew on seed. After a period of time seed may not be sold for planting purposes. This results in many tons of treated seed which must be disposed of annually. It has been found that livestock feeding operations can heat treated or coated grain and remove enough of the particular fungicide so that it is safe for livestock feed. This grain heating or roasting process produces emissions of volatilized fungicide and particulate matter.

Chapter 22, Controlling Pollution, contains requirements for permits for new or existing stationary sources. Subrule 22.1(2)"d" exempts equipment used on farms and ranches for agricultural purposes, other than anaerobic lagoons from the permit requirements. In order to provide a legal basis for controlling emissions from the grain roasting process, the IDNR revised the exemption in subrule 22.1(2)"d" such that large commercial operations which roast grain to remove fungicide are no longer exempt from the state's permit requirements. Such operations and equipment are now subject to the state's permit requirements in Chapter 22.

After proper public notification, hearings were held on June 8, 15, and 22, 1988. The notification and hearings satisfy the requirements of 40 CFR 51.102. The state's revised rule is consistent with 40 CFR 51.104(c), and the submittal is consistent with 40 CFR 51.104(d). The final state rule was published in the Iowa Administrative Bulletin on August 10, 1988, and became effective September 14, 1988. The state submitted the revised rule to EPA on September 13, 1988.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective September 15, 1989 unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn and two subsequent notices will be published prior to the effective date. One notice will withdraw final action and another will begin a new rulemaking by announcing a proposal of action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective September 15, 1989.

ACTION: EPA approves Iowa's revised subrule 22.1(2)"d."

The state reported that the public provided no comments on its proposed rule. Thus, EPA believes this rulemaking is noncontroversial. EPA is using the direct-to-final procedure for this action.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

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

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the U.S. Court of Appeals for the appropriate circuit by September 15, 1989. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Particulate matter, and Reporting and recordkeeping requirements.

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

Date: June 5, 1989.

Morris Kay,

Regional Administrator.

PART 52—[AMENDED]

40 CFR Part 52, Subpart Q, is amended as follows:

Subpart Q—Iowa

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.820 is amended by adding paragraph (c)(48) to read as follows:

§ 52.820 Identification of plan.

* * * * *

(c) * * *

(48) Revised Chapter 22, subrule 22.1(2)"d" exemptions from permit requirements were submitted on September 13, 1988, by the Iowa Department of Natural Resources. The revision clarifies permit exemptions for certain grain roasting equipment.

(i) Incorporation by reference:

(A) Amendment to Chapter 22, "Controlling Pollution," Iowa Administrative Code, subrule 22.1(2)"d", effective September 14, 1988.

[FR Doc. 89–16683 Filed 7–14–89; 8:45 am]
BILLING CODE 6560–50–M

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40 CFR Part 52

[FRL–3616–8]

Approval and Promulgation of Air Quality Implementation Plans; Louisiana State Implementation Plan for PM_{10} Standard; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: EPA is correcting an error in the regulatory text that was published in the Federal Register on June 15, 1989, (54 FR 25451). That notice approved the Louisiana State Implementation Plan (SIP) for the PM_{10} standard in a direct, final action.

FOR FURTHER INFORMATION CONTACT: Barbara Durso, (214) 655–7214 or FTS 255–7214.

SUPPLEMENTARY INFORMATION: EPA is correcting an error of omission in the regulatory text that was published on June 15, 1989, at 54 FR 25451, second column. EPA inadvertently failed to submit for publication certain regulatory text concerning incorporation by reference of the Louisiana SIP. Specifically, the Agency failed to submit

the language for 40 CFR 52.970(c)(50)(i)(B), which would add to the incorporation by reference of the Louisiana State Implementation Plan for PM_{10} a letter dated May 22, 1989, from Mike D. McDaniel, Louisiana Department of Environmental Quality, to William B. Hathaway, U.S. Environmental Protection Agency. This letter affirmed the State's intent when adopting certain revisions to the Louisiana Administrative Code at LAC:33:III:111.

Date: July 10, 1989.

Robert E. Layton Jr.,

Regional Administrator.

Identification of Document

Subpart T—Louisiana

40 CFR Part 52, Subpart T, is corrected as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.970 is amended by adding paragraph (c)(50)(i)(B) to read as follows:

§ 52.970 Identification of Plan

* * * * *

(c) * * *

(50) * * *

(i) * * *

(B) A letter dated May 22, 1989, from Mike D. McDaniel, Louisiana Department of Environmental Quality, to William B. Hathaway, U.S. Environmental Protection Agency.

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[FR Doc. 89–16681 Filed 7–14–89; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 70355–7127]

Atlantic Tuna Fisheries

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

ACTION: Notice of inseason adjustment and closure.

SUMMARY: NOAA issues this notice to increase the Harpoon boat category quota of giant Atlantic bluefin tuna from 60 short tons (st) (54.4 mt) to 75 st (68 mt), close the season for vessels permitted in this category, and decrease the inseason adjustment amount from 104 st (94.3 mt) to 89 st (80.7 mt). Closure of this segment of the fishery is necessary because the annual quota, plus the inseason adjustment amount, for this category will be attained by the effective date. The intent of this action is to prevent overharvest of the quota established for this segment of the fishery.

EFFECTIVE DATE: 0001 hours local time July 14, 1989.

FOR FURTHER INFORMATION CONTACT: Kathi L. Rodrigues, 508–281–9324.

SUPPLEMENTARY INFORMATION: Final regulations governing the Atlantic bluefin tuna fishery were published on October 25, 1985 (50 FR 43396). Paragraph 285.22(g) of Title 50 provides that the Assistant Administrator for Fisheries, NOAA (Assistant Administrator) may allocate during the fishing season any portion of the inseason adjustment amount (104 st) (94.3 mt) to any segment of the fishery after considering several factors, such as the likelihood of closure—as is the case in this action—based on catches to date. The information obtained from the catch from this category is of limited use for biological sampling and monitoring the status of the stock. For this reason, the inseason adjustment amount allocated to the category has been limited to 15 st (13.6 mt) for each year since 1984.

An allocation of 15 st (13.6 mt) from the inseason adjustment amount would leave 89 st (80.7 mt) available for allocation to other gear segments. Unlike the previous year, no allocation will be necessary to account for overages from the incidental longline fishery. Based on current landings data for all gear categories in the Atlantic bluefin tuna fishery, the 89 st (80.7 mt) remaining in the inseason adjustment amount should be sufficient to provide for potential shortages in other gear segments.

The Assistant Administrator has determined that a 15 st (13.6 mt) allocation to the Harpoon Boat category is appropriate and, therefore, increases the Harpoon Boat quota in 50 CFR 285.22(b) from 60 st (54.4 mt) to 75 st (68 mt) and decreases the inseason adjustment amount in 50 CFR 285.22(g) from 104 st (93.4 mt) to 89 st (80.7 mt).

Section 285.22(b) of the regulations (50 CFR Part 285) provides for an annual quota of 60 st (54.4 mt) of giant Atlantic bluefin tuna to be harvested from the Regulatory Area by vessels permitted in the Harpoon boat category. The quota has been increased to 75 st (68 mt) through this inseason adjustment action. The Assistant Administrator for Fisheries, NOAA (Assistant Administrator) is authorized under 50 CFR 285.20(b)(1) to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the total catch of Atlantic bluefin tuna will equal any quota under § 285.22. The Assistant Administrator is further authorized under § 285.20(b)(1) to prohibit the fishing for, or retention of, Atlantic bluefin tuna by the type of vessel subject to the quotas. The Assistant Administrator has determined, based on the reported catch and the catch rate, that the annual quota of Atlantic bluefin tuna for those vessels holding Federal fishing permits for the Harpoon Boat category will be attained by the effective date of this notice. Fishing for, and retention of, any Atlantic bluefin tuna by these vessels must cease at 0001 local time on July 14, 1989.

Other Matters

Notice of this action will be mailed to all Atlantic bluefin tuna dealers and vessel owners holding a valid vessel permit for this fishery. This action is taken under the authority of 50 CFR 285.20 and 285.22(g), and is taken in compliance with E.O. 12291.

List of Subjects in 50 CFR Part 285

Fisheries, Penalties, Reporting and recordkeeping requirements, Treaties.

(16 U.S.C. 971 *et seq.*)

Dated: July 11, 1989.

Richard H. Schaefer,

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

[FR Doc. 89–16677 Filed 7–12–89; 1:02 pm]

BILLING CODE 3510–22–M

50 CFR Part 299

[Docket No. 90651–9151]

U.S. Nationals Fishing in Soviet Fisheries

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

ACTION: Interim final rule and Request for Comments Concerning U.S. Nationals Fishing in Soviet Fisheries.

SUMMARY: NOAA issues an interim final rule that specifies the procedures for U.S. nationals to conduct fishing operations for fishery resources over which the Union of Soviet Socialist Republics (U.S.S.R.) exercises sovereign rights or fishery management authority, makes it a violation of U.S. law for U.S. nationals fishing in Soviet fisheries to fish without a permit, to violate the permit, or to violate the laws or

regulations of the U.S.S.R., and requests comments on this interim final rule.

DATES: Effective July 17, 1989, except for § 299.3(a) which contains a collection-of-information requirement which is being submitted to the Office of Management and Budget (OMB). Notice of the effective date for § 299.3(a) will be published in the **Federal Register** on approval of the information collection by OMB. Comments on the interim final rule must be received by September 15, 1989.

ADDRESSES: Send comments to the Operations Support and Analysis Division, F/CM1, National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, MD 20910.

Comments regarding the estimate of the paperwork burden or any other aspect of the collection of information under § 299.3(a), including suggestions for reducing the burden should be sent to the above address; and to the Office of Information and Regulatory Affairs, (Attn: Paperwork Reduction Project—0648–XXXX), Office of Management and Budget, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Alfred J. Bilik at (301) 427–2337 or telex 467856 US COMM FISH CI; or Dean Swanson at (301) 427–2276.

SUPPLEMENTARY INFORMATION: The United States and the U.S.S.R. concluded the Agreement Between the United States and the U.S.S.R. on Mutual Fisheries Relations (Agreement) that, among other things, allows U.S. nationals access to conduct permitted fishery operations for allocations of surplus stocks in the zone extending up to 200 nautical miles off the coast of the U.S.S.R. known as the Soviet economic zone (EZ). The U.S.S.R. will determine the total allowable catch in the Soviet EZ for each stock, the harvesting capacity of its own fishing vessels with regard to the stock, and the portion of the total allowable catch for the stock that is surplus. The U.S.S.R. may then allocate a portion of that surplus to U.S. nationals and vessels.

The United States does not recognize Soviet claims east of the U.S.-Russia Convention line of 1867. Industry agreements with Soviet fishermen notwithstanding, U.S. vessels fishing east of the convention line are subject to the applicable provisions of U.S. fisheries laws and regulations, including the governing regulations implementing fishery management plans. Fishing under the Magnuson Act includes the catching, taking or harvesting of fish and any activities in preparation for or in support of the catching, taking or harvesting of fish. Questions concerning the activities which may be authorized east of the convention line should be referred to the NOAA Fisheries contact individuals referenced above.

The United States has agreed that it will take appropriate measures, consistent with its national law, to ensure that its nationals and vessels conduct fishery operations within the Soviet EZ consistent with the national laws and regulations of the U.S.S.R.; refrain from fishing beyond the U.S. Exclusive Economic Zone for fishery resources over which the U.S.S.R., consistent with international law, has sovereign rights or management authority, except as authorized by the Agreement; and comply with the provisions of permits issued pursuant to the Agreement and the applicable laws of the U.S.S.R.

The United States has agreed that its nationals and vessels will be subject to the relevant laws and regulations of the U.S.S.R. when the U.S. nationals and vessels are engaged in fishing in the Soviet EZ. The United States has also agreed that its nationals and vessels will be subject to the relevant laws and regulations of the U.S.S.R. pertaining to fishery resource management when engaged in fishing outside the Soviet EZ for fishery resources of the continental shelf of the U.S.S.R., or beyond any exclusive economic zone or its equivalent for anadromous species that originate in the waters of the U.S.S.R.

The United States has agreed, consistent with its national law, that it will take appropriate measures to ensure that its nationals and vessels refrain from harassing, hunting, capturing, or killing any marine mammal within the Soviet EZ, or attempting such actions, except as may be provided for by an international agreement to which both the United States and the U.S.S.R. are parties, or in accordance with specific authorization and controls established; by the U.S.S.R.

The United States has consented to, and, to the extent allowable under U.S. law, will assist and facilitate boardings and inspections of its vessels by duly authorized officers of the U.S.S.R. for compliance with the relevant laws and regulations of the U.S.S.R. If, upon boarding and inspection of a vessel by a duly authorized officer, such law or regulation is found to have been violated, the United States will not object to appropriate enforcement action undertaken pursuant to the laws of the U.S.S.R., including seizure and arrest of the vessel and the individuals on board. The U.S.S.R. will impose appropriate penalties, in accordance with the laws of the U.S.S.R., for violations of the relevant laws or regulations of the U.S.S.R. In the case of arrest and seizure of a vessel of the United States, the United States will be notified through diplomatic channels of the facts and actions taken. The U.S.S.R. will release vessels of the United States and their crews promptly, subject to the posting of reasonable bond or other security. The penalty for violation of a limitation or restriction on the fishing operations of the nationals or vessels of the United States will be limited to appropriate fines, penalties, forfeitures, or revocation or suspension of fishing privileges.

The United States has agreed to take appropriate steps to ensure that observers of the U.S.S.R. are permitted to board, upon request, vessels operating in the Soviet EZ pursuant to the Agreement, and that the U.S.S.R. will be reimbursed for the costs incurred in the utilization of its observers, consistent with the laws and regulations of the U.S.S.R. and on the basis of reciprocity. Such observers must be accorded the courtesies and accommodations provided to ship's officers while on board such vessels, and the operators and crews of such vessels must cooperate with observers in the conduct of their official duties.

The Agreement specifies the procedures for application for, and issuance of, annual permits authorizing vessels of the United States to engage in fishing for fishery resources over which the U.S.S.R. exercises sovereign rights or fishery management authority.

Pursuant to this Agreement, and consistent with national law, NOAA issues this interim final rule imposing a number of requirements and prohibitions on U.S. nationals and vessels desiring to engage in fishing operations for fishery resources over which the U.S.S.R. exercises sovereign rights or fishery management authority, including fishing in the Soviet EZ, fishing for fishery resources of the continental shelf of the U.S.S.R., and fishing beyond any exclusive economic zone or its equivalent for anadromous species that originate in the waters of the U.S.S.R.

Classification

This rule is authorized under the Magnuson Fishery Conservation and Management Act (Magnuson Act), 16 U.S.C. 1822(a)(4)(A), which authorizes the Secretary of State in cooperation with the Secretary of Commerce to enter into reciprocal fishing agreements, and 16 U.S.C. 1855(g), which authorizes the Secretary of Commerce to promulgate regulations necessary to carry out the provisions of the Magnuson Act.

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has determined that this rule will not have a significant impact on the human environment. NMFS has prepared an environmental assessment (EA) on the rule. The finding of the EA was that no significant impact on the human environment will occur as a result of this rule and that no environmental impact statement was required. The EA is available upon request. (See **ADDRESSES**.) This action is exempt from the provisions of Executive Order 12291 under section 1(a)(2) because these regulations are issued with respect to a foreign affairs function of the United States.

This action is not subject to section 553 of the Adminsitrative Procedure Act (APA) because the implementation of this rule is a foreign affairs function under 5 U.S.C. 553(a)(1). The Assistant Administrator is soliciting public comments on this rule, and will consider them to the extent discretion exists to modify the regulations consistent with national law and the Agreement. Because neither the APA nor any other statute requires public notice and opportunity to comment upon this rule, the Regulatory Flexibility Act does not apply to it and no regulatory flexibility analysis has been prepared.

This rule contains a collection-of-information requirement at § 299.3(a) subject to the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq.*). A request to collect this information has been submitted to the Office of Management and Budget for approval. Public reporting burden for this collection is estimated to average 0.5 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Operations Support and Analysis Division, NMFS, and to OMB (see **ADDRESSES**).

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612. Neither does this rule directly affect the coastal zone of any state with an approved coastal zone management program.

List of Subjects in 50 CFR Part 299

Fisheries, Foreign fishing, Union of Soviet Socialist Republics, U.S.-U.S.S.R. Agreement.

Dated: July 12, 1989.

James W. Brennan,

Assistant Administrator For Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, Subchapter K consisting of Part 299 is added to Chapter II of Title 50 of the Code of Federal Regulations as set forth below:

SUBCHAPTER K—U.S. NATIONALS FISHING IN FOREIGN ECONOMIC ZONES

PART 299—U.S. NATIONALS FISHING IN SOVIET FISHERIES

299.1 Purpose.
299.2 Definitions.
299.3 Procedures.
299.4 Requirements.
299.5 Prohibited acts.
299.6 Penalties.

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

§ 299.1 Purpose.

This section regulates U.S. nationals fishing in Soviet fisheries and implements the Agreement between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics on Mutual Fisheries Relations, signed May 31, 1988.

§ 299.2 Definitions.

(a) The term "Agreement" means the Agreement Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics on Mutual Fisheries Relations, signed May 31, 1988.

(b) The term "Assistant Administrator" means the Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration (NOAA) or a designee.

(c) The term "fishery resource" means any fish, any stock of fish, any species of fish, and any habitat of fish.

(d) The terms "fishing" or "to fish" mean any activity which does, is intended to, or can reasonably be expected to result in catching or removing from the water fishery resources. Fishing also includes the acts of scouting, processing, and support.

(e) The term "fishing vessel" means any boat, ship, or other craft that is used for, equipped to be used for, or of a type normally used for, fishing.

(f) The term "Magnuson Act" means the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

(g) The term "national of the United States" or "U.S. national" means any person subject to the jurisdiction of the United States, including, but not limited to, a citizen or resident of the United States, or a person employed on a vessel of the United States. In the case of a corporation, partnership or other non-natural person, this includes, but is not limited to, any entity that is the owner of a vessel of the United States.

(h) The term "operator," with respect to any vessel, means the master or other individual on board and in charge of that vessel.

(i) The term "owner," with respect to any vessel, means any person who owns that vessel or any charterer, whether bareboat, time, or voyage, and any person who acts in the capacity of a charterer, including but not limited to parties to a management agreement, operating agreement, or any similar agreement that bestows control over the destination, function, or operation of the vessel.

(j) The term "person" means any individual (whether or not a citizen of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, or local government, or any entity of such government.

(k) The term "processing" means any operation by a vessel to receive fish from a fishing vessel and/or the preparation of fish, including but not limited to cleaning, cooking, canning, smoking, salting, drying, or freezing, either on the vessel's behalf or to assist another vessel.

(l) The term "relevant laws and regulations of the U.S.S.R." means those Soviet laws and regulations that concern fishing for fishery resources over which the U.S.S.R. exercises sovereign rights or fishery management authority.

(m) The term "scouting" means any operation by a vessel exploring (on behalf of the vessel or another vessel) for the presence of fish by any means which do not involve the catching of fish.

(n) The terms "Soviet" and "U.S.S.R." mean the Union of Soviet Socialist Republics, its government, or any organ or entity of its government.

(o) The term "Soviet continental shelf" and the phrase "continental shelf of the U.S.S.R." means the seabed and subsoil of the submarine areas over which, consistent with international law, the U.S.S.R. exercises sovereign rights.

(p) The terms "Soviet Economic Zone" and "Soviet EZ" mean a zone of waters off the coast of the U.S.S.R. beyond and adjacent to the Soviet territorial sea extending a distance of up to 200 nautical miles from the baseline from which the territorial sea is measured, within which, consistent with international law, the U.S.S.R. has

sovereign rights over the fishery resources.

(q) The term "Soviet fisheries" and the phrase "fishery resources over which the U.S.S.R. exercises sovereign rights or fishery management authority" mean fishery resources within the Soviet EZ, fishery resources of the Soviet continental shelf, and anadromous species that originate in the waters of the U.S.S.R., whether found in the Soviet EZ or beyond any exclusive economic zone or its equivalent.

(r) The term "support" means any operation by a vessel assisting fishing by another vessel, including—

(1) Transferring or transporting fish or fish products, or

(2) Supplying a fishing vessel with water, fuel, provisions, fishing equipment, fish processing equipment, or other supplies.

(s) The term "vessel of the United States," "U.S. vessel," "fishing vessel of the United States," or "U.S. fishing vessel," as the context requires, means a vessel or a fishing vessel that is documented or numbered under the laws of the United States or of any State, or otherwise subject to the jurisdiction of the United States.

§ 299.3 Procedures.

(a) Application for, and issuance of, annual permits. U.S. nationals and vessels should obtain the information required for making application for permits and copies of Soviet laws and regulations from, and submit completed applications to, the Assistant Administrator for Fisheries, NOAA, 1335 East-West Highway, Silver Spring, Maryland 20910. The Department of State will submit the completed applications to the competent authorities of the U.S.S.R. for each fishing vessel of the United States that wishes to engage in fishing pursuant to the Agreement. The competent authorities of the U.S.S.R. will review each application, determine whether to issue a permit, what conditions and restrictions related to fishery management and conservation may be needed, and what fee will be required. The competent authorities of the U.S.S.R. will inform the U.S. Fisheries Attache in Moscow of such determinations, who will then inform the Assistant Administrator and the Department of State. The Department of State, after consultations with the Assistant Administrator, will then notify the competent authorities of the U.S.S.R. of its acceptance or rejection of the conditions and restrictions and, in the case of a rejection, of its objections. Upon acceptance of the conditions and restrictions by the Department of State, and after the payment of all fees, the competent authorities of the U.S.S.R. will approve the applications and issue a permit for each fishing vessel that has submitted an application, which will thereupon be authorized to fish in accordance with the Agreement and the terms and conditions set forth in the permit. Permits will be issued for a specific vessel and are not transferable. In the event the Department of State notifies the competent authorities of the U.S.S.R. of objections to a decision not to issue a permit, or to specific conditions and restrictions, the two governments may consult with respect to these issues and the Department of State may submit a revised application.

(b) *Port calls.* U.S. fishing vessels which have been issued permits pursuant to the Agreement are authorized to enter the ports of Murmansk, Korf, Oktyabrski, and Provideniya in the U.S.S.R. to purchase bait, to replenish ship's stores or fresh water, to obtain bunkers, to provide rest for or make changes in their crews, to obtain repairs and other services normally provided in these ports, and, as necessary, to receive permits. Authorized vessels en route to one of the designated ports to receive a permit will be treated as non-fishing vessels, so long as such vessels observe the provisions of the Agreement. All such entries are subject to the applicable laws and regulations of the U.S.S.R. U.S. nationals making port calls in the U.S.S.R. or entering the territory of the U.S.S.R. must comply with the laws and regulations of the U.S.S.R. applicable to persons within the territorial jurisdiction of the U.S.S.R. Entry of U.S. fishing vessels to ports of the U.S.S.R. will be permitted subject to notice to INFLOT, forwarded by the vessel's agent or owner using Telex, teletype, or telegram so as to be received 4 days in advance of the port entry. Information concerning communication procedures may be obtained from the Fisheries Attache, Embassy of the U.S.S.R., 1609 Decatur Street, Washington, DC 20011.

(c) *Visas.* Multiple entry visas valid for 6 months for entry into the ports specified in paragraph (b) of this section may be obtained by submitting crew lists to the Fisheries Attache, Embassy of the U.S.S.R., at the address listed in paragraph (b) of this section. The crew list must be submitted at least 14 days prior to the first entry of the vessel into a port of the U.S.S.R. An amended (supplemental) crew list may be submitted subsequent to the departure of a vessel from a U.S. port, subject to these provisions, provided that any visa issued thereunder will be valid only for 6 months from the date of issuance of the original crew list visa. Notification of entry to a port of the U.S.S.R. pursuant to paragraph (b) of this section must specify if shore leave is requested under such multiple entry visa.

(d) *Emergency medical treatment.* In cases where a U.S. seaman is evacuated from his vessel to the U.S.S.R. for emergency medical treatment, authorities of the United States will ensure that the seaman departs from the U.S.S.R. within 14 days after release from the hospital.

(e) *Exchange of crews.* The exchange of crews of U.S. fishing vessels in a port in the U.S.S.R. specified above in paragraph (b) of this section will be permitted subject to submission to the Embassy of the U.S.S.R., Washington, DC, at the address listed in paragraph (b) of this section, of applications for individual transit visas and crewman visas for replacement crewmen. Applications must be submitted 14 days in advance of the arrival of the crewmen at a port of the U.S.S.R. and must indicate the names, dates, and places of birth, the purpose of the visit, the vessel to which assigned, and the modes and dates of arrival of all replacement crewmen. Individual passports or seamen's documents must accompany each application. Subject to its national laws and regulations, the Embassy of the U.S.S.R. will affix transit and crewman visas to each passport or seaman's document before it is returned. In addition to the above requirements, the Fisheries Attache, Embassy of the U.S.S.R., Washington, DC, must receive, 14 days in advance of arrival, the name of the vessel and date of its expected arrival, a list of names, dates and places of birth for those crewmen who will be admitted to a port of the U.S.S.R., and the dates and manner of their departure from the port of the U.S.S.R.

(f) *Research vessels.* Special provisions will be made as necessary regarding the entry into ports of the United States or the U.S.S.R. of research vessels of the two countries which are engaged in a mutually agreed research program in accordance with the Agreement. Requests for entries of such research vessels should be forwarded to the competent authorities of the relevant government through diplomatic channels.

(g) *Soviet-imposed sanctions.* (1) The U.S.S.R. will impose appropriate fines, penalties, or forfeitures in accordance with its laws, for violations of its relevant laws or regulations.

(2) In the case of arrest and seizure of a U.S. vessel by Soviet authorities, notification will be given promptly through diplomatic channels informing

the United States of the facts and actions taken.

(3) The U.S.S.R. will release U.S. vessels and their crews promptly, subject to the posting of reasonable bond or other security.

(4) The sanctions for violation of a limitation or restriction on fishing operations will be limited to appropriate fines, penalties, forfeitures, or revocation or suspension of fishing privileges.

§ 299.4 Requirements.

(a) *Compliance with permit requirements.* (1) U.S. nationals and vessels must obtain a permit from the U.S.S.R. in order to fish for fishery resources over which the U.S.S.R. exercises sovereign rights or fishery management authority.

(2) U.S. nationals and vessels fishing for fishery resources over which the U.S.S.R. exercises sovereign rights or fishery management authority must comply with all provisions, conditions, and restrictions of any applicable permit.

(b) *Compliance with Soviet law.* U.S. nationals and vessels fishing for fishery resources over which the U.S.S.R. exercises sovereign rights or fishery management authority must comply with the relevant laws and regulations of the U.S.S.R.

(c) *Protection of marine mammals.* U.S. nationals and vessels fishing for fishery resources over which the U.S.S.R. exercises sovereign rights or fishery management authority must refrain from harassing, hunting, capturing, or killing any marine mammal within the Soviet EZ, and attempting to do so, except as may be provided for by an international agreement to which both the United States and the U.S.S.R. are parties, or in accordance with specific authorization and controls established by the U.S.S.R. Provided, however, that the provisions of the Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*, also shall apply to any person or vessel subject to the jurisdiction of the United States while in the Soviet EZ, and it shall not be a defense to any violation of the Marine Mammal Protection Act that the person or vessel was acting in accordance with any permit or authorization issued by the U.S.S.R.

(d) *Cooperation with enforcement procedures.* (1) The operator of, or any person aboard, any U.S. vessel subject to this part must immediately comply with instructions and signals issued by an authorized officer of the U.S.S.R. to stop the vessel and with instructions to facilitate safe boarding and inspection of the vessel, its gear, equipment, fishing record, and catch for purposes of enforcing the relevant laws and regulations of the U.S.S.R.

(2) The operator of any U.S. vessel must comply with directions issued by authorized officers of the U.S.S.R. in connection with the seizure of the vessel for violation of the relevant laws or regulations of the U.S.S.R.

(3) U.S. nationals and vessels must pay fines and penalties and comply with forfeiture sanctions imposed by the U.S.S.R. for violations of the relevant laws and regulations of the U.S.S.R.

(4) The operator of, and any person aboard, any U.S. vessel subject to this part must immediately comply with instructions and signals issued by an authorized officer of the United States to stop the vessel and with instructions to facilitate safe boarding and inspection of the vessel, its gear, equipment, fishing record, and catch for purposes of enforcing the Magnuson Act and this part.

(e) *Compliance with observer requirements.* The owner of, operator of, and any person aboard, any U.S. vessel fishing in the Soviet EZ to which a Soviet observer is assigned must—

(1) Allow and facilitate, on request, boarding of a U.S. vessel by the observer;

(2) Provide to the observer, at no cost to the observer or the U.S.S.R., the courtesies and accommodations provided to ship's officers;

(3) Cooperate with the observer in the conduct of his or her official duties; and

(4) Reimburse the U.S.S.R. for the costs of providing an observer aboard the vessel.

§ 299.5 Prohibited acts.

It shall be unlawful for any U.S. national:

(a) To fish for Soviet fisheries without obtaining a permit from the U.S.S.R.;

(b) While fishing for Soviet fisheries, to violate the provisions, conditions, and restrictions of applicable permits;

(c) To violate the relevant laws and regulations of the U.S.S.R.;

(d) To harass, hunt, capture, or kill any marine mammal within the Soviet EZ, or to attempt to do so, except as provided in § 299.4(c);

(e) To fail to comply immediately with enforcement and boarding procedures specified in § 299.4(d);

(f) To refuse to allow an authorized officer of the U.S.S.R. to board and inspect a vessel subject to this part for purposes of conducting any search, inspection, or seizure in connection with the enforcement of the relevant laws and regulations of the U.S.S.R.;

(g) To assault, resist, oppose, impede, intimidate, threaten, or interfere with, any authorized officer of the U.S.S.R. in the conduct of any search, inspection, seizure, or arrest in connection with enforcement of the relevant laws and regulations of the U.S.S.R.;

(h) To fail to pay fines or penalties or comply with forfeitures imposed for a violation of the relevant laws and regulations of the U.S.S.R.;

(i) While fishing in the Soviet EZ, to refuse to allow a Soviet observer to board a vessel subject to this part;

(j) To fail to provide to a Soviet observer on board a vessel fishing in the Soviet EZ the courtesies and accommodations provided to ship's officers;

(k) To assault, resist, oppose, impede, intimidate, threaten, interfere with, or fail to cooperate with a Soviet observer placed aboard a vessel subject to this part;

(l) To fail to reimburse the U.S.S.R. for the costs incurred in the utilization of a Soviet observer;

(m) To refuse to allow an authorized officer of the United States to board and inspect a vessel subject to this part for purposes of conducting any search, inspection, or seizure in connection with the enforcement of the Magnuson Act or this part;

(n) To assault, resist, oppose, impede, intimidate, threaten, or interfere with, any authorized officer of the United States in the conduct of any search, inspection, seizure, or arrest in connection with enforcement of the Magnuson Act or this part;

(o) To resist a lawful arrest for any act prohibition under the Magnuson Act or this part;

(p) To interfere with, delay, or prevent by any means, the apprehension of another person, knowing that such person has committed any act prohibited by the Magnuson Act or this part; or

(q) To possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import, or export, any fish or parts thereof taken or retained in violation of the relevant laws and regulations of the U.S.S.R, the Magnuson Act, or this part.

§ 299.6 Penalties.

In addition to any fine, penalty, or forfeiture imposed by the U.S.S.R., nationals and vessels of the United States violating the prohibitions of § 299.5 are subject to the fines, penalties, and forfeitures and the adjudicative procedures provided in the Magnuson Act, 16 U.S.C. 1858, 1860, 1861, and any other applicable laws and regulations of the United States.

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Proposed Rules

Federal Register
Vol. 54, No. 135
Monday, July 17, 1989

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

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Parts 1930 and 1944

Congregate Housing

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations regarding congregate housing under its section 515 rural rental housing program. This action is necessary to provide the public and FmHA personnel with expanded and clearer instructions on congregate housing. The intended effect is to make our regulations more responsive and to further the prudent development of congregate housing in rural America.

DATE: Comments must be submitted on or before September 15, 1989.

ADDRESSES: Submit written comments in *duplicate* to the Chief, Directive and Forms Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6348, South Agriculture Building, 14th Street and Independence Avenue, SW., Washington, DC 20250. All written comments made pursuant to this publication will be available for public inspection during regular work hours at the above address.

FOR FURTHER INFORMATION CONTACT: Eileen Nowlin, Senior Realty Specialist, Multi-Family Housing Processing Division, Farmers Home Administration, USDA, Room 5349—South Agriculture Building, Washington, DC 20250, telephone (202) 382–1608.

SUPPLEMENTARY INFORMATION:

Classification

This proposed rulemaking action has been reviewed under USDA procedures established in Departmental Regulation 1512–1, which implements Executive Order 12291 and has been determined to be "nonmajor" since the annual effect on the economy is less than $100 million and there will be no significant increase in cost or prices for consumers, individual industries, Federal, State or local Government agencies, or geographic regions. Furthermore, there will be no adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States enterprises to compete with foreign based enterprises in domestic or import markets. This action is not expected to substantially affect budget outlay or affect more than one Agency or be controversial. The net result is to provide better service to rural communities.

Background/Discussion

Congregate housing is a unique form of Multiple Family Housing. It should not be confused with or be considered an expansion of an elderly housing project. Congregate housing consists of private apartments and central dining facilities in which services are provided to tenants to enable them to remain independent. Tenants must not require the supervision or additional services provided by an intermediate health care facility.

Although current FmHA regulations contain instructions on making congregate housing loans, additional and more concise guidance is essential to improve program delivery and to aid in the development of successful congregate housing. The major highlights of the proposed revisions include:

Subpart E of Part 1944

—Arranges all instructions pertaining to congregate housing in specific areas. Differentiates between congregate housing and group homes.
—Provides additional design criteria for congregate housing and group homes.
—Describes support services necessary for congregate housing and group homes; lists specific information that must be provided to FmHA on each service component.
—Provides that developers without actual experience or training in the development and management of congregate housing consult with persons or entities experienced with same.
—Expands the information required in market studies for congregate housing.
—Contains Exhibit E which provides further guidance to applicants on the type of information needed at the preapplication stage.

Exhibit J of Subpart C of Part 1930 is added and:

—Details the management requirements of congregate housing and group homes.
—Provides that developers without actual experience or training in the development and management of congregate housing consult with persons or entities experienced with same.
—Provides further guidance on eligible tenants. Distinguishes between tenants who need the services to remain independent and tenants who do not need, but desire services to remain independent.
—Stipulates that tenants who need services to remain independent must agree to use and pay for such services as a condition of occupancy.
—Permits borrowers to maintain separate waiting lists for tenants who need services to remain independent and those who do not need, but desire services to remain independent.

At the current time, the aforementioned regulations contain guidance on congregate housing and group homes. As mentioned, all information on congregate housing and group homes will be contained in specific locations rather than dispersed sporadically throughout the regulation. References changes and the removal of existing guidance on congregate and group housing are not contained in this rulemaking document. The proposed instruction and exhibits to be published in the Federal Register are included in this rulemaking document.

Programs Affected

These programs/activities are listed in the Catalog of Federal Domestic Assistance under Numbers 10.415, Rural Rental Housing Loans and 10.427, Rural Rental Assistance Payments.

Intergovernmental Consultation

For the reasons set forth in the Final Rule related Notice(s) to 7 CFR Part 3015, Subpart V, programs 10.415 Rural Rental Housing Loans and 10.427—Rural Rental Assistance Payments are subject to Executive Order 12372 which requires

intergovernmental consultation with State and local officials.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1949, Pub. L. 91–90, an Environmental Impact Statement is not required.

Regulatory Flexibility Act

This proposed rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities since this rulemaking action does not involve a new or expanded program.

List of Subjects

7 CFR Part 1930

Accounting, Administrative practice and procedure, Grant programs—Housing and community development, Loan programs—Housing and community development, Low and moderate income housing—Rental, Reporting requirements.

7 CFR Part 1944

Administrative practice and procedure, Aged, Handicapped, Loan programs—Housing and community development, Low and moderate income housing—Rental, Mortgages, Nonprofit organizations, Rent subsidies, Rural housing.

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

PART 1930—GENERAL

1. The authority citation for Part 1930 continues to read as follows:

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

Subpart C—Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients

2. In Exhibit B, paragraph II is amended by removing paragraph designations, revising the definition of "Congregate Housing" and adding alphabetically the definitions of "Group Home," "Service Agreement," and "Service Plan," to read as follows:

Exhibit B—Multiple Housing Management Handbook

II Definitions

* * * * *

Congregate Housing. Residential housing consisting of private apartments and central dining facilities in which services are provided to tenants to enable them to remain independent. Tenants must not require the supervision or additional services provided by an intermediate health care facility.

* * * * *

Group Home. Housing that is occupied by elderly, handicapped or disabled tenants sharing living space within a rental unit in which a resident assistant may be required. A group home is generally designed as a single household dwelling but can also be a multi-unit structure.

* * * * *

Service Agreement. A written agreement between the borrower and the congregate or group home service provider detailing the specific service to be provided, the cost of the service and the length of time the service will be provided.

Service Plan. A written plan describing how services will be provided to congregate housing or a group home project. At a minimum, the plan must specify the services to be provided, the frequency of the services, who will provide the services, how tenants will be advised of the availability of services, and the staff needed to provide the services.

* * * * *

3. Exhibit J is added to read as follows:

Exhibit J of Subpart C—Management of Congregate Housing and Group Homes

I Purpose

This exhibit prescribes additional requirements for the management of congregate housing and group homes. It applies in addition to other requirements in this subpart.

II Definitions

Congregate housing. Residential housing consisting of private apartments and central dining facilities in which services are provided to tenants to enable them to remain independent. Tenants must not require the supervision or additional services provided by an intermediate health care facility.

Group Home. Housing that is occupied by elderly, handicapped or disabled tenants sharing living space within a rental unit in which a resident assistant may be required. A group home is generally designed as a single household dwelling but can also be a multi-unit structure.

Service Agreement. A written agreement between the borrower and the congregate or group home service provider detailing the specific service to be provided, the cost of the service and the length of time the service will be provided.

Service Plan. A written plan describing how services will be provided to congregate housing or a group home project. At a minimum, the plan must specify the services to be provided, the frequency of the services, who will provide the services, how tenants will be advised of the availability of services, and the staff needed to provide the services.

III Rent Subsidy Opportunities

Congregate housing and group homes are subject to the provisions of paragraph IV of Exhibit B of this subpart. Subsidy discussed in that paragraph cannot be used to pay for services in congregate housing and group homes.

IV Management Operations

Borrowers must comply with paragraph V of Exhibit B of this subpart in managing congregate housing and group homes. In addition, borrowers must submit a service plan that explains how services will be provided.

A *Borrower's experience.* Borrowers and management agents must outline their experience and plans for providing congregate and group home services when completing the management questionnaire in either Exhibit B–4 or B–5 of this subpart. Borrowers who are not experienced with congregate housing/group homes must obtain assistance from organizations or individuals experienced with congregate issues in developing management and servicing plans. The service provider's experience and ability to furnish the services must be documented.

B *Service plans.* Congregate housing/group home borrowers must submit a service plan that fully details how each service will be provided. At a minimum, the plan must specify the services to be provided, the frequency of the services, who will provide the services and the staff needed to provide the services. See Exhibit E of Subpart E of Part 1944 for guidance on the issues that should be included in the plan. The service plan will be an addendum to the management plan when appropriate, or subject to the signature and authorization requirements of the management plan when the service provider is not the borrower or management agent.

C *Service agreements.* Borrowers must submit a service agreement for each service they do not provide directly. The agreement must stipulate the specific service to be provided, the cost of the service and the length of time the service will be provided. The service agreement will be an addendum to the management agreement when appropriate, or subject to the signature and authorization requirements of the management agreement when the service provider is not the borrower or management agent. Service agreements must be effective for at least 1 year after the project becomes operational.

V Renting Procedure

In addition to meeting the conditions of paragraph VI of Exhibit B of this subpart, borrowers must meet the following conditions.

A *Eligible tenants.* 1 Tenants must meet the general provisions of paragraph VI B of Exhibit B of this subpart and be eligible to occupy elderly housing as defined in paragraph VI B 1 h (2) of Exhibit B of this subpart. Borrowers must be careful to ensure

that all tenants, especially those who need the services to remain independent, can live independently in the project with the scope of services offered.

2 Tenants who need the services to remain independent may have a physical limitation that would make them ineligible tenants in a typical elderly RRH project. Tenants who need the services to remain independent must agree to use them as a condition of occupancy in the project.

B *Tenant selection.* Borrowers must meet the provisions of paragraph VI E of Exhibit B of this subpart. In congregate housing and group homes, a further critical dimension is added for the selection and placement of tenants. This involves determining the ability of a tenant to sustain independence with the support services provided. Borrowers should be further guided by the following in selecting tenants for congregate housing and group homes:

1 *Congregate housing.* a *Tenant mix.* Most tenants living in congregate housing will be people who can live independently who will be able to extend their independence by using services available at the project. Some tenants may need services to enable them to remain independent. Borrowers must establish, in writing, a plan for ensuring an appropriate mix of tenants. The plan should establish a maximum percentage of tenants who need services to remain independent. We suggest that 15 to 30 percent of the tenants should need the services to remain independent. As existing tenants age, the percentage may increase. FmHA must concur with the proposed plan.

b *Determining ability to be independent.* (1) An evaluation of the ability of tenants to sustain independence with the support services provided by the project must be made. This evaluation must be made by a qualified tenant selection committee, which includes a professional medical member, and presented to project management for concurrence. A tenant's likelihood of sustaining independence as a result of living in congregate housing should be verified by one of the following methods:

(A) Certification by a physician or an agency responsible for support services as to a person's ability to remain independent with assistance from services.

(B) By the use of any objective guide, such as Exhibits B 10 and B 10A of this subpart.

(2) When a determination is made concerning a tenant's need for services, he/she will be notified and placed on an appropriate waiting list and the tenant file and/or lease will be documented accordingly.

c *Waiting lists.* To sustain a balanced mix of tenants, management may maintain a separate waiting list for fully independent tenants and tenants who need services to remain independent. Management may choose tenants in order to assure a balanced project as described in paragraph V B 1 (a) of this exhibit. Selection of new tenants should be based on the predetermined tenant mix ratio. If necessary to maintain a balanced project, fully independent tenants may be chosen over tenants who need services or vice versa. The other provisions contained in paragraph VI E of Exhibit B of this subpart concerning waiting lists are applicable.

2 *Group homes.* A group home may limit occupancy to eligible developmentally disabled, elderly or handicapped people. This limitation will be outlined in the borrower's management plan. The following will apply to group homes:

a Tenants of group homes cannot be required to be a part of an ongoing training or rehabilitation program sponsored by the applicant or other organization.

b Prospective tenants may be selected from the local, regional and/or state-wide market area, with priority preference in that order.

C *Determining per unit rental rates for group living arrangements.* A "unit" in a group home consists of the space occupied by a specific tenant household. It may be a traditional apartment unit, a bedroom or a portion of a bedroom. Rents are determined as follows:

1 When all units are of equal size, divide operational costs equally.

2 When all units are not of equal size, determine the size of each unit and divide operational costs accordingly.

a The size of traditional units is their square footage.

b The size of nontraditional units is the bedroom or portion of bedroom occupied by the household and portion of the common area to be used by all potential units in nontraditional units.

3 A unit occupied by a resident assistant is not considered a revenue producing unit and would be excluded from the rent determination.

VI Verification and Certification of Tenant Income, Ability to Live Independently and/or Employment

The provisions of paragraph VII of Exhibit B of this subpart apply. In addition to recertifying income, management must reassess the ability of each tenant to remain independent with the services provided by the project.

VII Lease Agreements

In addition to the conditions contained in paragraph VIII of Exhibit B of this subpart, the following should be addressed:

A *Tenants who need services to remain independent.* If a tenant needs services to remain independent, the lease must contain the following clause:

I agree that I need the following services in order for me to live independently in this congregate housing project. (List necessary services.) I understand that I must pay a monthly charge of $_____ for the services and that this payment will be separate from my monthly rent payment.

B *Inability to remain independent.* The following clause should be included in leases for all congregate housing tenants:

"If management determines that I have become physically or mentally unable to live independently in my apartment with the services provided, I will voluntarily move from this congregate housing project. I understand that management will periodically reassess my ability to live independently, applying the same criteria that was used to determine my initial eligibility for residency. I further agree to use and pay for services as a condition of continued occupancy if management determines that I cannot live independently without them. If I am determined to need services but cannot afford them, I will voluntarily move from this project."

C *Services provided to others than tenants of FmHA financed congregate housing.* If the meal facility serves others than the tenants of the project, the applicant must obtain a lease from the service provider and require payment sufficient to cover the annual operating expenses, debt services and reserve account attributable to the leased portion of the project. Tenants of the congregate housing must have priority in receiving the services. When the facilities are provided with loan funds, the following conditions must be met:

1 The services to be provided and the fees to be charged (if any) must be fully documented in the service plan, if provided by the applicant, or in the service plan and lease agreement if the services will be provided by others. Any lease agreement must be approved by the State Director or the loan approving official and contain the following statement:

2 "This agreement will not be effective until approved by the State Director of the Farmers Home Administration, U.S. Department of Agriculture, or the State Director's delegated representative."

VIII Rent Collection

The provisions of paragraph IX of Exhibit B of this subpart will apply for services as well as rent. Tenants must pay charges for the services as documented in their lease. The payment for rent or services may be made separately or combined.

IX Borrower Project Budgets

Borrowers must separate the revenue and expenses of project operations from the service component. Forms FmHA 1930–6, "Monthly Report," 1930–7, "Statement of Budget and Cash Flow," and 1930–8, "Year End Report and Analysis for Fiscal Year Ending _____," must reflect project operations only.

X Accounting and Reporting Requirements and Financial Management Analysis

Borrowers must maintain separate financial records for the operation and maintenance of the project and the service component. Funds allocated to the operation and maintenance of the project cannot be used to supplement the cost of services. Detailed financial reports on the service component will not be required unless specifically requested by FmHA, but the project audit or verification of accounts must allocate revenue and expense between project operations and the service component.

XI Termination of Tenancy and Eviction

To ensure that congregate housing remains residential and noninstitutional in nature, borrowers must explain clearly to applicants that:

A As a condition of occupancy, tenants must agree to vacate the project when they can no longer remain independent even

though they are assisted with necessary services.

B When tenants can no longer remain independent without using the services, they must agree to use and pay for necessary services.

PART 1944—HOUSING

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

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

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

5. In § 1944.205, paragraphs (d) and (l) are revised, paragraph (ee) is redesignated as paragraph (gg), and paragraphs (ee) and (ff) are added to read as follows:

§ 1944.205 Definitions.

* * * * *

(d) *Congregate Housing.* Residential housing consisting of private apartments and central dining facilities in which services are provided to tenants to enable them to remain independent. Tenants must not require the supervision or additional services provided by an intermediate health care facility.

* * * * *

(l) *Group Home.* Housing that is occupied by elderly, handicapped or disabled tenants sharing living space within a rental unit in which a resident assistant may be required. A group home is generally designed as a single household dwelling but can also be a multi-unit structure.

* * * * *

(ee) *Service agreement.* A written agreement between the borrower and the congregate or group home service provider detailing the specific service to be provided, the cost of the service and the length of time the service will be provided.

(ff) *Service plan.* A written plan describing how services will be provided to congregate housing or a group home project. At a minimum, the plan must specify the services to be provided, the frequency of the services, who will provide the services, how tenants will be advised of the availability of services, and the staff needed to provide the services.

* * * * *

6. Section 1944.244 is added to read as follows:

§ 1944.224 Supplemental requirements for congregate housing and group homes.

This section includes additional provisions that apply to the making of loans for congregate housing and group homes. It applies in addition to all other applicable requirements contained elsewhere in this subpart. Congregate housing and group homes are types of section 515 rural rental housing that require a broader commitment from applicants to ensure that needed and desired services will be provided to prospective tenants. The concept may not be desired or feasible in all market areas. Congregate housing is unique and has many components. It is not merely an elderly housing project with services. It must be designed and managed to meet the needs of aging tenants. The management of congregate housing requires supervision of support services and more interaction and oversight of tenants. We strongly recommend that applicants who have not dealt with this type of housing obtain assistance from organizations or individuals who have experience in planning and designing congregate housing.

(a) *Congregate housing.* Congregate housing will create an environment that will enable fully independent individuals to maintain their independence longer by making available nutritious meals and other services. Congregate housing will also help people who need some services to extend an independent lifestyle.

(1) *Eligible tenants.* Eligible tenants are described in § 1944.205(h) of this subpart and paragraph V A of Exhibit J of Subpart C of Part 1930 of this chapter. Tenants who need the services to remain independent must agree to use them as a condition of occupancy in the project. Fully independent tenants who do not want to participate in the services should be encouraged to explore the availability of housing offered by noncongregate elderly projects.

(2) *Design criteria.* Applicants must pay particular attention to the layout of the structure and the effect of design elements on project management and ongoing operations. Applicants should engage the services of an architect experienced in congregate design. The initial planning of congregate housing should include input on design considerations from project management to prevent the potential long-term affects of poorly conceived design on operations. Congregate housing must be planned and developed in accordance with Subparts A and C of Part 1924 of this chapter. In addition, it must meet the following design criteria:

(i) Applicants must pay particular attention to the site requirements contained in § 1944.215(p) of this subpart. Congregate housing should be located as close to services and shopping as possible. Transportation must be made available to tenants of congregate housing, but the availability of transportation is not to be used as a substitute for good site location.

(ii) Facilities needed to accommodate the services described in § 1944.224(a)(4) of this section must be designed in accordance with acceptable practices. Specific design guidelines are provided in Chapter 1 of Guide 2 of Subpart A of Part 1924 of this chapter. These facilities may be larger than necessary to meet the tenants' requirements if they are needed in the community and other sources of funds are available to pay a pro rata share of the cost.

(iii) The decreasing physical and mental capabilities of the tenants must be considered in the design. The walkways and corridors between living units and the support service facilities must be safe, comfortable and minimal in length. Handrails that comply with the Uniform Federal Accessibility Standards must be provided on at least one side of all public corridors.

(iv) Areas used by the tenants will be separated as much as possible from areas needed for delivery of food and supplies and other building services. Interior spaces and finish materials must be residential in character and designed to help prevent tenants from becoming disoriented within the building(s).

(v) Emergency lighting must be provided in every public space, corridor, stairway, elevator and other means of egress.

(vi) The entrances to all living units must be on a route accessible to the physically handicapped. Living units accessible only via exterior steps or interior stairs will not be acceptable.

(vii) The size of rooms and spaces in the living units must be comparable to units provided in other housing for the elderly. Kitchen facilities must be provided in all living units and include, as a minimum, a cooktop, oven, sink, refrigerator and a food preparation surface.

(viii) The bathroom and one bedroom in each living unit, and any public toilet rooms, must be furnished with an emergency call system that is appropriate for the size and management of the housing facility.

(3) *Management of congregate projects.* Applicants must meet the provisions of Exhibit J of Subpart C of Part 1930 of this chapter in managing congregate housing. In addition to the elements of managing a typical rural rental housing project, congregate housing requires increased management experience and skills. Delivery of services, oversight of tenants and the

decisionmaking process of tenant selection adds a unique dimension to prudent management. The success or failure of a project will rely heavily upon management effectiveness and delivery of services. Applicants who are not experienced with congregate housing must seek assistance from organizations or individuals experienced with congregate issues in developing the management and servicing plans. A separate plan detailing the delivery of services must be submitted with the preapplication. Applicants must also submit separate budgets for operation and maintenance of the project and services.

(4) *Support services.* Exhibit E of this Subpart must be addressed in planning services. Adequate services must be offered to extend the independence of tenants and be reasonably priced to ensure affordability by very low- and low-income tenants. A wide variety of services may be offered; however, in most cases the following services should be provided:

(i) *Meals.* Since some tenants will depend on the meal service as their only sustenance, at least one cooked meal a day, 7 days a week, must be provided. There may be cases where the meal provider does not furnish meals on a daily basis. On days the meal provider does not furnish meals, an alternate source must provide meals to tenants who are not inclined to prepare their own meals. The following conditions apply to meals:

(A) To ensure that the meals are wholesome and meet the needs of individual tenants, a professionally trained dietitian or nutritionist must be involved in planning the menus.

(B) The feasibility of sustained meal service may be dependent on the number of people who elect to pay for it. Tenants who choose to live in a congregate facility should be expected to participate in the meal program; therefore, applicants should solicit tenant participation in the meal service if the economic feasibility of the service depends on user charges.

(C) If the entity that operates the service is eligible to accept food stamps under the regulations of the Food and Nutrition Service (FNS) of the United States Department of Agriculture (USDA), the entity must be authorized by FNS to accept food stamps from tenants for the purchase of meals.

(ii) *Transportation.* Transportation must be provided to the project on a fixed schedule based on tenant needs. Applicants are encouraged to work with public and private transportation sources to develop a dependable and economical method for providing this service. If these sources cannot provide adequate transportation, the applicant must develop a project-sponsored transportation system.

(iii) *Housekeeping.* Housekeeping services must be provided to tenants who require assistance in keeping their units clean. Light housekeeping tasks, such as dusting, vacuuming, floor washing, bathroom cleaning and laundry for bedding, generally should be provided on a weekly basis. Heavier tasks, such as oven cleaning, window cleaning and drapery cleaning, should be provided periodically.

(iv) *Personal services.* Limited nonmedical personal services must be made available to tenants who need them to remain independent. Personal services can include such items as assistance with personal hygiene, nutrition counseling and general health screening. Space may be included in the project for a small beauty shop and health screening area. Applicants should consider contracting for personal services to assure their continued and dependable availability to tenants.

(v) *Recreation/social.* Recreational and social activities should be offered to tenants to encourage interest in a variety of areas. Areas such as hobby and craft classes, special dinners and wellness and exercise classes could be considered.

(5) *Service providers.* Services must be offered at a cost that can be afforded by very low-, low- and moderate-income tenants. Applicants should explore as many service providers as possible to ensure services at the most reasonable cost. Applicants should also research alternate service providers since the original provider may be unable to furnish services in the future. Documentation concerning alternate services must be submitted as part of the preapplication package. Alternate sources should be documented even if the applicant plans to use onsite personnel for services. The availability of services from alternate sources can enhance a proposal's feasibility since long-term services are crucial to the success of congregate housing.

(6) *General service requirements.* Applicants must provide a plan which addresses the long-term availability of assistance from the service providers. As a part of the preapplication, applicants must provide a letter of commitment from each service provider detailing its ability and willingness to provide services. This letter must identify the type, scope, cost, term and any licensing requirements of services that will be provided to the project. As a part of the final application, applicants must provide a service agreement detailing the same information. Service agreements must be effective for at least 1 year after the project becomes operational. Applicants should refer to paragraph IV of Exhibit J of Subpart C of Part 1930 for further guidance.

(7) *Services provided to people who are not tenants of FmHA financed congregate housing.* If the meal facility serves people who are not tenants of the project, the applicant must obtain a lease from the service provider and require payment sufficient to cover the annual operating expenses, debt service and reserve account attributable to the leased portion of the project. Applicants should refer to paragraph VII C of Exhibit J of Subpart C of Part 1930 of this chapter for further guidance.

(b) *Group homes.* Group homes will provide housing in a residential environment for individuals capable of caring for themselves in the basic functions of everyday living. Group homes may be designed for elderly, disabled or other handicapped tenants as defined in § 1944.205 of this subpart. Appropriate common areas and facilities should be included to encourage participation by the tenants under the direction of a staff person in sharing the meal preparation, housekeeping, social and recreational activities within the home. It is not the goal of group homes to provide housing for tenants requiring constant supervision and/or medical attention. The following conditions are applicable to group homes:

(1) A group home is generally designed as a single household dwelling; however, it can also be a small multi-unit structure. Group homes must also meet the following design criteria:

(i) Specific design guidelines are provided in Chapter 1 of Guide 2 of Subpart A of Part 1924 of this chapter.

(ii) The potential decreasing physical and mental capabilities of tenants must be considered in the design.

(iii) Interior spaces and finish materials must be residential in character.

(iv) Emergency lighting must be provided in every corridor, stairway and other means of egress.

(v) The entrances to all living units must be on a route accessible to the physically handicapped.

(2) In some cases, the cost of services may be included as part of the rent; if so, tenants may be paying more than 30 percent of their adjusted income towards shelter cost. Since group home tenants generally have fewer expenses than typical RRH tenants, they may be able to afford more than 30 percent of adjusted income for shelter cost. This

should be considered when assessing the market for a group home.

(3) Prospective tenants must be medically evaluated to determine their ability to sustain independence in a group home. Applicants should be guided by paragraph V A of Exhibit J of Subpart C of Part 1930 of this chapter.

(4) A group home may limit occupancy to a specific group of tenants. For example, a group home may limit occupancy to eligible elderly tenants, developmentally disabled people, or mentally impaired tenants. Refer to Exhibit J of Subpart C of Part 1930 of this chapter for additional information.

(5) A group home may be associated with another organization, such as a workshop for the developmentally disabled. However, it must be a separate entity and able to function without being dependent on another organization.

(6) Applicants must show that adequate support services needed by the tenants will be available on a continuous long range basis. Support services can be provided by the project or by a State or local public agency. A nonprofit organization with an established ongoing service program also may be deemed capable of providing support services.

(7) Food stamps must be accepted from tenants as part of their contribution for meals in accordance with § 1944.224 (a)(4)(i)(C).

(8) Tenants who need services to remain independent should agree to use them as a condition of occupancy in the group home.

(9) Instructions on how to determine the per unit rental rates for group homes are stipulated in Exhibit J of Subpart C of this chapter.

(c) *Market studies for congregate housing and group homes.* In addition to the requirements of Exhibit A–7 of this subpart, the following are applicable to market studies for congregate housing and group homes:

(1) The market study must address the need for housing with services. Local agencies on aging and other groups familiar with the elderly can be a valuable source of information on the needs and wants of elderly people in the market area. Applicants should also consider conducting a mail-out survey to age and income qualified elderly people. Responses to the survey will help in determining many of the specific needs and desires of potential tenants and will enable the applicant to more readily assess if the concept of congregate housing would be accepted by potential tenants in the market area.

(2) An expanded market area may be considered only when the additional communities are part of the trade area and are so rural that they cannot support development of a congregate facility. If an expanded market area is proposed, the market study must establish conclusively that the community will be able to draw enough tenants to ensure feasibility of the project. The market study must clearly identify the expanded area and contain separate information on the additional communities. If used, mail-out surveys must clearly address the probability of respondents relocating to the proposed site.

(d) Congregate housing and group homes must meet all applicable Federal, State and local laws, statutes, codes and/or ordinances pertaining to these types of housing and the services provided.

7. Exhibit E of Subpart E is added to read as follows:

Exhibit E of Subpart E—Support Services for Congregate Housing and Group Homes.

I Purpose

This exhibit prescribes support services for congregate housing and group homes.

II General

The success of congregate housing and group homes will depend on the quality and affordability of the service component. Congregate housing applicants should explore the feasibility of providing services individually to ensure affordability by very low-income tenants. If feasible, fully independent tenants who do not require services to live independently should be given the option of choosing the services they want and can afford.

III Existing Community Services and Requirements

Applicants should check local service agencies to determine what services are already available in the community. Services can often be provided more inexpensively through local service agencies or other groups which assist in providing services to eligible recipients. In many communities there are established volunteer groups that may be willing to provide volunteer assistance to congregate housing tenants. Volunteer groups with a history of assisting elderly people may be able to supplement the delivery of services and help keep the costs affordable. Applicants should explore the availability of volunteers from the Retired Senior Volunteer Program (RSVP), local church groups and other community organizations. If volunteer groups are used, an alternative method of service delivery should be addressed in case the availability of volunteers ceases in the future. Applicants must also verify State and local licensing and certification requirements and include relevant information in the preapplication.

IV Service Agreements

Applicants must submit a service agreement(s) for services that are not provided by personnel employed by the project. In addition, applicants must submit a separate budget for services and describe the method by which tenants will be billed for services. Employees of congregate housing facilities who perform tasks for the management of the building and assist in providing services to tenants should have their salaries prorated between the project's operation and maintenance budget and the services budget.

V Services for Congregate Housing

The following services must be made available to tenants of congregate housing projects:

A *Meals.* At least one nutritious meal a day, 7 days a week, must be provided in accordance with § 1944.224 (e)(i). The following information concerning the meal service must be included with the preapplication:

1 A proposed breakdown of costs for the meal service. The breakdown should include the cost of food, personnel and utilities needed to prepare and serve the meals. Information concerning the proposed staffing should be included.

2 The cost to the tenant. Will tenants pay by the meal or be charged a monthly rate?

3 A statement concerning the frequency of meals, including the number of meals to be served per week.

4 Information concerning how the meals will be served (i.e., waiter style, buffet, tray service).

5 The proposed source of funding (i.e., meals offered by a local agency with tenant contribution; supplied or contracted for by owner with charge to tenant).

6 Any licensing requirement necessary for the service.

B *Transportation.* Adequate transportation must be provided to shopping, medical and other services to meet the needs of the tenants. Applicants are encouraged to locate congregate housing facilities so that tenants can use public services. In many cases, service is available and the applicant can arrange for the project to be included in the schedule established by the provider. The following information concerning the transportation service must be included with the preapplication:

1 A proposed breakdown of costs for the transportation service. The applicant should address the following costs: vehicle purchase or lease payment; personnel to operate the vehicle; fuel; maintenance; and insurance.

2 The cost to the tenant. Will tenants pay for each trip or will they be charged a monthly rate?

3 A typical proposed schedule.

4 The proposed source of funding (i.e., transportation offered by a local agency with tenant contribution; vehicle leased or purchased by applicant with charge to tenant).

C *Housekeeping.* Housekeeping services must be offered to assist congregate tenants with household tasks. The applicant must

address the following concerning the housekeeping service:

1 A proposed cost breakdown for the service which includes the cost of labor and supplies. If the service will be contracted, what will be the cost?

2 The type of tasks that will be offered (i.e., light housekeeping, laundry, shampooing carpeting). What is the planned frequency of the tasks?

3 The cost to the tenant.

4 The proposed source of funding (i.e., housekeeping offered by a local agency with tenant contribution; supplied or contracted for by applicant with charge to tenant).

D *Personal services.* Personal services can include such items as assistance with personal hygiene, nutrition counseling and general health screening (blood pressure checks, etc.). The following information concerning the personal services must be submitted with the preapplication:

1 The type of tasks that will be provided and information concerning who will perform the tasks.

2 The cost to the tenant.

3 The proposed source of funding (i.e., personal services offered by a local agency with tenant contribution; volunteer health services; contracted for by applicant with charge to tenant).

4 Any licensing requirement necessary for the services.

E *Recreational/social.* Recreational and social activities should be offered to tenants to encourage interest in a variety of areas. The following areas could be considered: hobby and craft classes; dinners for holidays, birthdays, etc.; educational lectures; wellness and exercise programs; and a library. The applicant should encourage recreational/social activities which cause interaction between tenants, the project and the community. The following information concerning the recreational/social service must be included with the preapplication:

1 The types and frequency of recreational/social activities that will be offered.

2 The cost to the tenant.

3 The proposed source of funding (i.e., recreational/social activities offered by a local agency with tenant contribution; supplied or contracted for by applicant with charge to the tenant).

VI Services for Group Homes

The following services must be made available to tenants of a group home:

A *Meals.* At least three nutritious meals a day, 7 days a week, must be provided if tenants are not capable of preparing their meals. If meals are provided, the budget may include only the cost of food if tenants assist a staff person in preparing meals. Tenants in some group homes may be able to prepare meals on their own with supervision from project personnel. In these cases, applicants must ensure that the tenants will be preparing nutritious meals.

B *Transportation.* Applicants must submit information on the transportation service as detailed in paragraph V B of this exhibit.

C *Housekeeping.* Applicants must provide a narrative explaining how housekeeping will be accomplished. In many cases, group home tenants assist with housekeeping chores with little expense being borne by the project. Applicants should detail expenses that will be part of the service budget.

D *Personal services.* A higher percentage of tenants in a group may require personal services. Applicants must detail the services to be offered and the cost to tenants.

E *Recreational/social.* In most cases, there will be little expense for recreational/social opportunities in a group home. Applicants should explain what will be offered to the tenants and the projected cost to tenants.

Dated: June 9, 1989.

Neal Sox Johnson,

Acting Administrator, Farmers Home Administration.

[FR Doc. 89–16634 Filed 7–14–89; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 89–ANE–01]

Proposed Amendment To Control Zone, Lebanon, NH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the description of the Lebanon, New Hampshire Control Zone so as to provide protected airspace for instrument flight rules aircraft executing a new Instrument Landing System (ILS) Standard Instrument Approach Procedure (SIAP) to Runway 18 at the Lebanon Municipal Airport, Lebanon, New Hampshire.

DATE: Comments must be received no later than August 15, 1989.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Regional Counsel, Docket No. 89–ANE–01, Attention: Rules Docket Clerk, 12 New England Executive Park, Burlington, MA 01803.

Docket may be examined in the Federal Aviation Administration, ANE–7, 12 New England Executive Park, Burlington, MA 01803.

An informal docket may also be examined during normal business hours at the: Federal Aviation Administration/ANE–530, 12 New England Executive Park, Burlington, Massachusetts 01803, Room 304.

FOR FURTHER INFORMATION CONTACT: Charles Taylor, Airspace Specialist, ANE–530, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts, 01803, Telephone, (617) 273–2428.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Anyone 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. 89–ANE–01." The postcard will be date/time stamped and returned to the originator. 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, ANE–7, 12 New England Executive Park, Burlington, MA 01803, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–300, 800 Independence Avenue SW., Washington, DC 20591 or by calling (202) 267–2441. 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. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to section 171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Lebanon,

New Hampshire Control Zone so as to provide protected airspace for instrument flight-rules aircraft executing a new Instrument Landing System (ILS) Standard Instrument Approach Procedures to Runway 18 at Lebanon Municipal Airport, Lebanon, New Hampshire. Section 171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

The Proposed Amendment

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

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

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

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

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Lebanon, NH [Revised]

Within a 5-mile radius of the center, (latitude 43°37'35" N., longitude 72°18'17" W.), of the Lebanon Municipal Airport, Lebanon, N.H; within 4 miles each side of the DV OM 351 (True) bearing extending from the 5 miles radius zone to 9.5 miles northeast of the DV OM. Within 3 miles each side of the Hanover NDB 231 and 051 bearings, extending from the 5-mile radius zone to 8.5 miles northeast of the NDB; within 2 miles either side of the centerline of Runway 18 extended 5.5 miles from the end of the runway; within 2 miles either side of the White River NDB 060 bearing extending from the 5-mile radius zone to 7.5 miles from the end of Runway 07.

Issued in Burlington, Massachusetts on June 27, 1989.

James I. Lucas,

Manager, Air Traffic Division.

[FR Doc. 89-16673 Filed 7-14-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 75

[Airspace Docket No. 89-ACE-12]

Proposed Alteration of Jet Route J-233

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposed to alter the description of Jet Route J-233 by extending that route from St. Louis, MO, to Vulcan, AL. The proposed jet route would provide aircraft with a route to descend without encountering opposite-direction traffic. This action would improve the flow of traffic into terminal areas and reduce controller workload.

DATES: Comments must be received on or before August 28, 1989.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ACE-500, Docket No. 89-ACE-12, Federal Aviaton Administration, 601 East 12th Street, Federal Building, Kansas City, MO 64106.

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

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

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the propsal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 89-ACE-12." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

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

The Proposal

The FAA is considering an amendment to Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to extend J-233 from St. Louis, MO, to Vulcan, AL. This proposal would reduce congestion and inter-Air Route Traffic Control Center (ARTCC) coordination for climbing and descending traffic between those terminal areas. This action would improve traffic flow in that area and reduce controller workload. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

The FAA has determined that this proposed regulation only involves an

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

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as follows:

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

1. The authority citation for Part 75 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.

§ 75.100 [Amended]

2. Section 75.100 is amended as follows:

J-233 [Amended]

By removing the words "to St. Louis." and by substituting the words "St. Louis; INT St. Louis 148°T(143°M) and Vulcan, AL, 335°T(333°M) radials; to Vulcan."

Issued in Washington, DC, on July 5, 1989

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 89-16664 Filed 7-14-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 75

[Airspace Docket No. 89-ASO-16]

Proposed Alteration of Jet Route J-213; West Virginia

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the description of Jet Route J-213, located in the vicinity of Beckley, WV, by extending that route from Beckley to Louisville, KY, via a south dogleg. The ARMEL standard terminal arrival (STAR) which began at Beckley for transition into several terminal areas would be cancelled. The extension of J-213 would improve the flow of traffic into several terminal areas and would reduce controller workload.

DATES: Comments must be received on or before August 28, 1989.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ASO-500, Docket No. 89-ASO-16, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

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

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

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 89-ASO-16." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

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

The Proposal

The FAA is considering an amendment to Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to alter the description of Jet Route J-213 located in the vicinity of Beckley, WV, by extending that route from Beckley to Louisville, KY. The ARMEL STAR was established from Beckley as a transition route to several east coast airports. The ARMEL STAR would be cancelled and would be replaced by two STAR's using Beckley as the initial starting point. Extending J-213 via a south dogleg would provide an established route in an area where aircraft are usually vectored. This action would reduce controller workload. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

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

number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as follows:

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

1. The authority citation for Part 75 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.

§ 75.100 [Amended]

2. Section 75.100 is amended as follows:

J–213 [Amended]

By removing the words "to Beckley." and by substituting the words "Beckley; INT Beckley 264°T(270°M) and Louisville, KY, 101°T(100°M) radials; to Louisville."

Issued in Washington, DC, on July 5, 1989.

Harold W. Becker,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 89–16665 Filed 7–14–89; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 703

Rule on Informal Dispute Settlement Procedures

AGENCY: Federal Trade Commission.

ACTION: Extension of time for public comment on Advance Notice of Proposed Rulemaking.

SUMMARY: The Federal Trade Commission has granted all interested parties a 60-day extension, until September 15, 1989, of the time for filing public comments on an Advance Notice of Proposed Rulemaking for possible amendments to its rule governing informal dispute settlement procedures (16 CFR Part 703). The Advance Notice, published on May 16, 1989 (54 FR 21070), had provided a 60-day period for submitting written comments ending on July 17, 1989. In addition, the Commission has denied a request for an additional 30-day extension for possible rebuttal on the grounds that such a request was premature.

DATES: Written comments will now be accepted until September 15, 1989.

ADDRESS: Written comments and suggestions should be marked "Rule 703 Review" and sent to the Division of Marketing Practices, Federal Trade Commission, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT:

Carole I. Danielson, Division of Marketing Practices, Federal Trade Commission, Washington, DC 20580, (202) 326–3115

or

Steven Toporoff, Division of Marketing Practices, Federal Trade Commission, Washington, DC 20580, (202) 326–3135

SUPPLEMENTARY INFORMATION: On May 26, 1988, the Attorneys General for the States of Minnesota, California, Connecticut, Florida and New York filed a joint request for an extension of the public comment period on the review of the Commission's Rule Governing Informal Dispute Settlement Procedures, 16 CFR Part 703 ("Rule 703"). In an Advance Notice of Proposed Rulemaking ("ANPR") published on May 16, 1989, the Commission had requested written public comment on whether Rule 703 should remain unchanged, or whether it should be amended (54 FR 21070). The comment period was to have ended on July 17, 1989.

The Attorneys General state that because the revision of Rule 703 could affect the rights of consumers in all states, many states will wish to submit a collective comment on the issues now being raised. The Attorneys General request an extension of 60 days beyond July 17 for submission of their comments in order to notify the individual states, collect responsive information and present the information in a collective answer.

The Attorneys General also request an additional period of not less than thirty days to review and respond to any economic or cost data or factual statements which may be submitted by the petitioners, by an informal dispute setlement mechanism, or by any agent of these parties.

Having considered the request, the complexity of the issues raised by the ANPR, and the desirability of obtaining comments from all interested parties that fully reflect their individual or combined views and experience, the Commission has determined that a 60-day extension of time should be granted to all who wish to comment. Accordingly, the Commission has extended the deadline for filing public comments on the ANPR to September 15, 1989.

The Commission has denied the request of the Attorneys General for an additional rebuttal period to review and respond to certain information which may be submitted during the comment period. This process is only at the ANPR level, which is intended to be an informal procedure, laying out a series of questions to assist the Commission in determining whether to initiate a proceeding to consider amendments to Rule 703 and, if so, what amendments should be considered. If the Commission issues a Notice of Proposed Rulemaking, such Notice would be published in the **Federal Register** and there would be ample opportunity at that time for additional comments and, if appropriate, rebuttal periods. Therefore, the Commission has determined that it would be premature to grant an extension of time to commentors for rebuttal at this stage of the proceeding.[1]

By direction of the Commission, Commissioners Azcuenaga and Strenio dissenting.

Donald S. Clark,

Secretary.

[FR Doc. 89–16798 Filed 7–14–89; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Parts 625 and 645

[FHWA Docket No. 86–13, Notice 3]

RIN 2125–AC 32

Design Standards for Highways; Reference Material; Roadside Design Guide

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking

SUMMARY: The American Association of State Highway and Transportation Officials (AASHTO) has approved and published a document entitled "Roadside Design Guide" which superseded its 1977 "Guide for Selecting, Locating and Designing Traffic Barriers." The FHWA is proposing to replace references to the latter document in 23 CFR Parts 625 and 645 with references to the 1989 "Roadside Design Guide." Further, the FHWA is soliciting comments on whether the "Roadside Design Guide" should be adopted in whole or in part or modified in any way for application to Federal-aid highway projects.

[1] Commissioners Azcuenaga and Strenion agree that the Commission should grant a 60-day extension of the public comment period. However, they dissent from the Commission majority decision to deny the request for a 30-day rebuttal period.

DATE: Comments on the contents and/or application of the "Roadside Design Guide" to Federal-aid Highway Projects must be received on or before October 25, 1989.

ADDRESS: Submit written, signed comments to FHWA Docket No. 86-13, Notice No. 3, Federal Highway Administration HCC-10, Room 4232, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination between 8:30 a.m. and 3:30 p.m. e.t., Monday through Friday, except legal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Richard D. Powers, Office of Engineering, (202) 366-1320, or Mr. Michael J. Laska, Office of the Chief Counsel, (202) 366-1383, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m. e.t., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: The American Association of State Highway and Transportation Officials (AASHTO) has published a document entitled "Roadside Design Guide" which was prepared by the AASHTO Task Force for Roadside Safety. The initiation of this activity was announced on January 12, 1987, at 52 FR 1200 (Docket 86-13, Notice No. 1) and was followed by a status report on February 9, 1988, at 53 FR 3757 (Docket No. 86-13, Notice No. 2). The Roadside Design Guide was approved by the AASHTO Executive Committee in October 1988 and published in March 1989.

The Roadside Design Guide contains state-of-the-practice information on virtually all aspects of roadside safety design including clear zones, topographic and drainage features, sign and luminaire supports, roadside and median traffic barriers, bridge railings, crash cushions and work zone applications of these features. Also included is a section on a cost-effectiveness evaluation procedure developed for use with a microcomputer.

The Roadside Design Guide is not intended to be a policy document or standard as evidenced by its inclusion in 23 CFR as a guide or reference document. However, it can properly be used by a highway agency to develop appropriate policies and standards.

The FHWA, through this notice of proposed rulemaking, is requesting comments on any of the material presented in the "Roadside Design Guide," as well as the effect such information is likely to have on the Federal-aid highway program. Based on a comprehensive analysis of an internal FHWA review and the comments received in response to this notice, the FHWA may develop guidelines for the application of the "Roadside Design Guide" for use on Federal-aid projects. If the "Roadside Design Guide" contains material not acceptable to the FHWA, such material will be noted and excluded at the time it is cited in 23 CFR Parts 625 and 645.

A limited distribution of the Roadside Design Guide has been made by AASHTO to its member agencies and by FHWA to its field offices. Additional copies should be ordered through AASHTO at the following address:

American Association of State Highway and Transportation Officials, 444 North Capitol Street, NW., Suite 225, Washington, DC 20001

The cost is $35.00 per copy, plus a $3.50 postage and handling charge. A copy of the Guide is also available for inspection in the FHWA Public Docket, Room 4232 of the Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

Regulatory Evaluation and Impact

The FHWA has determined that this proposed amendment does not contain a major rule under Executive Order 12291 or a significant regulation under the regulatory policies and procedures of the Department of Transportation. This determination was based on the facts that the Roadside Design Guide is an update and consolidation of earlier publications and generally reflects state-of-the-practice in roadside safety design, and is cited for use as a reference document, not a policy document or design standard.

Regulatory Flexibility Act and Federalism Assessment

Based on the discussions above and under the criteria of the Regulatory Flexibility Act (Pub. L. 96-354), the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities. The FHWA has carefully considered the federalism implications of this action in light of the principles, criteria, and requirements of the President's Executive Order on Federalism, E.O. 12612, October 26, 1987. The FHWA has determined that this proposed rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

List of Subjects in 23 CFR Parts 625 and 645

Design standards, Grant programs—transportation, Highways and roads, Incorporation by reference, Utilities.

In consideration of the foregoing, the FHWA is proposing to amend Chapter I of Title 23, Code of Federal Regulations, Parts 625 and 645 as set forth below:

Issued on: July 10, 1989.

R. D. Morgan,

Executive Director.

The FHWA proposes to amend 23 CFR Parts 625 and 645 as follows:

PART 625—DESIGN STANDARDS FOR HIGHWAYS

1. The authority citation for Part 625 continues to read as follows:

Authority: 23 U.S.C. 109, 315, and 402; 49 CFR 1.48(b).

2. In § 625.5, paragraph (a)(3) is revised to read as follows:

§ 625.5 Guides and References.

* * * * *

(a) * * *

(3) Roadside Design Guide, AASHTO 1989.[3]

PART 645—UTILITIES

Subpart B—Accommodation of Utilities

3. The authority citation of Part 645 continues to read as follows:

Authority: 23 U.S.C. 109, 111, 116, 123 and 315; 23 CFR 1.23 and 1.27; 49 CFR 1.48(b); and E.O. 11990, 42 FR 26961 (May 24, 1977).

§ 645.207 Definitions.

4. In § 645.207, the definition of "clear recovery area" in paragraph (b) is amended by removing reference to the AASHTO "Guide for Selecting, Locating and Designing Traffic Barriers," 1977 and inserting in its place the reference "Roadside Design Guide," 1989.

5. In § 645.211, the introductory paragraph is amended by revising the first three sentences to read as follows:

§ 645.211 State highway agency accommodation policies.

The FHWA shall use the AASHTO publication, "A Guide for Accommodating Utilities Within Highway Right-of-Way," 1981, and should use the AASHTO "Roadside Design Guide," 1989, to assist in the evaluation of adequacy of State highway agency utility accommodation policies. (The Guide for Accommodating Utilities is incorporated by reference and is on file at the Office of the Federal Register in Washington, DC. It is available for inspection from the FHWA Washington Headquarters and all FHWA Division and Regional Offices as prescribed in 49 CFR Part 7, Appendix D. * * *).

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[FR Doc. 89-16582 Filed 7-14-89; 8:45 am]
BILLING CODE 4910-22-M

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49 CFR Part 390

[FHWA Docket No. MC-89-6]

RIN 2125-AC28

Federal Motor Carrier Safety Regulations; General; Motor Vehicle Marking

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: The FHWA is requesting comments on possible revisions to the current requirements contained in 49 CFR 390.21, Marking of Motor Vehicles. Three areas are being considered for possible revision: (1) The applicability of the marking requirements to all commerical motor vehicles operated in interstate commerce, (2) postcard type registration of motor carriers, and (3) the treatment of rental vehicles. The FHWA is considering these issues to ensure that motor vehicles are safely maintained, equipped, loaded and operated. The third area of concern is also being considered in response to a request for interpretation filed by the Truck Rental and Leasing Association (TRALA).

DATE: Comments must be received on or before September 15, 1989.

ADDRESS: Submit written, signed comments to FHWA Docket No. MC-89-6, Room 4232, HCC-10, Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Commenters may, in addition to submitting "hard copies" of their comments, submit a floppy disk (either 1.2Mb or 360Kb density) in a format that is compatible with Word Perfect or WordStar word processing programs. Such commenters should identify the word processing program used in the preparation of the comments. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m. e.t., Monday through Friday, except legal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas P. Kozlowski, Office of Motor Carrier Standards, (202) 366-2981, or Mr. Thomas P. Holian, Office of the Chief Counsel, (202) 366-1350, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: A final rule, published in the **Federal Register** on May 19, 1988 (53 FR 18042, Docket No. MC-114), and effective on November 15, 1988, amended Part 390 of the Federal Motor Carrier Safety Regulations (FMCSRs) by adding a new § 390.21, Marking of motor vehicles. The new rule generally requires every self-propelled commercial motor vehicle operated by a private motor carrier of property in interstate motor carrier of migrant workers to be marked with specific information. The required marking must be located on both sides of the self-propelled vehicle and consist of the motor carrier's name or trade name, the city or community and State [name abbreviated] in which the carrier maintains its principal place of business, or in which the vehicle is customarily based, and the motor carrier identification number, if issued by the FHWA, preceded by the letters "USDOT." The statory authority for the promulgation of this rule is 49 U.S.C. 3104. Accordingly, the FHWA limited the application of this marking requirement to private motor carriers of property and motor carriers of migrant workers expressly covered by this section.

Applicability of the Marking Requirement to All Vehicles Subject to the FMCSRs

The Interstate Commerce Commission (ICC) regulates the marking of commercial motor vehicles operated by another segment of the motor carrier industry. That segment is comprised of 2 groups of for-hire motor carriers, namely, common and contract motor carriers of property or passengers.

The preamble to the final rule issued on May 19, 1988, which established the marking requirement stated:

> There is a segment of the motor carrier industry that neither the DOT nor the ICC has the authority to regulate insofar as vehicle identification and marking is concerned. That segment is known as "exempt carriers." "Exempt carriers" are for-hire motor carriers that have been exempted from economic regulation. This group of for-hire motor carriers is currently subject to Federal safety regulations, but will not be required to mark their vehicles.

Generally, the "exempt carrier" segment is comprised of (1) for-hire motor carriers who transport commodities (e.g., fresh fruits or vegetables) in interstate commerce that are exempt from the economic regulations of the ICC; (2) for-hire motor carriers transporting the U.S. mail in interstate commerce under contract to the United States Postal Service; (3) for-hire motor carriers of passengers transporting school children or school personnel in interstate commerce when such transportation is at the direction and/or under the control of a public school system; (4) for-hire motor carriers of property engaged in the emergency towing of disabled vehicles from the point of disablement to another location in interstate commerce; and (5) for-hire motor carriers of property operating wholly within ICC designated commercial zones.

The FHWA believes that having these groups of motor carriers exempt from any type of marking requirement is a problem. A substantial number of commercial motor vehicles would continue to be operated on public highways with little or no information visible to the general public to identify the operator of a specific vehicle.

The Motor Carrier Safety Act of 1984 (MCSA of 1984) (49 U.S.C. app. 2501-2520 (Supp. II 1984)) authorizes the FHWA to establish a minimum vehicle marking requirement for all commercial motor vehicles, as defined in the MCSA of 1984, if such a requirement will assist in ensuring that commercial motor vehicles are safely maintained, equipped, loaded, and operated. The FHWA believes that a marking requirement for all commercial motor vehicles operated in interstate commerce will assist in ensuring that those vehicles are safely maintained, equipped, loaded, and operated.

The FHWA is interested in receiving comments on a proposal to extend the marking requirements to all self-propelled commercial motor vehicles subject to the Federal Motor Carrier Safety Regulations (FMCSRs). The FHWA is also interested in what effect such requirements would have on foreign motor carriers.

To implement such a new provision, the FHWA would add to the motor carriers now covered under § 390.21, all for-hire motor carriers (including those currently exempt from the ICC's marking requirements) of property and passengers. Should any motor carrier subject to the FMCSRs be exempt from the marking requirements? The FHWA is particularly interested in comments regarding the burden, if any, such a requirement would place on those carriers not currently subject to the FHWA's marking requirements. We believe that the costs associated with an extension of the vehicle marking requirement will be minimal, especially for those motor carriers already required to mark their vehicles (i.e., ICC authorized carriers and private motor carriers transporting hazardous materials).

The FHWA could allow ICC authorized motor carriers to comply with the marking requirements of § 390.21 through the display of their ICC (MC) number. The FHWA's Motor Carrier Census File contains both the ICC number and the FHWA census number (DOT identification number) for each for-hire motor carrier which is required by the ICC to display its identification number. The FHWA believes that it should require the ICC authorized motor carriers to appropriately mark their self-propelled commercial motor vehicles because State enforcement personnel will then be able to enforce the marking requirements if it is part of the FMCSRs and their State safety regulations. We believe that compliance with such a vehicle marking requirement will enhance overall compliance with applicable safety regulations, and will make noncomplying motor carriers more accountable for their noncompliance.

The FHWA believes that with the adoption of a requirement that all commercial motor vehicles operating in interstate commerce be marked with either a DOT identification number or, in the case of ICC authorized carriers, an MC number, the need for individual State mandated motor carrier identification numbers may be duplicative of, or even detract from the Federal requirement. Thus, the FHWA recognizes that Federalism will be an issue in this proposal, and invites public comment on that issue.

The FHWA has long been a proponent of and supported uniformity within the motor carrier industry. The agency has led the way with the advent of the Motor Carrier Safety Assistance Program (MCSAP) and the Commercial Driver License (CDL) program. It is hoped that, in the final analysis, the various States and other government agencies would recognize the DOT identification number as a universal number to be used nationwide as a single motor carrier identifier for a variety of purposes (e.g., International Registration Program (IRP), fuel tax, highway use taxes). The universal use of a single identification number has the potential for saving both the States and the motor carrier industry substantial sums of monies as well as simplifying the motor carrier identification process which could lead to other efficiencies and savings. The FHWA is interested in receiving comments from the various States, other government agencies, and the motor carrier industry, generally, concerning the concept of utilizing a single identification number on a national basis. Motor carriers subject to the ICC requirements should include, in their comments, data regarding the possible remarking of their vehicles with a single identification number (the DOT identification number). The FHWA is also interested in receiving comments on the appropriate size, shape, location and color of the marking from all motor carriers, regardless of type of operation.

Postcard Type Registration

The FHWA's marking requirement was, in part, promulgated to identify the motor carrier population that is subject to the FMCSRs and to assist in maintaining a current, up-to-date census file of all those motor carriers. As required by 49 CFR 385.21, Motor carrier identification report, each motor carrier of property and each for-hire motor carrier of passengers, who operates one or more commercial motor vehicles in interstate commerce, must make a onetime filing with the FHWA on a Form MCS–150. Temporarily, Form MCS–137 is being used in lieu of the Form MCS–150. The FHWA is requesting comments on the adequacy of a one-time filing to properly maintain such a census file. The FHWA is considering the possible use of a postcard type form for annual census purposes. Such a postcard type form would, it is envisioned, replace the Forms MCS–137 and MCS–150 and be filed annually by each motor carrier subject to the FMCSRs. To minimize the paperwork burden, the form would be preprinted with current information, including the carrier identification number, and mailed to the business entities of record on the census each year in late December for return by January 31 of the following year. Additional postcard forms would be made readily available at convenient locations or upon request for new entities or as needed by existing carriers. The following information would be reported and or corrected:

1. Motor carrier's name and U.S. DOT identification number.
2. Motor carrier's principal place of business address and mailing address, if different.
3. Motor carrier's telephone number.
4. Name of the person completing the form.
5. As of December 31, 19__, were you still operating as motor carrier in interstate commerce? (Yes) (No)
6. Do you transport hazardous materials? (Yes) (No)
7. Principal commodity transported?

During the reporting year:

8. Number of straight trucks (over 10,000 pounds GVWR) operated.
9. Number of truck-tractors operated.
10. Number of semi-trailers or full trailers operated.
11. Number of buses (designed to transport 16 or more persons, including the driver) operated.
12. Total number of miles operated in the United States. Bus____ Truck____.

The FHWA is interested in receiving comments from all interested parties concerning the concept of an annual postcard type filing by all motor carriers subject to the FMCSRs and the concurrent discontinuance of Forms MCS–137 and MCS–150. The FHWA is also seeking suggestions on how such a filing should be structured.

Marking of Rental Vehicles

The TRALA has requested that the FHWA amend the marking requirements found at 49 CFR 390.21 and thereby eliminate certain costly operational problems associated with the short-term rental of commercial motor vehicles to private and for-hire motor carriers. The TRALA states:

> The nature of the truck rental industry makes the vehicle marking rules for short term commercial rental vehicles impractical for a variety of reasons. Trucks and tractors that are available for rental to motor carriers are, in fact, rented as frequently as 50–150 times per year. Because of this frequency, any vehicle marking would have to be under the control of the truck rental company. To place the responsibility of vehicle marking on the customer could result in damage or disfigurement to the vehicle. Additionally, if the responsibility is placed on the customer, there will be many inadvertent violations of the regulations due to misunderstanding or confusion on the part of the customer . . . Nearly 15% of the companies that rent vehicles for short term use do not own or operate any trucks of their own. Because [they believe] they are not motor carriers, it is unlikely that they would have a census identification number

In view of the above, the TRALA proposes amending the marking rule as follows:

a. That upon application by a truck rental company, the DOT will issue a census identification number to the company provided it certifies to the DOT that it will display its census number and its own vehicle identification on the side of the vehicle and, it will, upon request of the DOT, provide the identity of any rental customer given the vehicle number and the time and date of a reported driving infraction.

b. That the display of the rental company's own census identification number and vehicle identification number will satisfy the vehicle marking requirements of any motor carriers using rental vehicles in interstate commerce.

[c]. Because the rules do not apply to 'the occasional transportation of personal property by individuals not for compensation nor in the furtherance of a commercial enterprise,' we propose that the rules relating to the marking of Motor Vehicles specifically exclude those vehicles, available for rent by the public, that are primarily dedicated to just such transportation.

The TRALA also proposes that the FHWA require the renting motor carrier's name, address, and DOT identification number be placed on the rental agreement and that rental agreement be carried on the vehicle during the full term of the rental agreement. Further, it proposes that the rental company display conspicuously, on the rental agreement, the following statement: "THIS LESSOR COOPERATES WITH FEDERAL, STATE AND LOCAL LAW ENFORCEMENT OFFICIALS NATIONWIDE TO PROVIDE THE IDENTITY OF CUSTOMERS WHO OPERATE [THIS RENTAL] VEHICLE."

The TRALA contends regulatory uniformity, motor carrier and vehicle identification, and driver identification will be enhanced if its proposal is acted upon affirmatively. The FHWA believes that the TRALA proposal warrants careful consideration.

The FHWA envisions that if the proposed TRALA amendment is adopted, § 390.21 would be modified in a manner similar to that requested by the TRALA. In order for a motor carrier to take advantage of the provision for a rental vehicle and be exempted from placing its name, principal place of business, and DOT identification number on the sides of the self-propelled vehicle, the following conditions would need to be met:

(1) The rental company's (lessor's) name, place of business, and DOT identification number would have to be on both sides of the self-propelled motor vehicle as required by § 390.21.

(2) The motor carrier's (lessee's) name, principal place of business, and DOT identification number, if issued to the carrier, would have to be contained in legible form on the vehicle's rental agreement, and such agreement would be carried on board the vehicle during the full term of the rental agreement.

(3) The rental company would agree to provide the DOT or its designee (State or local enforcement officials), upon request, the identity of any rental customer who has rented a self-propelled commercial motor vehicle from the lessor, provided the DOT or its designee could provide the vehicle number(s), time, and place the vehicle was seen. The lease agreement would indicate, in a conspicuous manner, that the rental company cooperates with Federal, State and local enforcement officials in identifying the lessee of the motor vehicle.

If any of these conditions were not met, the motor carrier could not make use of this provision. If an enforcement official stopped the rental vehicle and any of the requirements were not met, the lessee motor carrier would be in violation of § 390.21. If a rental vehicle were stopped and it did not contain the required motor carrier marking on the vehicle or on the rental agreement, it is possible that the enforcement official would issue a citation for a violation of the marking requirement or any vehicle defect to the lessor since that would be the only identification information available.

The FHWA is seeking comments on this TRALA proposal from interested parties, especially State law enforcement officials charged with the responsibility of enforcing commercial motor carrier safety regulations. The FHWA is especially interested in receiving responses to the following questions; however, commenters need not limit their responses to just these questions and issues.

1. Authorized for-hire motor carriers that have entered into lease arrangements have been, and currently are, required to identify the leased equipment with the name, or trade name, of the motor carrier and MC number under whose authority the vehicle is being operated (49 CFR Part 1058). Has this requirement resulted in damage to the leased commercial motor vehicles?

2. What damage has occurred to date to vehicles which were rented for short time periods and marked as currently required? Are there methods to repeatedly mark vehicles without damaging each vehicle? If so, what are the costs involved?

3. What economic and/or paperwork burdens are being placed on the motor carrier industry if the marking requirements remain unchanged? What burdens would be placed on the industry if the marking requirements are amended as proposed by the TRALA?

4. What impact would the proposed TRALA amendment have upon the ability of State enforcement officials to accurately identify the motor carrier actually operating the rental motor vehicle?

5. If the proposed TRALA amendment is subsequently adopted, should it be limited only to those emergency situations where a motor carrier is supplementing its motor vehicle fleet? If so, should that period of time be limited to 5 days, 10 days, 15 days, 30 days, or some other period?

6. How many vehicle rentals each year could take advantage of the proposed TRALA amendment? Please provide these estimates for each of the time periods set forth in question number 5.

7. Could the amendment proposed by the TRALA be adequately enforced by State enforcement officials?

8. Is there a way, such as requiring rental companies to cover their DOT identification number when renting to noncommercial entities, to clearly indicate to the State enforcement officials that a particular vehicle is engaged in a noncommercial movement?

9. If adopted, should the proposed TRALA amendment be limited to specific operations of the lessee and/or specific types of leasing companies?

10. What experience, if any, have State enforcement officials had with obtaining information from rental companies regarding motor carriers that rented commercial motor vehicles from those companies? Have the rental companies been able to adequately identify the motor carrier and its exact geographic location?

11. What should the penalty be for any violation of the commercial motor vehicle marking requirements?

List of Subjects in 49 CFR Part 390

Highway safety, Highway and roads, Marking requirements, Motor carriers, Motor vehicle safety.

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

Issued on: July 6, 1989.

Eugene R. McCormick,

Deputy Administrator.

[FR Doc. 89-16583 Filed 7-14-89; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 86-1; Notice 3]

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

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

ACTION: Denial of petitions for rulemaking.

SUMMARY: This notice denies petitions for rulemaking filed by Peterson Manufacturing Company, and from the Truck Safety Equipment Institute. The petitions asked for an amendment of the Federal motor vehicle safety standard on replacement motor vehicle lighting equipment to require that such equipment be marked with the SAE lighting code. The agency terminated rulemaking on this subject in 1987, and no new arguments were advanced by the petitioners. In the 21-year history of the lighting standard NHTSA is not aware of a single instance in which product marking to identify either the manufacturer or the function of the device would have helped its enforcement efforts. The petitions are denied.

FOR FURTHER INFORMATION CONTACT: Kevin Cavey, Office of Rulemaking, NHTSA (202-366-5271).

SUPPLEMENTARY INFORMATION: On May 12, 1987, the agency published in the **Federal Register** a notice of termination of rulemaking (52 FR 17791) with respect to a proposed amendment to Standard No. 108 published on January 24, 1986 (51 FR 3227). The 1986 NPRM implemented the grant of a petition for rulemaking submitted by Peterson Manufacturing Company in 1982, and proposed that replacement lighting equipment be marked and identified as to function, in a manner similar to that of SAE Recommended Practice J759 MAY83 *Lighting Identification Code*. The notice also proposed that the previously optional form of certification for such equipment, a DOT mark, be the required method of certification.

After due consideration of the comments, the agency announced its termination of rulemaking, primarily because implementation of the proposal would impose significant cost increases on some manufacturers without a resulting safety benefit.

Two petitions for "reconsideration" of the denial were received, one from Peterson Manufacturing Company, and one from the Truck Safety Equipment Institute (TSEI). The agency's regulation on petitions for reconsideration (49 CFR 553.35) applies to rulemaking actions that result in final rules, but no provision is made for appeals or reconsideration of agency action resulting in termination of rulemaking. Accordingly, these petitions were treated as *de novo* petitions for rulemaking.

Comments expressing disagreement with the agency's decision were also received from Dominion Automotive Industries and Federal Mogul Corporation. Peterson argued that cost increases would be attributable only to mandatory certification, as all domestic manufacturers were already using the SAE Code, and that it had amended its petition in 1984 to withdraw its request for mandatory DOT marking. It also remarked that it seemed fundamental that a product required to comply with a Federal safety standard should be identified so that its manufacturer is known. It therefore requested continuation of the rulemaking in accordance with its 1984 amended petition, but with an updated version of the SAE Code, J759 OCT85. TSEI joined Peterson in recommending deletion of the mandatory and cost-adding DOT certification. It also argued that most products are already marked with the SAE Code, and that product marking is universal in the European Community, Japan, and Canada, and that its requirement in Standard No. 108 would add no burden. The comments received from Dominion Automotive Industries and Federal Mogul Corporation were similar.

The agency has reviewed these comments. The safety need for product marking is not clearly demonstrated. When NHTSA first considered product marking, it was in the context of enhancing enforcement of Standard No. 108 against offshore manufacturers of lighting equipment. However, NHTSA's Office of Enforcement has concluded that there has been no case in the 21-year history of Standard No. 108 where marking to identify either the manufacturer or the function of lighting equipment would have assisted enforcement of the standard. Pursuant to 49 CFR 552.8, the technical review has been concluded, and it has been determined that there is no reasonable possibility that the order requested in the petition would be issued at the conclusion of the appropriate proceeding. Therefore the petitions by Peterson and TSEI are denied.

(15 U.S.C. 1392, 1407; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: July 12, 1989.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 89-16648 Filed 7-14-89; 8:45 am]

BILLING CODE 4510-59-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Public Hearing on Proposed Endangered Status for Salpingostylis Coelestina (Bartram's ixia)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule: notice of public hearing.

SUMMARY: The Service gives notice that a public hearing will be held on the proposal to list *Salpingostylis coelestina* (Bartram's ixia), a plant native to northeastern Florida, as an endangered species pursuant to the Endangered Species Act of 1973 (Act), as amended. The hearing will allow all interested parties to orally submit comments on this proposal.

DATES: The public hearing will be held from 7:00 p.m. to 9:00 p.m. on August 3, 1989, in Neptune Beach, Florida. The comment period on the proposal, scheduled to close August 17, 1989, remains unchanged.

ADDRESSES: The public hearing will be held at the Beaches Branch Library, 600 Third Street, Neptune Beach, Florida. Written comments and materials concerning the proposal should be sent directly to the Jacksonville Field Office, U.S. Fish and Wildlife Service, 3100 University Boulevard South, Suite 120, Jacksonville, Florida 32216. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: David J. Wesley, Field Supervisor, at the above address (telephone: 904/791-2580 or FTS 946-2580).

SUPPLEMENTARY INFORMATION:

Background

Salpingostylis coelestina (Bartram's ixia) is a grassy-leafed, perennial herb belonging to the iris family (Iridaceae). *Salpingostylis coelestina* is about 30 centimeters (1 foot) tall. The flowers are 5 centimeters across, with six violet petals. The species occurs only in northeastern Florida, in Baker, Bradford,

Clay, Duval, St. Johns, and Union Counties. The species is threatened by habitat loss due to residential land development, by habitat alteration due to the planting of dense stands of pine for pulpwood, and by suppression of naturally-occurring fires that formerly maintained open, grassy understory vegetation beneath the pines. *Salpingostylis coelestina* was proposed for listing as an endangered species, with no critical habitat, in the **Federal Register** of May 19, 1989 (54 FR 21632).

Section 4(b)(5)(E) of the Endangered Species Act of 1973, as amended, requires that a public hearing be held if it is requested within 45 days of the publication of a proposed rule. On June 30, 1989, the Service received a written request for a public hearing from Mr. Armond R. Tomassetti, vice president of Rayland Company, Inc., a subsidiary of ITT Rayonier. On July 3, the Service received written requests from Mr. W.D. Ericksen, Director, Forest Resources Southeast, RTOC Limited Partnership (ITT Rayonier Inc. Southeast Forest Resources), and from Mr. William E. Durham, General Manager, Southwood Properties (a division of St. Joe Paper Company).

The Service has scheduled this public hearing for August 3, 1989, from 7:00 p.m. to 9:00 p.m. in the conference room of the Beaches Branch Library on highway A1A (Third Street) three blocks south of its junction with U.S. Highway 90 (Atlantic Boulevard), in Neptune Beach, Florida. Those parties wishing to make statements for the record should bring a copy of their statements to present to the Service at the Start of the hearing. Oral statements may be limited in length, if the number of parties present at the hearing necessitates such a limitation. There are, however, no limits to the length of written comments or materials presented at the hearing or mailed to the Service. The comment period for this proposal closes on August 17, 1989. Written comments should be submitted to the Service office in the **ADDRESSES** section.

Author

The primary author of this notice is David Martin, Jacksonville Field Office, U.S. Fish and Wildlife Service, 3100 University Boulevard South, Suite 120, Jacksonville, Florida 32216 (904/791-2580 or FTS 946-2580).

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1531 *et seq.*, Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411; Pub. L. 99-625, 100 Stat. 3500; Pub. L. 100-478, 102 Stat. 2306, unless otherwise noted).

List of Subjects in 50 CFR Part 17

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

David B. Allen,

Acting Regional Director.

Dated: July 11, 1989.

[FR Doc. 89-16646 Filed 7-14-89; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 90649-9149]

RIN 0648-AC40

Atlantic Bluefin Tuna Fishery

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

ACTION: Proposed rule.

SUMMARY: NOAA issues this proposed rule to change the time frame during which the daily catch rate for giant Atlantic bluefin tuna in the General category may be adjusted, and to prohibit the use of spotter aircraft as an aid to fishing for Atlantic bluefin tuna in all but the Purse seine category. For the past several years the General category quota has not been taken. Allowing an adjustment of the daily catch rate from the beginning of the fishing season should provide for full use of the quota. Banning the use of spotter aircraft should maintain the traditional nature of the Harpoon Boat category and prevent the catch from being concentrated among fewer vessels.

DATE: Comments on this proposed rule must be received on or before August 7, 1989.

ADDRESSES: Comments on the proposed rule should be sent to Richard Roe, Regional Director, National Marine Fisheries Service, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on Atlantic Bluefin Tuna Regulations."

FOR FURTHER INFORMATION CONTACT: Kathi Rodrigues, Atlantic Bluefin Tuna Policy Analyst, Plan Administration Branch, NMFS Northeast Regional Office, 508-281-9324.

SUPPLEMENTARY INFORMATION: The regulations that govern the Atlantic bluefin tuna fishery at 50 CFR Part 285 provide at § 285.24(a), that the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), on or about September 1, may adjust the daily catch limit for the General category to a maximum of three giant Atlantic bluefin tuna (ABT) per day per vessel.

This provision was first implemented in 1984 (49 FR 29796, July 24, 1984). At that time, the availability of ABT to fishermen was much higher than it has been the last 3 years. An objective of the ABT regulations is to provide an opportunity to fish for ABT to as many participants in the fishery as possible. To foster this objective, the catch limit was set at one ABT per day per vessel for the General category. A multiple catch limit would have resulted in an early attainment of the quota and closure of the fishery due to the relatively greater availability of ABT and the ability of a small number of experienced and successful participants in the fishery to catch large numbers of these fish. The September 1 date was chosen because most of the occasional participants in the fishery would have finished their fishing for the season by that date. After September 1, there was no compelling reason to keep the daily catch limit at one ABT per day if a sufficient portion of the quota remained.

The circumstances of the fishery have changed dramatically since the daily catch limit was first implemented. In 1988, only a little over one-half of the quota for the General category was harvested. NOAA has concluded that the daily catch limit was a factor in not harvesting the quota. Since the purpose of the catch limit is to allow for the maximum use of the quota while ensuring that the season remains open from June to October, a more flexible approach to adjusting the daily catch limit seems appropriate. This rule would remove the reference to the September 1 date in the regulation, and allow the Assistant Administrator to adjust the daily catch limit upward or downward at any time during the season as circumstances warrant.

In 1988, NMFS received a petition from a number of harpoon fishermen to ban the use of spotter aircraft in all but the Purse Seine category. (Banning the use of spotter aircraft in the Purse Seine category would essentially prevent the harvest of the quota for that category.) A meeting was held with representatives of the harpoon fishermen to explore the issue. They complained that the proliferation of spotter aircraft, particularly in the Harpoon Boat category, was changing the traditional nature of the fishery. On March 31, 1988, NMFS published a notice (53 FR 10415) soliciting comments on the petition.

Many comments were received, the majority of which supported the ban. A meeting was also held with a number of spotter pilots who presented information in rebuttal to the information provided by the harpoon fishermen.

The Harpoon Boat category was established in 1980 based upon information supplied by a small number of harpoon fishermen. They presented evidence that supported the conclusion that there was a small traditional fishery that should be segregated from the General category. The harpoon fishery could only be pursued under optimal weather and sea conditions since one had to be able to see the fish to make an accurate strike with a harpoon. The fact that there are a limited number of days during the season that permit the fish to be harvested by this technique supports a multiple daily catch allowance. Applying the General category daily catch limit could severely hamper the ability of traditional harpooners to take even the small quota that was set aside for the Harpoon Boat category.

After a review of all the information presented on this issue, NMFS believes that it is in the best interests of the fishery to prohibit the use of spotter aircraft to aid in the harvest of ABT, except in the Purse Seine category. NMFS believes that the growing use of these aircraft changes the traditional nature of both the Harpoon Boat and General categories since optimal weather and sea conditions are less important for harpooners fishing with the aid of aircraft. The use of these aircraft, together with the large increase of vessels permitted in the Harpoon Boat category, has greatly accelerated the rate at which their quota is caught. NOAA believes that a number of boats are attracted to this category because of the lack of a daily catch limit and the possibility of enhancing their catch through the use of an airplane.

NMFS is also concerned that the use of aircraft will concentrate the catch among fewer vessels. Information provided to NMFS indicates that roughly 80 percent of the 1988 catch in the Harpoon Boat category was harvested by the 4% of the vessels in the category assisted by aircraft.

In addition to fewer individuals catching most of the fish, an increased catch rate may cause a premature closure of the fishery, precluding many others a reasonable opportunity to fish. There is also concern that the increased pressure represented by the use of these aircraft will cause the fish to sound, thereby decreasing opportunity for their capture by traditional methods.

The use of spotter aircraft also poses safety concerns. NMFS has an obligation to manage this fishery through regulations that do not jeopardize the safety of participants. This concern is currently reflected in the requirement that only a vessel that is capable of traveling to and from the fishing grounds under its own power is eligible for a permit. To allow otherwise, given the value of these fish and the distance of the fishing grounds from shore, could induce someone to take an unreasonable risk. The use of a spotter aircraft allegedly attracts other vessels. This could prove dangerous if several vessels converge in the area. The experience that gave rise to the requirement that vessels had to stay 100 yards (91.4 m) or more from the corkline of a purse seine net fishing for ABT provides ample evidence of the risk to vessel and personal safety represented by several boats attempting to harvest the same fish.

Consequently, NMFS believes that a ban on the use of spotter airplanes is necessary to ameliorate the problems cited above.

Classification

The Northeast Regional Office is preparing an environmental assessment for this rule. You may obtain a copy of the environmental assessment from the address listed above. The Under Secretary for Oceans and Atmosphere, NOAA (Under Secretary) has determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. The proposed action will not have a cumulative effect on the economy of $100 million or more, nor will it result in a major increase in costs to consumers, industries, government agencies, or geographical regions. No significant adverse effects on competition, employment, investment, productivity, innovation, or competitiveness of U.S. based enterprises are anticipated.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. The proposal to ban the use of aircraft to assist ABT fishing operations will not affect a substantial number of entities because only about ten of the estimated 10,000 vessels in the fleet use aircraft at the present time. Therefore, approximately ten pilots will be affected as well. These pilots generally derive the bulk of their employment from the swordfish, menhaden, and bluefin tuna purse seine fisheries. Because the use of aircraft in the bluefin tuna handgear fisheries is a new development, the degree of investment has not been such that a substantial economic impact would result. However, it does appear that the introduction of spotter aircraft may have a significant impact on the traditional fishermen who are being displaced. Furthermore, the purpose of the proposed change in the daily catch limit time frame is to relieve a regulatory restriction on the participants in the General category to allow full use of the quota. Removing the reference date for a decision to adjust the daily catch limit will allow the Assisant Administrator to set the daily catch limit to reflect the availability of the fish during a fishing season. As a result, a regulatory flexibility analysis was not prepared.

The Under Secretary determined that this proposed rule does not contain a collection-of-information requirement subject to the Paperwork Reduction Act.

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

List of Subjects in 50 CFR Part 285

Fisheries, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: July 11, 1989.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR Part 285 is proposed to be amended as follows:

PART 285—ATLANTIC TUNA FISHERIES

1. The authority citation for Part 285 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*

2. Section 285.24 is amended by revising paragraph (a) to read as follows:

§ 285.24 Catch limits.

(a) From June 1, vessels permitted in the General category under § 285.21(b) may catch only one giant Atlantic bluefin tuna per day per vessel. The Assistant Administrator may adjust the daily catch rate limit to a maximum of three giant Atlantic bluefin tuna per day per vessel based on a review of dealer reports, daily landing trends, availability of the species on the fishing grounds, and any other relevant factors, to provide for maximum utilization of the quota. The Assistant Administrator will publish a notice in the **Federal Register** of any adjustment in the allowable daily catch limit made under this paragraph. Operators of vessels permitted in the General category may

possess giant Atlantic bluefin tuna in an amount not to exceed a single day's catch as allowed by the daily catch limit in effect at that time.

* * * * *

3. Section 285.31 is amended by adding a new paragraph (a)(30) to read as follows:

§ 285.31 Prohibitions.

(a) * * *

(30) Use an aircraft as an aid to fish for Atlantic bluefin tuna, unless a valid permit for the Purse Seine category has been issued to the vessel.

* * * * *

[FR Doc. 89-16639 Filed 7-14-89; 8:45 am]
BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 54, No. 135
Monday, July 17, 1989

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

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

Science and Education Competitive Research Grants Office Advisory Committee; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the Cooperative State Research Service announces the following meeting:

Name: Science and Education Competitive Research Grants Office Advisory Committee

Date: August 29, 1989

Time: 9:00 a.m. to 5:00 p.m.

Place: U.S. Department of Agriculture, Room 338–C, Aerospace Building, 901 D Street, SW., Washington, DC 20250

Type of Meeting: Open to the public. Persons may participate in the meeting as the time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person listed below.

Purpose: To advise the Secretary of Agriculture with respect to the research to be supported, priorities to be adopted and emphasized, and the procedures to be followed in implementing those programs of research grants to be awarded competitively.

Contract Persons for Agenda and More Information: Dr. William D. Carlson, Associate Administrator, Office of Grants and Programs Systems, Cooperative State Research Service, U.S. Department of Agriculture, Room 324–A Administration Building, Washington, DC 20250, Telephone 202–475–5720.

Done at Washington, DC this 30th day of June, 1989.

John Patrick Jordan,

Administrator.

[FR Doc. 89–16676 Filed 7–14–89; 8:45 am]

BILLING CODE 3410–MT–M

Soil Conservation Service

Eloy Watershed, AZ

AGENCY: Soil Conservation Service.

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 Procedures (190-GM Part 410); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Eloy Watershed, Pinal County, Arizona.

FOR FURTHER INFORMATION CONTACT: Charles R. Adams, State Conservationist, Soil Conservation Service, 201 East Indianola Ave., Suite 200, Phoenix, AZ 85012, telephone (602) 241–2248.

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, Charles R. Adams, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project. The project concerns a plan to conserve groundwater. The planned works of improvement include reorganization of inadequate irrigation systems, measuring devices, field turnouts, and accelerated technical assistance for irrigation water management.

The Notice of a 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 Barton E. Ambrose, Assistant State Conservationist for Programs.

No administrative action or 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.)"

Charles R. Adams,

State Conservationist.

Date: June 29, 1989.

[FR Doc. 89–16586 Filed 7–14–89; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–805]

Final Determination of Sales at Less Than Fair Value; Martial Arts Uniforms From Taiwan

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that martial arts uniforms from Taiwan are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to continue to suspend liquidation of all entries of martial arts uniforms from Taiwan as described in the "Suspension of Liquidation" section of this notice. The ITC will determine, within 45 days of the publication of this notice, whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

EFFECTIVE DATE: July 17, 1989.

FOR FURTHER INFORMATION CONTACT: Mary Martin or Mary S. Clapp, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW. Washington, DC 20230; telephone: (202) 377–2830 or 377–3965, respectively.

SUPPLEMENTARY INFORMATION:

Final Determination

We determine that martial arts uniforms from Taiwan are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735(a) of the Tariff Act of 1930,

as amended, 19 U.S.C. 1673d(a) (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Subsequent to our April 24, 1989, affirmative preliminary determination (54 FR 18562, May 1, 1989), the following events have occurred. In letters dated May 22, 1989, the Department advised the respondents, Taiwan Hsin Sheng Industrial Co. (Hsin Sheng) and Kuang Fong Industrial Co., Ltd. (Kuang Fong), that we continued to find significant deficiencies in their submissions, and that we, therefore, would use the best information otherwise available in accordance with section 776(c) of the Act, 19 U.S.C. 1677e(c), for purposes of our final determination. The petitioner requested a public hearing and submitted a case brief on May 19, 1989. On May 31, 1989, the Department held a public hearing. No comments were submitted by Kuang Fong. Comments submitted by Hsin Sheng were untimely and were, therefore, returned pursuant to § 353.38(a) of the Commerce Department regulations published in the Federal Register on March 28, 1989 (54 FR 12742) (to be codified at 19 CFR 353.38(a)).

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of Customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule (HTS) as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered or withdrawn from warehouse for consumption on or after this date will be classified solely according to the appropriate HTS item numbers. The HTS item numbers are provided for convenience and U.S. Customs Service purposes. Because the U.S. Customs Service advised us that the HTS subheadings for these articles as set forth in our preliminary determination were incomplete, we have amended our listing to conform to the HTS subheadings for these products as designated by the U.S. Customs Service. The ITC concurs with these changes. The written description remains dispositive.

The products covered by this investigation include the following articles: martial arts uniforms for men, boys, women, girls and infants. The uniforms consist of tops, pants and belts and are imported from Taiwan separately or as ensembles. They are made of cotton or of man-made fibers, either ornamented or not ornamented. They are suitable for wearing while practicing all forms of martial arts, including but not limited to: Judo, Karate, Kung Fu, Tae Kwon Do, Ninja, Ninjutsu, Hakama, Tai Chi, Jujitsu and Hapkido. The products covered by this investigation are currently provided for under the following revised listing of HTS subheadings: 6203.22.1000, 6203.23.0060, 6203.23.0090, 6203.29.2030, 6203.29.2060, 6204.22.1000, 6204.23.0040, 6204.23.0060, 6204.29.2020, 6204.29.2050, 6203.42.4015, 6203.42.4045, 6203.43.4010, 6203.43.4020, 6203.49.2010, 6203.49.2030, 6204.62.4020, 6204.62.4050, 6204.63.3510, 6204.63.3530, 6204.69.2510, 6204.69.2530, 6209.20.3000, 6209.20.5035, 6209.20.5045, 6209.20.5050, 6209.30.2000, 6209.30.3020, 6209.30.3030, 6209.30.3040, 6209.90.2000, 6209.90.3020, 6209.90.3030, 6209.90.3040, 6211.32.0060, 6211.32.0080, 6211.33.0040, 6211.33.0060, 6211.42.0050, 6211.42.0080, 6211.43.0060, 6211.43.0090, 6217.10.0010, and 6217.10.0030.

Period of Investigation

The period of investigation (POI) was June 1, 1988, through November 30, 1988.

Fair Value Comparisons

To determine whether sales of martial arts uniforms from Taiwan to the United States were made at less than fair value, we compared the United States price to the foreign market value. Because the respondents failed to provide adequate responses to the Department's questionnaire, we used the best information otherwise available for determining the estimated dumping margins in this determination pursuant to section 776(c) of the Act, 19 U.S.C. 1677e(c). In this case, the best information otherwise available was the information contained in the petition.

As detailed below, substantial omissions and deficiencies in both respondents' responses precluded any reasonable price-to-price comparisons. Neither respondent provided an adequate product concordance, nor any cost information pertaining to adjustments for differences in merchandise. Furthermore, Hsin Sheng did not provide warranty or guarantee expenses, although it admitted shipping "free goods" to replace defective goods. In addition, Hsin Sheng's credit expenses were reported incorrectly. Kuang Fong failed to provide credit expenses and packing costs.

United States Price

United States price was based on the United States price information provided in the petition.

Foreign Market Value

Foreign market value was based on home market prices provided in the petition.

Verification

Because of the substantial omissions and deficiencies contained in both respondents' responses, verification was not conducted.

Interested Party Comments

Comment 1

Petitioner alleges that the Department's final determination should be based on a dumping margin higher than the 8.50 percent best information available rate used in the preliminary determination. Petitioner argues that:

1. The period of investigation did not address the time when the most serious dumping occurred;

2. Department statistics indicated that the actual export prices to the U.S. of products covered by TSUSA item numbers 384.5000 and 381.6300 were lower than the estimates in the petition; and

3. The third country selling price and the constructed value approaches yielded dumping margins greater than the 8.50 percent used in the preliminary determination.

DOC Position

We have determined that it is appropriate to continue using the 8.50 percent rate used for the preliminary determination as the best information otherwise available for the final determination. This rate is the one petitioner used in its petition as the basis for its less than fair value allegation.

With respect to petitioner's first point, the Department followed its normal practice of using a six-month POI which ended with the month in which the petition was filed. This definition of the POI is in accordance with § 353.42(b)(1) of the Department's regulations. The fact that more significant less than fair value sales may have occurred one or two years earlier is not relevant to our investigation because we base our determinations on current data. Therefore, since no evidence was presented indicating that the POI was unrepresentative due to a lack of sales activity, we have followed our normal practice.

With respect to petitioner's second point, we do not consider it appropriate to base the BIA dumping margin on the Department's statistics. Our position is based on the fact that the statistics on which petitioner relies are derived in part from entry documents submitted by importers to the U.S. Customs Service. In this case the petitioner has made certain allegations that Hsin Sheng has not accurately reported the prices of its goods on invoices which were filed with the U.S. Customs Service for duty assessment purposes. Hsin Sheng has also indicated to the Department that prices it lists on invoices, which are submitted to the U.S. Customs Service, may differ from the actual prices charged for such merchandise. This matter has been referred to the U.S. Customs Service for appropriate action. Because the U.S. Customs data are aggregated by product category, questionable data from one exporter throws into question the aggregate product statistics compiled by U.S. Customs. Under these circumstances, the Department does not find that this alternative presents us with the best information available upon which to make margin calculations.

Finally, with respect to petitioner's third point, we did not use these alternative approaches in view of our preference for the use of home market prices in accordance with section 773(a)(1) of the Act, 19 U.S.C. 1677b(a)(1) and § 353.46 of the Department's regulations. Accordingly, we have based our BIA rate on the estimate of the home market price given in the petition.

Continuation of Suspension of Liquidation

We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of martial arts uniforms from Taiwan that are entered or withdrawn from warehouse for consumption on or after the date of publication of this notice in the **Federal Register**. The U.S. Customs Service shall continue to require a cash deposit or posting of a bond equal to the estimated amounts by which the foreign market value of martial arts uniforms from Taiwan exceeds the United States price as shown below. This suspension of liquidation will remain in effect until further notice. The margins are as follows:

Manufacturer/producer/exporter	Margin percentage
Hsin Sheng	8.50
Kuang Fong	8.50
All Others	8.50

ITC Notification

In accordance with section 735(d) of the Act, 19 U.S.C. 1673d(d), we have notified the ITC of our determination. In addition, pursuant to section 735(c)(1) of the Act, 19 U.S.C. 1673d(c)(1), we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

If the ITC determines that material injury, or threat of material injury, does not exist, the proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that material injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on martial arts uniforms from Taiwan entered, or withdrawn from warehouse, for consumption, on or after the effective date of the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price.

This determination is published pursuant to section 735(d) of the Act, 19 U.S.C. 1673d(d).

July 10, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89–16699 Filed 7–14–89; 8:45 am]

BILLING CODE 3510–DS–M

University of Wisconsin; Decision for Duty-Free Entry of Scientific Instrument; Correction

In FR Doc. 89–15778 at page 28458 in the **Federal Register** of July 6, 1989, Docket Number: 89–159R2 appearing in the last paragraph of column 3 should read Docket Number: 87–159R2.

Leonard E. Mallas,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 89–16700 Filed 7–14–89; 8:45 am]

BILLING CODE 3510–DS–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Extension of Coverage of Export Licensing Requirements for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in the People's Republic of China

July 12, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs exending coverage of export licensing requirements.

EFFECTIVE DATE: August 1, 1989.

FOR FURTHER INFORMATION CONTACT: Jerome Turtola, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

Coverage of the current export licensing system between the Governments of the United States and the People's Republic of China is being extended to include merged Categories 330/630 and part-Categories 863–S and 863–O, produced or manufactured in China and exported from China on and after August 1, 1989.

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 (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 49 FR 7264, published on February 28, 1984; and 52 FR 28741, published on August 3, 1987.

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 12, 1989.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on February 23, 1984, as further amended on July 29, 1987, by the Chairman, Committee for the Implementation of Textile Agreements. You were directed to prohibit entry and withdrawal from warehouse for consumption in the United States of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile

products, produced or manufactured in the People's Republic of China for which the Government of the People's Republic of China has not issued an appropriate export license.

Effective on August 1, 1989, the directive of February 23, 1984 is amended further to include cotton and man-made fiber textile products in merged Categories 330/630 and silk blend and other vegetable fiber textile products in part-Categories 863–S [1] and 863–O [2], produced or manufactured in China and exported from China on and after August 1, 1989.

Shipments entered or withdrawn from warehouse on or after August 1, 1989 and exported on and after August 1, 1989 which are not accompanied by an appropriate export license shall be denied entry and a visa waiver must be obtained.

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,

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89–16698 Filed 7–14–89; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Mauritius

July 12, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: July 19, 1989.

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. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain cotton and man-made fiber textile products are being increased variously, for carryover and swing.

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 (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 53 FR 49584, published on December 8, 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.

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 12, 1989.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on September 20, 1988 by the Chairman, Committee for the Implementation of Textile Agreement. This directive concerns imports into the United States of certain cotton and man-made fiber textiles and textile products, produced or manufactured in Mauritius and exported during the twelve-month period which began on October 1, 1988 and extends through September 30, 1989.

Effective on July 19, 1989, the directive of Sept. 20, 1988 is amended to include the following adjusted limits, as provided under the terms of the current bilateral agreement between the Governments of the United States and Mauritius:

Category	Adjusted 12 mo limit [1]
340/640	419,880 dozen.
340–Y/640–Y [1]	259,575 dozen.
347/348	510,957 dozen.
331	165,334 dozen pair.

[1] In Categories 340–Y/640, only tariff numbers 6205.20.2015, 6205.20.2020, 6205.20.2046, 6205.20.2050, and 6205.20.2060 in Category 340–Y; and 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060 in Category 640–Y.

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,

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89–16696 Filed 7–14–89; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Taiwan

July 12, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: July 19, 1989.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, 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) 566–8791. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories in Group II are being adjusted, variously, for swing and special shift.

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 (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 53 FR 49345, published on December 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.

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 12, 1989.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 2, 1988 by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Taiwan and

[1] In Category 863–S, only HTS number 6307.10.2015.

[2] In Category 863–O, all HTS numbers except 6307.10.2015 in Category 863–S.

exported during the period which began on January 1, 1989 and extends through December 31, 1989.

Effective on July 19, 1989, the directive of December 2, 1988 is amended to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement of November 18, 1982, as amended and extended:

Category levels in group II	Adjusted 12-mo. limit [1]
301	223,403 kilograms.
611	1,161,418 square meters.
619/620	9,337,744 square meters.
633/634/635	1,618,481 dozen of which not more than 1,051,316 dozen shall be in Categories 633/634 and not more than 801,437 dozen shall be in Category 635.
642	699,877 dozen.
644	1,553,344 numbers.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1988.

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,

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-16697 Filed 7-14-89; 8:45 am]

BILLING CODE 3510-DR-M

COMMODITY FUTURES TRADING COMMISSION

Membership of the Commission's Performance Review Board

AGENCY: Commodity Futures Trading Commission.

ACTION: Membership Change of Performance Review Board.

SUMMARY: In accordance with the Office of Personnel Management guidance under the Civil Service Reform Act, notice is hereby given that the following employees will serve as members of the Commission's Performance Review Board.

Chairperson: Donald L. Tendick, Acting Executive Director. Members: Andrea Corcoran, Director, Division of Trading and Markets; Dennis Klejna, Director, Division of Enforcement; Joanne Medero, General Counsel.

DATE: This action was effective July 10, 1989.

ADDRESS: Commodity Futures Trading Commission, Office of Personnel, Room 202, 2033 K Street NW., Washington, DC 20581.

FOR FURTHER INFORMATION CONTACT: Stacy L. Dean, Director, Office of Personnel, Commodity Futures Trading Commission, Room 202, 2033 K Street NW., Washington, DC 20581, (202) 254-3275.

SUPPLEMENTARY INFORMATION: This action which changes the membership of the Board supersedes the previously published **Federal Register** Notice in Vol. 54, No. 97, page 22003, Monday, May 22, 1989, as corrected in Vol. 54, No. 111, page 24935, Monday, June 12, 1989.

Issued in Washington, DC, on July 11, 1989.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 89-16635 Filed 7-14-89; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

June 21, 1989.

The USAF Scientific Advisory Board Human Systems Division Advisory Group will meet on 2-3 August 1989 from 8:00 AM to 5:00 PM at Williams AFB, AZ.

The purpose of meeting is to review scientific basis/strategy of the ACME program, the science base supporting the development of low-level flight simulators and their training effectiveness, the state-of-the-art in part tasks trainers, and the development status of helmet-mounted displays. This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 89-16687 Filed 7-14-89; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATE: Interested persons are invited to submit comments on or before August 16, 1989.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Jim Houser, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 732-3915.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: July 12, 1989.

Carlos U. Rice,

Director, for Office of Information Resources Management.

Office of Postsecondary Education

Type of Review: REVISION

Title: Application for Grants and Contracts Under the Veterans Education Outreach Program (VEOP)

Frequency: Annually
Affected Public: Non-profit organizations
Reporting Burden:
Responses: 600
Burden Hours: 1800
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: This application is used to award grant funds to institutions of higher education under the Veterans Education Program. IHE's apply for funds to provide special services to Veterans.

[FR Doc. 89-16651 Filed 7-14-89; 8:45 am]
BILLING CODE 4000-01-M

Cancellation of Meeting

AGENCY: National Advisory Council on Indian Education.

ACTION: Cancellation of Meeting.

SUMMARY: Notice is hereby given of the cancellation of the meeting of the Executive Committee of the National Advisory Council on Indian Education on July 17–18, 1989, in La Jolla, California, as published in the **Federal Register** on July 10, 1989, in Vol. 54, No. 130 at page 28832.

Date: July 13, 1989.

Signed at Washington, DC.

Jo Jo Hunt,

Executive Director, National Advisory Council on Indian Education.

[FR Doc. 89-16839 Filed 7-14-89; 8:45 am]
BILLING CODE 4000-01-M

Office of Postsecondary Education

Availability of Amendments to the 1988–89 National Defense and Perkins (National Direct) Student Loan Program Directory of Designated Low-Income Schools

AGENCY: Department of Education.

ACTION: Notice of availability of amendments to the 1988–89 National Defense and Perkins (National Direct) Student Loan Program Directory of low-income schools.

SUMMARY: Institutions and borrowers participating in the National Defense, National Direct and Perkins Loan Programs and other interested persons are advised that they may obtain information regarding the amendments to the 1988–89 National Defense and Perkins (National Direct) Student Loan Program Directory of Designated Low-Income Schools (Directory). The amendments identify changes in the list of schools that qualify borrowers for teacher cancellation benefits under each of the loan programs.

DATE: The amendments to the Directory are currently available.

ADDRESS: Information concerning specific schools listed in the amendments to the Directory may be obtained from Ronald W. Allen, Campus-Based Programs Branch, Division of Program Operations and Systems, Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue, SW. (Room 4651, ROB-3), Washington, DC 20202-5453. Telephone (202) 732-3730.

FOR FURTHER INFORMATION CONTACT: The amendments to the Directory are available at (1) each institution of higher education participating in the Perkins Loan Program (2) each of the fifty-seven (57) State and Territory Departments of Education, and (3) each of the major Perkins Loan billing services, and (4) the U.S. Department of Education.

SUPPLEMENTARY INFORMATION: The Secretary of Education published a notice in the **Federal Register** on November 21, 1988 (53 FR 46920) that the 1988–89 National Defense and Perkins (National Direct) Student Loan Program Directory was available. The Secretary has revised the Directory due to the opening and closing of schools, school name changes, and the need for other corrections. These revisions are included in the amendments to the Directory.

The procedures for selecting the schools that qualify borrowers for cancellation benefits are described in the National Defense, National Direct and Perkins Loan Program regulations at 34 CFR 674.53 and 674.54. The Secretary has determined that for the 1988–89 academic year full-time teaching in the schools set forth in the amendments to the Directory and the Directory qualifies a borrower for cancellation.

The Secretary is providing the amendments to the Directory to each institution participating in the Perkins Loan Program. Borrowers and other interested parties may check with their lending institutions, the appropriate State Department of Education, regional offices of the Department of Education, or the Office of Student Financial Assistance of the Department of Education concerning the identity of qualifying schools for the 1988–89 academic year.

The Office of Student Financial Assistance will retain, on a permanent basis, copies of past, current, and future amendments and the Directories.

(Catalog of Federal Domestic Assistance Number 84.037; National Defense/Direct and Perkins Student Loan Cancellations)

Dated: July 11, 1989.

James B. Willians,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 89-16603 Filed 7-14-89; 8:45 am]
BILLING CODE 4000-01-M

Office of Migrant Education

"Chapter 1" Migrant Education Coordination Program for State Educational Agencies; Funding Priorities

AGENCY: Departmennt of Education.

ACTION: Notice of Proposed Funding Priorities.

SUMMARY: The Secretary of Education proposes funding priorities for fiscal year 1990 for the Chapter 1—Migrant Education coordination Program for State Educational Agencies (SEAs). Section 1203 of Chapter 1 of Title I of the Elementary and Secondary Education Act of 1965 (ESEA), authorizes the Secretary to award grants or contracts to SEAs (in consultation with and with the approval of the States) for activities to improve interstate and intrastate coordination of migrant education programs and projects. This notice of proposed funding priorities is based on consultations with State Directors of Migrant Education concerning priorities for grants. Except for Priority 1, which is required by statute (section 1203(a)(3)), the funding priorities proposed in this notice would implement the process of consultation and approval required by section 1203(a)(1) of ESEA. To ensure effective use of program funds, the Secretary proposes to select from among these program priorities to fund the areas of greatest need for fiscal year 1990. A separate competition will be held for each priority selected.

DATE: Comments must be received on or before August 16, 1989.

ADDRESS: All comments concerning these proposed funding priorities should be addressed to Dr. John F. Staehle, Director, Office of Migrant Education, Office of Elementary and Secondary Education, U.S. Departmentr of Education, 400 Maryland Avenue, SW., (Room 2145, FOB #6) Washington, DC 20202-6135).

FOR FURTHER INFORMATION CONTACT: Dustin W. Wilson, Jr., Office of Migrant Education, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 2145, FOB #6), Washington, DC 20202-6135. Telephone: (202) 732-4760.

SUPPLEMENTARY INFORMATION: The purpose of this program is to provide Federal financial assistance to SEAs for projects designed to improve the interstate and intrastate coordination of educational and related services to migratory children and their families. The project or projects addressing the final priorities established, whether support of the project or projects is by grant, cooperative agreement, or contract, must reflect and illustrate the establishment or improvement of interstate and intrastate coordination activities that will be useful in improving services for migratory children. Priorities are proposed for projects designed to: (1) Develop a national system for secondary education credit exchange and accrual; (2) continue the same kinds of coordination services currently provided to migrant education programs and projects located in each of the three migrant streams; (3) identify and facilitate innovative coordination activities between local projects; (4) coordinate and improve educational opportunities and achievement through preschool programs; (5) coordinate and improve parental involvement; (6) coordinate and improve educational opportunties in summer programs; and (7) increase and improve the multi-district and multi-state identification of currently migratory children.

Proposed Priorities

In accordance with the Education Department General Administrative Regulations (EDGAR) in 34 CFR 75.105(c)(3), the Secretary proposes to give absolute preference to applications for grants or cooperative agreements that respond to the final priorities.

Priority 1 is required by statue and may be funded by grant or contract. The publication of the other proposed priorities in this notice neither binds the Department of Education to fund projects in any or all of these areas nor prevents it from funding these projects by contract. Moreover, the publication of these priorities does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only these priorities, subject to meeting applicable rulemaking requirements. The final priorities will be selected based on the response to this notice, available funds, and other departmental considerations. Final priorities will be announced in the **Federal Register.**

Priority 1.—Establishing a National Program For a System of Credit Exchange and Accrual

Under this priority, as required by statute, the Department will fund a project to develop and establish a national program of credit exchange and accrual to help currently migratory students meet high school graduation requirements and receive their high school diplomas.

The project would build upon the existing Migrant student Record Transfer System (MSRTS) and findings from recent studies on secondary education for migratory students, and would take into account the varying SEA and local educational agency (LEA) regulations and policies concerning credit accrual, credit transfer, and graduation requirements.

Priority 2.—Coordinating Special Assistance Services to Migrant Education Programs and Projects

Under this priority, the Department proposes to make awards to three SEAs, one from each migrant stream, to: (1) carry out activities designed specifically to facilitate the continuity of educational programs provided across several school districts to the same migratory children; and (2) arrange for the coordinated provision of technical assistance services needed by migant education programs and projects throughout the migrant stream. No less than one third of the funds awarded under these SEA coordination projects can be used for either (1) or (2).

Since sections 1436(d) and 1456 of ESEA, as amended, place specific statutory responsibilities for the provision of technical assistance to all Chapter 1 programs and projects on the Chapter 1 Technical Assistance Centers (TACs) and the Rural Technical Assistance Centers (R–TACs), the actual technical assistance services under these SEA coordination awards must be provided through subcontracts with the TACs or R–TACs.

The technical assistance services to be procured from the TACs and R–TACs under these SEA coordination awards must be for services "above and beyond" those available to Chapter 1 migrant education programs and projects under the general operations of the TACs and the R–TACs.

In terms of coordinating the provision of technical assistance services to migrant education programs and projects, each SEA receiving an award under this priority would be required to: (i) Determine the technical assistance needs of migrant education programs and projects in the migrant stream; (ii) negotiate and administer subcontracts with one or more of the TACs and R–TACs to provide appropriate technical assistance services of the types, amounts, duration, and timing necessary to meet the identified needs of the client migrant education programs and projects; and (iii) monitor the services provided by the TACs and R–TACs and the satisfaction of SEAs and LEAs with those services.

Priority 3.—Identifying, Enhancing, and Facilitating Coordination Activities to Achieve Improved Delivery of Services to Currently Migratory Children

Under this priority, the Department proposes to fund one or more projects to examine the need for, or if necessary establish, demonstration projects of innovative methods to be used by staff at the local operating agency project level to improve the coordination services across school district and State boundaries. The project or projects would document: (1) Exemplary techniques for achieving effective coordination of instruction and support services for currently migratory children; and (2) the project effectiveness, costs, and cost-effectiveness of providing these services.

Priority 4—Improving Coordination of Educational Programs and Opportunities for Preschool Migratory Children

Under this priority, the Department would fund a coordination project to: (1) Identify problems and issues concerning the coordination among States or areas of each State of programs and services for currently migratory preschool children; (2) locate and describe programs that effectively serve those preschool children and their families; (3) organize workshops to develop training materials and procedures; and (4) disseminate information that will improve coordination among States and agencies serving preschool migratory children. The project may also examine the impact that section 1202 of Chapter 1 of the ESEA, which places greater emphasis on services to currently migratory preschool children, has upon existing State and local migrant education projects and practices.

Priority 5—Improving Coordination of Educational Opportunities for Migratory Children Through Parental Involvement

Under this priority, the Department would select an SEA to operate a project that would improve educational opportunities of migratory children through a greater interstate or intrastate

involvement of their families with State and local agencies. The project would: (1) Examine parental involvement in current State migrant education programs; (2) identify exemplary practices; (3) develop training materials based upon effective practices to be disseminated to State and local personnel involved in the education of migratory children; and (4) organize workshops to offer training in techniques for improving the coordination of parental activities.

Priority 6—Improving Coordination of Educational Programs and Opportunities for Migratory Children in Summer Programs

Under this priority, the Department would fund a project that would focus on identifying issues related to coordinating migrant education summer programs with regular school programs, and improving communications between sending and receiving States in which migratory children enroll in summer programs. The project would: (1) Examine the varieties of summer migrant programs in terms of their duration, costs, intensity, and methods of instruction; (2) analyze the short- and long-term effects selected summer migrant education programs have upon continued schooling and graduation from high school; (3) organize workshops to develop training materials to facilitate improved coordination among SEAs and LEAs serving the same children in receiving and sending schools; and (4) analyze the additional costs of serving migratory children in various types of summer programs compared to costs of serving those children in regulatory school programs.

Priority 7—Improving Coordination of the Quantity and Quality of Interstate and Intrastate Identification and Recruitment of Currently Migratory Children

Under this priority, the Department proposes to fund a project that would build upon previous identification and recruitment (I&R) studies, MSRYS data, and ongoing practices in I&R. The project would be designed for the purpose of more rapidly identifying migrant families as they move from school district to school district. Presently, States and their operating agencies use different types of notification systems to inform potential receiving school districts that new migrant families will either be arriving or that they may have already arrived in the receiving school districts. Identifying and assessing the different notification systems used would be the major task of this project. Following assessment of the systems, recommendations will be made to the SEAs and the Department concerning which system or systems work best and which are the ones most easily replicated. Criteria to assess the efficacy of the notification systems should include: (a) Frequency of identification and recruitment of previously unidentified currently interstate migratory children in the receiving State; and (b) the number of currently migratory children that each notification system enables to be enrolled in two or more school districts during a 12-month period.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to comment

Interested persons are invited to submit comments and recommendations regarding these proposed priorities.

All comments submitted in response to these proposed priorities will be available for public inspection, during and after the comment period, in Room 2145, Federal Office Building #6, 400 Maryland Avenue, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

Program Authority: 20 U.S.C. 2783.

(Catalog of Federal Domestic Assistance No. 84.144—Chapter 1—Migrant Education Coordination Program for State Educational Agencies (formerly Migrant Education—Interstate and Intrastate Coordination Program))

Dated: June 21, 1989.

Lauro F. Cavazos,

Secretary of Education.

[FR Doc. 89–16602 Filed 7–14–89; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Determination To Establish Secretarial Panel for the Evaluation of Epidemiologic Research Activities of the Department of Energy

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), I hereby certify that establishment of the Secretarial Panel for the Evaluation of Epidemiologic Research Activities of the Department of Energy (SPEERA) is necessary and in the public interest in connection with the performance of duties imposed on the Department of Energy (DOE) by law. This determination follows consultation with the Committee Management Secretariat of the General Services Administration, pursuant to 41 CFR Subpart 101–6.10.

The purpose of the Panel will be to provide to the Secretary of Energy, an independent evaluation of the DOE's epidemiology program and the appropriateness, effectiveness, and overall quality of DOE's epidemiologic research activities.

The Panel will be composed of distinguished individuals with expertise in the areas of public health, occupational health, epidemiology, research standards, ethical and legal aspects of research, organized labor, and other areas as necessary to obtain a fairly balanced membership on the Panel.

Further information regarding this Advisory Committee may be obtained from Elinor C. Donnelly (202–586–3448).

Issued in Washington, DC, on: July 12, 1989.

Howard H. Raiken,

Advisory Committee Management Officer.

[FR Doc. 89–16695 Filed 7–14–89; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. TQ89–3–48–000]

ANR Pipeline Co.; Proposed Changes in FERC Gas Tariff

July 10, 1989.

Take notice that ANR Pipeline Company ("ANR"), on June 30, 1989, tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheet to be effective August 1, 1989.

Second Revised Twenty-First Revised Sheet No. 18

ANR states that the purpose of the instant filing is to implement ANR's quarterly PGA rate adjustment pursuant to section 15 of the General Terms and Conditions of ANR's Tariff.

Second Revised Twenty-First Revised Sheet No. 18 reflects a 4.30¢ per dekatherm ("dth") decrease in the gas cost component of the commodity rate of ANR's CD–1/MC–1 Rate Schedules, a decrease of $0.002 in the monthly D–1 demand rate and an increase of .09¢ in

the D–2 demand rate applicable to the CD–1/MC–1 Rate Schedules. The instant filing further reflects a decrease in ANR's one-part rate applicable to Rate Schedule SGS–1 of 3.83¢ per dth.

ANR states that copies of the filing were served upon all of its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with § 385.214 and § 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 17, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89–16626 Filed 7–14–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA89–1–63–000]

Carnegie Natural Gas Co.; Proposed Changes in FERC Gas Tariff

July 10, 1989.

Take notice that on June 30, 1989, Carnegie Natural Gas Company ("Carnegie") tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Sixteenth Revised Sheet No. 47
Sixteenth Revised Sheet No. 48
Second Revised Sheet No. 51
Second Revised Sheet No. 92a

Carnegie states that pursuant to the Purchased Gas Adjustment in Article 22 of its FERC Gas Tariff, it proposes to adjust its rates effective September 1, 1989, to reflect a $.0086 per Dth decrease in the commodity components of its LVWS, LVIS and CDS Rate Schedules. There is no change in the demand component of Carnegie's rates. Carnegie also proposes to implement a $.0160 surcharge to the commodity components of its sales rates in order to recover the $311,829 balance accrued (as of April 30, 1989) in its current deferred subaccount.

Carnegie's filing indicates that its actual costs of purchased gas exceeded the projected costs by more than three percent during the second test interval established at 18 CFR 154.306. Carnegie explains that this discrepancy resulted because of a rate increase implemented by Carnegie's pipeline supplier—Texas Eastern Transmission Corporation. Carnegie requests authority to recover, through the surcharge mechanism, the amount that exceeded 103 percent of the projections.

Carnegie also proposes to revise Sheet No. 51 of its tariff to clarify that the calculation used to determine the D–2 charge for Carnegie's LVWS rate schedule includes a load factor computation. On a related matter, Carnegie requests waiver of the Commission order of May 31, 1989, in Carnegie Docket No. TQ89–4–63–000, to the extent that Carnegie is required credit of 231,000 Dth to its current deferral subaccounts. Carnegie explains that the 231,000 Dth figure is derived by calculating the LVWS rate schedule billing determinants without reference to the load factor computation discussed above. As an alternative to waiver at this time, Carnegie requests that the Commission defer requiring Carnegie to credit the difference until after the Commission has acted on rehearing of this matter in Docket No. TQ89–4–63–000.

In addition, Carnegie proposes to switch from "LIFO" to a "rolling weighted average inventory costing" method of storage accounting. This charge is reflected in proposed Second Revised Sheet No. 92a, which is included in Carnegie's filing.

Carnegie also requests limited waiver of the Commission's December 1, 1988 order in Carnegie Docket No. RP88–127–001 and TQ88–1–63–000, *et al.* to the extent that Carnegie is required to include demand charges in its pricing of storage inventory. As explained in more detail in the filing, Carnegie requests waiver of the demand charge requirement until the Commission acts on the settlement now pending in Docket No. RP88–131–000.

Carnegie states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 27, 1989. Protests will be considered by the Commission 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 must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–16609 Filed 7–14–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP89–202–000]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

July 10, 1989.

On June 30, 1989, CNG Transmission Corporation ("CNG") submitted for filing as part of its FERC GAS Tariff Original Volume No. 1, the following tariff sheets:

First Revised Sheet No. 1
Ninth Revised Sheet No. 31
Superseding Substitute Eighth Revised Sheet No. 31
Fifth Revised Sheet No. 32
Superseding Substitute Fourth Revised Sheet No. 32
First Revised Sheet No. 93
Superseding Original Sheet No. 93
Original Sheet Nos. 94 through 99

These tariff sheets are being issued to implement CNG's new Rate Schedule GSS–II which was approved by the Commission's APEC Order issued June 7, 1989, in Docket No. CP87–5–002, *et al.* (*Texas Eastern Transmission Corporation*, Docket No. CP87–5–003, *et al.*, 47 FERC ¶ 61,341).

CNG has requested that this filing become effective as of July 1, 1989.

CNG states that copies of the filing were served upon all of its Volume No. 1 customers and interested state commissions.

Any persons desiring to be heard or to protest said filing should file a motion to intervene or protest with the Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules and Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests shall be filed on or before July 17, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–16610 Filed 7–14–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP88-232-001, RP87-47-004, MT88-5-002

Phillips Gas Pipeline Co.; Filing Revised Tariff Sheets

July 10, 1989.

Take notice that on June 30, 1989, Phillips Gas Pipeline Company ("PGPL") tendered for filing pursuant to Part 154 and to Section 250.16(d)(2) of the Federal Energy Regulatory Commission's ("Commission") regulations and pursuant to the Commission's orders at Docket Nos. RP88-232-000 and RP87-47-001 revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1.

PGPL states that the tendered Fourth Revised Sheet No. 6 reflects its reduced transportation rates and charges approved by the Commission effective January 1, 1989 in the settlement at Docket No. RP88-232-000.

PGPL states that the tendered First Revised Sheet Nos. 11 and 18 reflect its understanding of the underdelivery penalty under PGPL's Rate Schedules FT-1 and IT-1 as approved by the Commission at Docket RP87-47-001. PGPL has requested an effective date of July 31, 1989 for First Revised Sheet Nos. 11 and 18.

PGPL states that the tendered revised tariff sheet Nos. 4A, 4B, 4C, 4D and 38 update its "Standards of Conduct" for changes in personnel facility addresses and telephone numbers with a requested effective date of July 31, 1989.

PGPL states that the tendered revised tariff sheet Nos. 2, 4, 7, 8A, 10, 14, 17, 36, 46, 54, 55 and 55A provide current names, addresses and telephone numbers and correct typographical errors with a requested effective date of July 31, 1989.

Copies of the filing were served upon the company's jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with § § 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 17, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-16611 Filed 7-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA89-1-22-000]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

July 10, 1989.

Take notice that CNG Transmission Corporation ("CNG"), on June 30, 1989, pursuant to Section 4 of the Natural Gas Act, Part 154.309 of the Commission's regulations (18 CFR Part 154.309) and Section 12 of the General Terms and Conditions of CNG's tariff, filed the following revised tariff sheets to Original Volume No. 1 of its FERC Gas Tariff:

Ninth Revised Sheet No. 31
First Revised Sheet No. 150
Original Sheet No. 159-A
Original Sheet No. 159-B
First Revised Sheet No. 160
Alternate First Revised Sheet No. 150
Alternate Original Sheet No. 159-A
Alternate Original Sheet No. 159-B
Alternate First Revised Sheet No. 160.

The filing constitutes CNG's annual PGA to become effective on September 1, 1989.

Copies of the filing were served upon CNG's sales customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214 and 385.211. All motions or protests should be filed on or before July 27, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-16613 Filed 7-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA89-1-24-000]

Equitrans, Inc.; Proposed Changes in FERC Gas Tarif

July 10, 1989.

Take notice that Equitrans, Inc. (Equitrans) on June 30, 1989, tendered for filing with the Federal Energy Regulatory Commission (Commission) the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1, to become effective September 1, 1989:

Ninth Revised Sheet No. 10
Eighth Revised Sheet No. 14
Third Revised Sheet No. 34
First Revised Sheet No. 177C

Equitrans states that the filing is made pursuant to § 154.305 of the Commission's regulations and is in conformity to the provisions of Order 483, as amended.

Equitrans states that the change in rates results from the application of its Purchased Gas Cost Adjustment provisions in section 19 of its General Terms and Conditions of its FERC Gas Tariff, Original Volume No. 1.

The sales rates set forth on Rate Schedule PLS reflect an overall increase of $.0227 per dekatherm (Dth) in the Commodity Rate. The current purchased gas adjustment to Rate Schedules PLS is an increae of $.2273 per Dth and the Surcharge Adjustment is a decrease of $.2046 per Dth. This change results in a current estimated average cost of gas in this filing of $2.2755 per Dth and a Total Commodity Charge of $2.5087 per Dth, including GRI and ACA.

The current adjustment to D(1) Purchased Gas Costs for Rate Schedule PLS reflects an increase of $.0246 per Dth. The Surcharge Adjustment is a decrease of $.1046 per Dth. These changes result in an overall D(2) demand cost of $2.8044 per Dth.

The current adjustment to D(2) Purchased Gas Costs for Rate Schedule PLS reflects an decrease of $.0016 per Dth. The Surcharge Adjustment is a decrease of $.0004 per Dth. These changes result in an overall D(2) demand cost of $.0668 per Dth.

The current purchased gas adjustment to Rate Schedule GS-1 is a decrease of $1.3524 per Dth. The Surcharge Adjustment is a decrease of $.3344 per Dth. This change results in a current estimated average cost of gas in this filing of $2.9794 per Dth and a Total Commodity Charge of $2.8477 per Dth, including GRI and ACA.

The current purchased gas adjustment to Rate Schedule ISS is an increase of $.2265 per Dth. This change results in a current estimated weighted average cost of gas in this filing of $2.2755 per Dth, a

Total Maximum Rate for sales of $2.8761 per Dth, including GRI and ACA, and a Total Minimum Rate for sales of $2.4860 per Dth, including GRI and ACA.

Equitrans also proposes to track standby charges as billed to Equitrans as approved by the Commission in *Texas Eastern Transmission Corporation* Docket No. RP85–177, *et al.* Equitrans states that said proposed tariff sheet First Revised Sheet No. 177C is in accordance with the Commission's decision in *CNG Transmission Corp.*, 45 FERC 61,361 (1988) and *Carnegie Natural Gas Company*, Docket No. TQ89–4–63–000.

Equitrans states that a copy of its filing has been served upon its purchasers and interested state commission and upon each party on the service list of Docket CP88–676–000.

Any person desiring to be heard or to protest said filing should file a Motion to Intervene or Protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a Motion to Intervene. Copies of this filing are on file with the Commission and are available for public inspection. All such motions or protests should be filed on or before July 31, 1989.

Lois D. Cashell,

Secretary.

[FR Doc. 89–16614 Filed 7–14–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP89–44–003]

Florida Gas Transmission Co.; Tariff Filing

July 10, 1989.

Take notice that Florida Gas Transmission Company (FGT) on June 30, 1989, tendered for filing with the Federal Energy Regulatory Commission (Commission) Substitute Sheet No. 57R of FGT's First Revised Volume No. 1, to be effective June 1, 1989.

The above referenced tariff sheet is being filed to comply with the directive of the OPPR-Gas Pipeline Rate Adjustments Branch in a letter to FGT dated June 16, 1989 in Docket No. RP89–44–001. In such letter, FGT was required to file revised tariff language addressing interest in refunds. The instant tariff sheet has been amended to include such language.

FGT states that a copy of its filing has been served under the rate schedules affected by this filing and the interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214, 385.211 (1988). All such protests should be filed on or before July 17, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–16605 Filed 7–14–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ89–11–51–000]

Great Lakes Gas Transmission Co.; Proposed Changes in F.E.R.C. Gas Tariff Purchased Gas Adjustment Clause Provisions

July 10, 1989.

Take notice that Great Lakes Gas Transmission Company ("Great Lakes") on June 30, 1989 tendered for filing Twenty-Third Revised Sheet Nos. 57(i) and 57(ii), and Tenth Revised Sheet No. 57(v) to Great Lakes Gas Transmission Company's FERC Gas Tariff, First Revised Volume No. 1.

The above tariff sheets reflected revised PGA rates for the months of August, September and October 1, 1989 pursuant to the quarterly PGA filing requirements of § 154.304(a)(2) of the Commission's Regulations. Great Lakes submits that the subject tariff sheets reflect the latest estimated gas cost as provided to Great Lakes by its sole supplier of natural gas, TransCanada PipeLines Limited ("TransCanada"). These pricing arrangements were the result of contract renegotiation between each of Great Lakes' resale customers and the supplier.

Great Lakes requested the above tariff sheets become effective August 1, 1989.

Any person desiring to be heard or to protest said filing should file a Motion to Intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before July 17, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room

Lois D. Cashell,

Secretary.

[FR Doc. 89–16606 Filed 7–14–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ89–7–5–000]

Midwestern Gas Transmission Co.; Rate Filing Pursuant to Tariff Rate Adjustment Provisions

July 10, 1989.

Take notice that on June 30, 1989, Midwestern Gas Transmission Company (Midwestern) filed Thirty-Ninth Revised Sheet No. 6 to Original Volume No. 1 of its FERC Gas Tariff, to be effective August 1, 1989.

Midwestern states that the current Purchased Gas Cost Rate Adjustments reflected on Thirty-Ninth Revised Sheet No. 6 consist of a 10.49 cents per dekatherm adjustment applicable to the gas component of Midwestern's sales rates, and a 10 cents per dekatherm adjustment applicable to the Demand D–1 component.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers on its Northern System and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before July 17, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene; provided, however, that any person who had previously filed a petition to intervene in this proceeding is not required to file a further motion. Copies of this filing are on file with the

Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-16622 Filed 7-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ89-3-47-000]

MIGC, Inc.; Proposed Purchased Gas Adjustment Rate Change

July 10, 1989

Take notice that on June 30, 1989, MIGC, Inc. (MIGC) tendered for filing Fifty-Third Revised Sheet No. 32 to its FERC Gas Tariff Original Volume No. 1. MIGC states that the purpose of this proposed tariff change is to submit its fourth quarterly purchased gas cost adjustment (PGA) filing pursuant to the Commission's revised PGA regulations and the revised PGA provisions of MIGC's tariff, as approved in Docket No. RP88-143-000. The revised tariff sheet is proposed to become effective August 1, 1989.

Fifty-Third Revised Sheet No. 32 included in the filing reflects a quarterly PGA increase of $.0045 per MMBtu. MIGC states that the proposed quarterly PGA increase of $.0045 reflects a current adjustment of $.0045 per MMBtu to be effective August 1, 1989.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such motions or protests should be filed on or before July 17, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for the public.

Louis D. Cashell,

Acting Secretary.

[FR Doc. 89-16615 Filed 7-14-89; 8:45 pm]

BILLING CODE 6717-01-M

[Docket No. RP89-49-005]

National Fuel Gas Supply Corp.; Compliance of Filing

July 10, 1989.

Take notice that on June 30, 1989, National Fuel Gas Supply Corporation ("National") tendered for filing as part of its FERC Gas Tariff, in compliance with the Commission's Letter Order issued June 20, 1989, the following tariff sheets:

First Revised Volume No. 1

Substitute Fifty Revised Sheet No. 1
Substitute Second Revised Sheet No. 1-A
Second Revised Sheet No. 14
First Revised Sheet No. 84

First Revised Volume No. 2

Fourth Revised Sheet No. 282
Substitute Seventh Revised Sheet No. 302
Substitute Fifth Revised Sheet No. 321
Substitute Fifth Revised Sheet No. 341
Substitute Fourth Revised Sheet No. 538

The compliance filing reflects the cancellation of the T-2 Rate Schedule, the elimination of the variable costs included in the minimum bill provision of the X Rate Schedules, and the effect on rate base of the deferred taxes related to company owned production property.

Copies of National's filing were served on National's jurisdictional customers and on the interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure [18 CFR 385.214, 385.211 (1988)]. All such protests should be filed on or before July 17, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-16618 Filed 7-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA89-1-5-000]

Mid Louisana Gas Co.; Compliance of Filing

July 10, 1989.

Take notice that Mid Louisiana Gas Company (Mid Louisiana) on July 3, 1989, tendered for filing as part of First Revised Volume No. 1 of its FERC Gas Tariff the following Tariff Sheet to become effective September 1, 1989:

Sixty-Ninth Revised Sheet No. 3a

Superseding

Sixty-Eight Revised Sheet No. 3a

Mid Louisiana states that the purpose of the filing of Sixty-Ninth Revised Sheet No. 3a is to reflect a $.0760 per MCF increase in its current cost of gas and a positive surcharge of $.0820 per MCF.

This filing is being made in accordance with section 19 of Mid Louisiana's FERC Gas Tariff. Copies of this filing have been mailed to Mid Louisiana's Jurisdictional Customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a Motion to Intervene of Protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426 in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 of the and 1.10). All such motions or protests should be filed on or before July 31, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-16625 Filed 7-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-42-003]

Pacific Offshore Pipeline Co.; Compliance Filing of Proposed Change in FERC Gas Tariff Rate

July 10, 1989.

Take notice that Pacific Offshore Pipeline Company ("POPCO") on June 23, 1989, tendered for filing the following proposed charge to its FERC Gas Tariff, Original Volume No. 1, to be effective May 24, 1989:

Fourth Revised Sheet No. 5
Second Revised Sheet No. 6
First Revised Sheet No. 39(a)

POPCO states that the Tariff sheet has been filed in compliance with Ordering Paragraph C of the Commission's Order issued May 24, 1989 in Docket Nos. RP88-42-000 and RP88-42-002 (47 FERC 61,255). POPCO is filing for a reduction in its rate charged to its sole customer, Southern California Gas Company, under Rate Schedule G-1.

Copies of the filing were served on POPCO's suppliers, customer, and the interstate State Commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE.,

Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure [18 CFR 385.214, 385.211 (1988)]. All such protests should be filed on or before July 17, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–16619 Filed 7–14–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP89–201–000]

Questar Pipeline Co.; Proposed Changes in FERC Gas Tariff

July 10, 1989.

Take notice that on June 30, 1989, Questar Pipeline Company tendered for filing the following tariff sheets to revise Original Volume No. 1 of its FERC Gas Tariff:

Twenty-second Revised Sheet No. 12
Alternate Twenty-second Revised Sheet No. 12
Third Revised Sheet No. 12–A
First Revised Sheet No. 17–C
Original Sheet No. 17–D
Original Sheet No. 17–E

Questar Pipeline states that these tariff sheets are being filed to implement the direct billing and recovery of certain take-or-pay buyout-buydown costs assigned and billed to it by Northwest Pipeline Corporation (Northwest) pursuant to Northwest's filing in Docket No. RP89–137–000. Questar Pipeline states that the fixed-charge buyout/buydown obligation assigned to it by Northwest is $3,112,468, and proposes to recover this amount and applicable carrying charges by a fixed monthly charge applicable to sales service provided to Mountain Fuel Supply Company under Questar Pipeline's Schedule CD–1. Questar Pipeline has requested that the filing be made effective July 1, 1989.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motion or protests should be filed on or before July 17, 1989. Protests will be considered by the commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89–16627 Field 7–14–89; 8:45 am]

BILING CODE 6717–01–M

[Docket No. RP89–203–000]

Southern Natural Gas Co.; Proposed Changes to FERC Gas Tariff

July 10, 1989.

Take notice that on June 30, 1989, Southern Natural Gas Company (Southern) tendered for filing the following revised sheets to its FERC Gas Tariff, Sixth Revised Volume No. 1, with proposed effective dates of August 1, 1989:

Seventh Revised Sheet No. 8B
Original Sheet No. 8B.1
Second Revised Sheet No. 11H.1
Original Sheet No. 11H.2
Second Revised Sheet No. 15A.1
Original Sheet No. 15A.2
Second Revised Sheet No. 26A.1
Original Sheet No. 26A.2

The proposed tariff sheets implement revised penalties for purchases by Southern's OCD and OCDL customers in excess of D–2 nominations. For all authorized purchases in excess of D–2 nominations, Southern proposes to charge its applicable AO rate. For unauthorized purchases in excess of D–2 nominations, Southern proposes to charge its applicable AO rate plus $5.00 per 1,000 cubic feet for all volumes taken in excess of 100% and up to 104% of D–2 nominations and $10.00 per 1,000 cubic feet for all volumes taken in excess of 104% of D–2 nominations.

Copies of Southern's filing were served upon all of Southern's jurisdictional purchasers, shippers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (Sections 385.214, 385.211). All such motions or protests should be filed on or before July 17, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–16612 Filed 7–14–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ89–3–58–000]

Texas Gas Pipe Line Corp.; Notice of Proposed Changes in FERC Gas Tariff

July 10, 1989.

Take notice that on June 30, 1989, Texas Gas Pipe Line Corporation (TGPL) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1 (Tariff), the below listed tariff sheet to be effective August 1, 1989.

Twenty-Sixth Revised Sheet No. 4a

TGPL states that the purpose of the instant filing is to reflect rate adjustments pursuant to section 12 of the General Terms and Conditions of TGPL's Tariff (Purchased Gas Cost Adjustments). Specifically, Twenty-Sixth Revised Sheet No. 4a reflects a 0.66¢/Mcf net increase in the purchase gas rate to 176.64¢/Mcf yielding a proposed total rate of 206.11¢/Mcf (at 14.65 psia).

Copies of the filing were served upon TGPL's jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 17, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89–16628 Filed 7–14–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM39-3-18-000]

Texas Gas Transmission Corp.; Tariff Filing

July 10, 1989.

Take notice that on June 30, 1989, Texas Gas Transmission Corporation (Texas Gas) tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Second Revised Sheet No. 14D
Second Revised Sheet No. 14E
Second Revised Sheet No. 14F
Second Revised Sheet No. 14G

Texas Gas states that this filing is made to reflect the allocation of Tennessee Gas Pipeline Company's revised take-or-pay demand surcharge during the six-month amortization period July 1 through December 31, 1989 to Texas Gas's downstream customers. The filing complies with a September 7, 1988 order in this docket which allows Texas Gas to track any modifications which the Commission may approve. Texas Gas reserves the right to revise the filing as necessary to reflect any modifications made by the Commission or as required by any appellate court. The proposed effective date of the tariff sheets listed above is August 1, 1989.

Copies of this filing have been served upon Texas Gas' jurisdictional and nonjurisdictional sales customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 2.11 and 2.14 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before July 17, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-16607 Filed 7-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ89-3-18-000]

Texas Gas Transmission Corp. Proposed Changes in FERC Gas Tariff

July 10, 1989.

Take notice that on June 30, 1989 Texas Gas Transmission Corporation (Texas Gas) tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Eighteenth Revised Sheet No. 10
Eighteenth Revised Sheet No. 10A

Texas Gas states that these tariff sheets reflect changes in purchased gas costs pursuant to the Quarterly Rate Adjustment provision of the Purchased Gas Adjustment clause of Texas Gas's FERC Gas Tariff and are proposed to be effective August 1, 1989. Texas Gas further states that the proposed tariff sheets reflect a commodity rate increase of $.1280 per MMBtu, a D-1 demand rate increase of $.01 per MMBtu, and a D-2 demand rate increase of $.0007 per MMBtu from the rates set forth in the quarterly PGA filed March 31, 1989 (Docket No. TQ89-2-18).

Copies of the filing were served upon Texas Gas's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Secs. 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 17, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-16623 Filed 7-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ89-3-17-000]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

July 10, 1989.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on June 30, 1989 tendered for filing as a part of its FERC Gas Tariff, six copies each of the following tariff sheets:

Fifth Revised Volume No. 1

Substitute Fifteenth Revised Sheet No. 50
Substitute Eleventh Revised Sheet No. 50A
Substitute Eleventh Revised Sheet No. 50B
Substitute Eleventh Revised Sheet No. 50C
Substitute Eleventh Revised Sheet No. 50D
Substitute Eleventh Revised Sheet No. 51
Substitute Seventh Revised Sheet No. 51A
Substitute Seventh Revised Sheet No. 51B
Substitute Seventh Revised Sheet No. 51C
Substitute Seventh Revised Sheet No. 51D

Original Volume No. 2

Substitute Thirty-fifth Revised Sheet No. 235
Substitute Twenty-seventh Revised Sheet No. 241
Substitute Thirty-fifth Revised Sheet No. 322

Texas Eastern states that the above tariff sheets are being issued pursuant to section 23, Purchased Gas Cost Adjustment, and section 27, Electric Power Cost (EPC) Adjustment, contained in the General Terms and Conditions of Texas Eastern's FERC Gas Tariff. Texas Eastern states that the changes proposed consist of:

(1) Small PGA increases of $.008/dth in the Demand-1 component of Texas Eastern's sales rates and $.0014/dth in the Demand-2 component and a decrease of $.0206/dth in the commodity component pursuant to Section 23 of Texas Eastern's tariff based upon a reduced total projected cost of gas purchased from producers and pipeline suppliers.

(2) Changes in rates for sales and transportation services pursuant to Section 27 of Texas Eastern's tariff to reflect the projected annual electric power cost incurred in the operation of transmission compressor stations with electric motor prime movers for the 12 months beginning August 1, 1989 and to reflect the EPC surcharge which is designed to clear the latest balance in the Deferred EPC account as of April 30, 1989.

Texas Eastern states that this filing constitutes Texas Eastern's regular quarterly filing to be effective August 1, 1989 pursuant to the Commission's regulations governing PGA filings as promulgated by its Order No. 483. In compliance with § 154.308(b)(2) of the Commission's Regulations, a report containing detailed computations which clearly show the derivation of the current adjustment to be applied to Texas Eastern's effective rates is attached and enclosed in 9-track computer tape format as prescribed by FERC Form No. 542-PGA (Revised) for formal filing with the Commission.

Texas Eastern states that this filing also constitutes Texas Eastern's semiannual tracking of changes in electric power costs pursuant to section 27 of the General Terms and Conditions of Texas Eastern's FERC Gas Tariff.

Texas Eastern states that the gas quantity determinants used in this Quarterly PGA filing are based upon a telephone market survey by Texas Eastern of its major customers, which was conducted at the end of June, 1989.

In this survey Texas Eastern requested projections by the customers of their purchases from Texas Eastern for the three-month period, August 1, 1989–October 31, 1989. To the extent a customer provided Texas Eastern a volume-specific projection, Texas Eastern has utilized that volume. In the event the customers provided a volume range, Texas Eastern has utilized a volume projection between the high and low volume provided by the customer.

The proposed effective date of the above tariff sheets is August 1, 1989.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before July 17, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–16624 Filed 7–14–89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP88–99–002]

Transwestern Pipeline Company; Proposed Changes in FERC Gas Tariff

July 10, 1989.

Take notice that Transwestern Pipeline Company (Transwestern) on June 30, 1989 tendered for as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets:

Effective July 1, 1989

4th Revised Sheet No. 48
Original Sheet No. 83
Original Sheet No. 84
Original Sheet No. 85
Original Sheet No. 86
Original Sheet No. 86A

Effective October 1, 1989

2nd Revised Sheet No. 7
1st Revised Sheet No. 13
1st Revised Sheet No. 16
1st Revised Sheet No. 19
4th Revised Sheet No. 20A
4th Revised Sheet No. 22

The above listed tariff sheets are being filed to comply with the Commission's order issued May 11, 1988 in Docket No. CP88–99–000 (Order). In its Order of May 11, 1988, the Commission issued to Transwestern a Certificate of Public Convenience and Necessity authorizing it to institute a gas inventory charge (GIC) subject to various conditions. On June 30, 1989 Transwestern notifed the Commission that it would accept the GIC Certificate as conditioned. The above listed tariff sheets have been filed to comply with the conditions in the Commission's Order.

Transwestern, herein, respectfully requests that the Commission grant any and all waivers of its rules, regulations and orders as may be necessary so as to permit the above listed tariff sheets to become effective on the dates requested.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure [18 CFR 385.214, 385.211 (1988)]. All such protests should be filed on or before July 17, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–16608 Filed 7–14–89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA89–1–30–000]

Trunkline Gas Co.; Proposed Changes in FERC Gas Tariff

July 10, 1989.

Take notice that Trunkline Gas Company (Trunkline) on June 30, 1989, tendered for filing the following revised tariff sheet to its FERC Gas Tariff, Original Volume No. 1:

Seventy-First Revised Sheet No. 3–A

The proposed effective date of this revised tariff sheet is September 1, 1989.

Trunkline states that the revised tariff sheet reflects a commodity rate increase of 12.91¢ per Dt. This increase includes:

(1) a 10.27¢ per Dt increase in the projected purchased gas cost component; and

(2) a 2.64¢ per Dt increase in the surcharge to recover the Current Deferred Account Balance at April 30, 1989 and related carrying charges.

Trunkline further states that it is also submitting an alternate revised tariff sheet. Trunkline has filed an offer of settlement in Docket No. RP88–180–000 which was certified by the Presiding Administrative Law Judge on June 22, 1989. Article II of the Stipulation and Agreement calls for Trunkline to submit to the Commission at its request implementation of certain revised interim tariff sheets by June 29, 1989. Upon Commission approval of these, subject to certain express conditions, those tariff sheets are to become effective July 1, 1989. In the event of the issuance of a Commission order approving those tariff sheets in conformity with Article II of the Stipulation and Agreement before September 1, 1989, the proposed effective date of this tariff filing, it would be appropriate to use the alternate tariff sheet. It is being submitted solely for those purposes. Accordingly, Trunkline submitted for filing six (6) copies of the following alternate revised sheet to its FERC Gas Tariff, Original Volume No. 1, which reflects the Docket No. RP88–180–000 settlement:

Alternate Seventy-First Revised Sheet No. 3–A

The proposed effective date of the alternate revised tariff sheet is September 1, 1989.

Trunkline states that this filing is made in accordance with Section 154.305 (Annual PGA filing) of the Commission's Regulations and pursuant to Section 18 (Purchase Gas Adjustment Clause) of Trunkline's FERC Gas Tariff, Original Volume No. 1 to reflect the changes in Trunkline's jurisdictional rates effective September 1, 1989.

Trunkline states that copies of its filing have been served on all affected jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 17, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available

for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-16616 Filed 7-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-180-006]

Trunkline Gas Co.; Interim Settlement Rate Compliance Filing

July 10, 1989.

Take notice that Trunkline Gas Company (Trunkline) on 1989, tendered for filing revised tariff sheets to its FERC Gas Tariff Original, Volume No. 1 as listed in the filing.

Trunkline states that this filing is in compliance with the Stipulation and Agreement dated March 21, 1989, as amended June 12, 1989 and certified to the Commission on June 22, 1989.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure [18 CFR 385.214, 385.211 (1988)]. All such protests should be filed on or before July 18, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-16621 Filed 7-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-160-002]

Trunkline Gas Co.; Compliance Filing

July 10, 1989.

Take notice that Trunkline Gas Company (Trunkline) on June 30, 1989, tendered for filing the following revised tariff sheet to its FERC Gas Tariff, Original Volume No. 1:

First Substitute Sixty-Ninth Revised Sheet No. 3-A

In addition, Trunkline filed a detailed explanation of its seasonal rate proposal and demand cost allocation with supporting workpapers.

Trunkline states that this filing is in compliance with Ordering Paragraphs (C) and (D) of the Commission's Order dated May 31, 1989.

Trunkline further states that copies of its filing have been served on all parties, jurisdictional customers and appropriate state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure [18 CFR 385.214, 385.211 (1988)]. All such protests should be filed on or before July 17, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-16620 Filed 7-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ89-3-43-000]

Williams Natural Gas Co.; Proposed Changes in FERC Gas Tariff

July 10, 1989.

Take notice that Williams Natural Gas Company (WNG) on June 30, 1989 tendered for filing the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

First Revised Thirteenth Revised Sheet No. 6

First Revised Twelfth Revised Sheet No. 7

A magnetic tape is also being filed in compliance with FERC Form No. 542-PGA.

WNG states that pursuant to the Purchased Gas Adjustment in Article 21 of its FERC Gas Tariff, it proposes to increase its rates effective August 1, 1989, to reflect a $.0281 per Dth increase in the Cumulative Adjustment, a $.0002 per Dth increase in transportation fuel rates and a $.0005 per Dth increase in gathering fuel rates.

WNG states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC. 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 17, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-16617 Filed 6-14-89; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3617-1]

Sole Source Aquifer Designation for the North Haven Island Aquifer System, Maine

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In response to a petition from the State of Maine, notice is hereby given that the Regional Administrator, Region I, of the U.S. Environmental Protection Agency (EPA) has determined that the North Haven Island Aquifer System satisfies all determination criteria for designation as a sole source aquifer, pursuant to section 1424(e) of the Safe Drinking Water Act. The following findings were made in accordance with the designation criteria: North Haven Island Aquifer System is the principal source of drinking water for the residents of North Haven Island; there are no vialbe alternative sources of sufficient supply; the boundaries of the designated area and project review area have been reviewed and approved by EPA; and, if contamination were to occur, it would pose a significant public health hazard and a serious financial burden to the State of Maine. As a result of this action, all federal financially assisted projects proposed for construction or modification to take place on North Haven Island will be subject to EPA review to minimize the risk of ground water contamination from these projects.

DATES: This determination shall be promulgated for purposes of judicial review at 1:00 p.m. Eastern time two weeks after the date of publication in the **Federal Register.**

ADDRESSES: The data upon which these findings are based are available to the public and may be inspected during

normal business hours at the U.S. Environmental Protection Agency, Region I, JFK Federal Building, Water Management Division, WGP 2113, Boston, MA 02203. The designation petition submitted may also be inspected at the Maine State Planning Office in Augusta, Maine.

FOR FURTHER INFORMATION CONTACT: Robert E. Mendoza, Chief of the Ground Water Management Section, EPA Region I, JFK Federal Building, WGP-2113, Boston, MA 02203, 617-565-3600.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1424(e) of the Safe Drinking Water Act (42 U.S.C.) 300f, 300f-3(e), Pub. L. 93-523) states:

> If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the Federal Register. After the publication of any such notice, no commitment for federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create significant hazard to public health, but a commitment for Federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

On June 3, 1988, EPA received a petition from the State of Maine requesting the designation of the North Haven Island Aquifer System as a sole source aquifer. EPA determined that the petition fully satisfied the Completeness Determination Checklist. A public meeting was then scheduled and held on March 7, 1989, on North Haven Island, Maine, in accordance with all applicable notification and procedural requriements. A one month comment period followed the meeting.

II. Basis for Determination

Among the factors considered by the Regional Administrator as part of the detailed review and technical verification process for designating an area under Section 1424(e) were:

(1) Whether the aquifer is the sole or principal source of drinking water for the defined aquifer service area, and that the volume of water from an alternative source is insufficient to replace the petitioned aquifer; (2) whether contamination of the aquifer would cause significant hazard to public health; and (3) whether the boundaries of the aquifer, its recharge area and streamflow source area, the project designation area, and the project review area are appropriate. On the basis of technical information available to EPA at this time, the Regional Administrator has made the following findings in favor of designating the North Haven Island Aquifer System as a sole source aquifer:

1. The North Haven Island Aquifer System is the principal source (directly or indirectly through recharge to surface water) of drinking water to all of the residents within the service area.
2. There exists no reasonable alternative drinking water source or combination of sources of sufficient quantity to supply the designated service area.
3. EPA has found that the State of Maine has appropriately delineated the boundaries of the aquifer recharge area, project designation area and project review area.
4. Although the quality of the Island's ground water is considered adequate, it is vulnerable to contamination due to the Island's geological characteristics and possible landuse activities. Because of this, contaminants can be rapidly introduced into the aquifer system from many sources with minimal assimilation.

Since the aquifier serves as the principal source of drinking water for the residents, a serious contamination incident could pose a significant public health hazard.

III. Description of the North Haven Island Aquifer System, Designated Area and Project Review Area

The North Haven Island Aquifer System is a 10.5 square mile ocean island located in the mid-coastal region of Maine, approximately 10 miles east of Rockport, the nearest mainland town. The aquifer system is comprised of an inter-connected bedrock aquifer. The aquifer material consists of basaltic volcanics known as the North Haven Formation. The Island has relief of 155 feet, with an irregular topographic profile. Some of the residents are served directly by ground water. In addition, a pond on the island serves as the public drinking water supply. This pond is hydrologically connected to the island's aquifer system and a majority of the pond's water supply is derived from ground water. The aquifer is, therefore, the principal source of drinking water for the island.

For the North Haven Island Aquifer System the boundary of the designated area coincides with the boundary of the watershed basin. The watershed boundary is the surface water divide based on topography, which corresponds to the ground water divide. The designated area, project review area and service area are conterminous, encompassing all of North Haven Island.

IV. Information Utilized in Determination

The information utilized in this determination includes: the petition submitted to EPA Region I by the State of Maine; a letter of support reflecting public comment. This information is available to the public and may be inspected at the address listed above.

V. Project Review

EPA Region I is working with the federal agencies most likely to provide financial assistance to projects in the project review area. Interagency procedures and Memoranda of Understanding have been developed through which EPA will be notified of proposed commitments by federal agencies to projects which could contaminate the North Haven Island Aquifer System. EPA will evaluate such projects and, where necessary, conduct an in-depth review, including soliciting public comments when appropriate. Should the Regional Administrator determine that a project may contaminate the aquifer through its recharge zone so as to create a significant hazard to public health, no commitment for federal financial assistance may be entered into. However, a commitment for federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to ensure that it will not contaminate the aquifer.

Included in the review of any federal financially assisted project will be the coordination with state and local agencies and the project's developers. Their comments will be given full consideration and EPA's review will attempt to complement and support state and local ground water protection measures. Although the project review process cannot be delegated, EPA will rely to the maximum extent possible on any existing or future state and/or local control measures to protect the quality of ground water in the North Haven Island Aquifer System.

VI. Summary and Discussion of Public Comments

No comments were received by EPA that opposes the SSA proposal. One letter of support was received. Comment during the public meeting focused upon how designation can afford additional protection of the Island's water resources.

Dated: June 21, 1989.

Paul G. Keough,

Acting Regional Administrator.

[FR Doc. 89-16686 Filed 7-14-89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

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.: 224-200265

Title: Gulf Services, Inc. Shareholders Agreement

Parties:

Cavalair Corporation (Machinery Rentals, Inc. and Biehl and Company)

Cooper/T. Smith Stevedoring Company, Inc. (T. Smith & Sons, Inc.)

I.T.O. Corporation

Kerr Steamship Co., Inc.

Strachan Shipping Company

Filing Party: John P. Meade, Esq., O'Connor and Hannan, 1919 Pennsylvania Avenue NW., Suite 800, Washington, DC 20006-3483

Synopsis: The proposed Agrement authorizes the parties, each of which owns 20% of the shares of Gulf Services, Inc., to: (1) Establish rates, charges and competitive practices; (2) publish marine terminal tariffs; (3) enter into agreements concerning marine terminal facilities/services, marine terminal conference agreements, and/or stevedoring agreements; (4) own and/or lease and operate cranes, lift machines, trucks and other equipment; and (5) operate (pursuant to lease, assignment, purchase or asset acquisition) any marine terminal facilities and operations within the Port of Lake Charles or which are owned by any public port commission on the Mississippi River.

By order of the Federal Maritime Commission.

Dated: July 11, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89-16630 Filed 7-14-89; 8:45 am]

BILLING CODE 6730-01-M

Filing and Effective Date of Agreement

The Federal Maritime Commission hereby gives notice that on July 6, 1989, the following agreement was filed with the Commission pursuant to section 5, Shipping Act of 1984, and was deemed effective that date to the extent it constitutes an assessment agreement as described in paragraph (d) of section 5, Shipping Act of 1984.

Agreement No.: 224-000083-004

Title: Master Contract Assessment Agreement

Parties

New York Shipping Association, Inc.

Carriers Container Council, Inc.

Boston Shipping Association, Inc.

International Longshoremen's Association, AFL-CIO

Atlantic Coast District, ILA, AFL/CIO

South Atlantic & Gulf Coast District, ILA AFL-CIO

South Atlantic Employers Negotiating Committee Southeast Florida Employers Association

Council of North Atlantic Shipping Associations

Synopsis: The Agreement provides for an extension of the contract term to November 30, 1990. It also provides for changes in certain work rules as well as a $0.45 per hour increase in the contribution to fringe benefit plans. The Agreement establishes a committee to study various issues including wages, hours, shift systems and fringe benefit contributions. The Agreement will become effective when local contracts are agreed to in each port or port district but not earlier than October 1, 1989.

By Order of the Federal Maritime Commission.

Dated: July 11, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89-16229 Filed 7-14-89; 8:45 am]

BILLING CODE 6730-01-M

Cancellation of Inactive Domestic Offshore Tariffs

By notice served May 25, 1989 and published in the **Federal Register** on June 1, 1989, the Federal Maritime Commission notified 71 carriers of its intent to cancel their individual tariffs 30 days thereafter, in the absence of showing of good cause why such tariffs should not be canceled.

The notice was served on the 71 carriers by certified mail on May 25, 1989; and 22 carriers replied to the Notice requesting that their tariffs remain active. Accordingly, the tariffs of the 22 carriers listed in Attachment A that responded to the notice will be retained in the Commission's active files.

It is misleading to the public, potentially unfair to competing carriers, and an unreasonable administrative burden on the Commission's staff for inactive tariffs to remain on file. Accordingly, the tariffs of the 49 carriers listed in Attachment B to this notice that failed to respond to the May 25, 1989 notice will be canceled. It should be noted that certain information items on the attached lists may not apply to a particular carrier and are, therefore, designated not applicable (NA).

Now, therefore it is ordered, That the tariffs of the 49 carriers listed on Attachment B be canceled.

It is futher ordered, That a copy of this Notice be sent by certified mail to the last known address of the carriers listed in the attachments to this order.

It is further ordered, That this Notice be published in the **Federal Register.**

This Notice is issued pursuant to the authority delegated to the Director, Bureau of Domestic Regulation by Section 9.04 of Commission Order No. 1 (Revised), dated November 12, 1981.

Bryant L. VanBrakle,

Deputy Director, Bureau of Domestic Regulation.

Attachment A—Federal Maritime Commission Bureau of Domestic Regulation Office of Carrier Tariffs and Service Contract Operations

Carriers That Responded to the Notice of Intent To Cancel Inactive Tariffs

Acronym: Aalco Forwarding, Inc.
DBA Name: NA
Person Type: Household Goods Carrier
Street: 10983 Granada Lane
City: Overland Park
State: KS 66211
Country: United States of America
License No.: NA
Name No.: 007393

Acronym: Bekins International Lines, Inc.
DBA Name: NA
Person Type: Household Goods Carrier
Street: 320 Pine Avenue, Suite 800
City: Long Beach
State: CA 90801
Country: United States of America
License No.: NA
Name No.: 000358

Acronym: Burlington Northern Worldwide, Inc.
DBA Name: NA
Person Type: Non-Vessel-Operating Common Carrier
Street: 1420 E. Rochelle Blvd., Suite 200
City: Irving
State: TX 75039
Country: United States of America
License No.: NA
Name No.: 008213

Acronym: Caribbean Pacific Lines, Inc.
DBA Name: NA
Person Type: Non-Vessel-Operating Common Carrier
Street: 16807 So. Central Avenue
City: Carson
State: CA 90745
Country: United States of America
License No.: NA
Name No.: 002853

Acronym: Clipper Group Company
DBA Name: NA
Person Type: Non-Vessel-Operating Common Carrier
Street: 5716 West Manchester Avenue
City: Los Angeles
State: CA 90045
Country: United States of America
License No.: NA
Name No.: 007439

Acronym: F.W. Myers & Co., Inc.
DBA Name: Myers Maritime Division
Person Type: Ocean Common Carrier (Vessel Operating) Non-Vessel-Operating Common Carrier
Street: C/O The Myers Group 149-09 183rd Street, Second Floor
City: Jamaica
State: NY 11413
Country: United States of America
License No.: NA
Name No.: 005984

Acronym: Four Stars Forwarding
DBA Name: NA
Person Type: Non-Vessel-Operating Common Carrier
Street: P.O. Box 26046
City: San Diego
State: CA 92126
Country: United States of America
License No.: NA
Name No.: 007825

Acronym: G.F.C. Enterprises, Inc.
DBA Name: G.F.C Intermodal Container Line
Person Type: Non-Vessel-Operating Common Carrier
Street: 304 Barr Avenue
City: Woodmere
State: NY 11598
Country: United States of America
License No.: NA
Name No.: 008204

Acronym: Interstate International Inc.
DBA Name: NA
Person Type: Ocean Freight Forwarder (Independent) Household Goods Carrier Non-Vessel-Operating Common Carrier
Street: 5801 Rolling Road
City: Springfield
State: VA 22152
Country: United States of America
License No.: 2924
Name No.: 006461

Acronym: Island Express
DBA Name: NA.
Person Type: Non-Vessel-Operating Common Carrier
Street: G.P.O. Box 3433
City: San Juan
State: PR 00936
Country: United States of America
License No.: NA
Name No.: 006840

Acronym: Jilly Worldwide
DBA Name: NA.
Person Type: Non-Vessel-Operating Common Carrier
Street: 814 6th Street
City: West Babylon
State: NY 11704
Country: United States of America
License No.: NA
Name No.: 007453

Acronym: P.R. Caribbean Consolidators, Inc.
DBA Name: NA.
Person Type: Non-Vessel-Operating Common Carrier
Street: P.O. Box 13401
City: Santurce
State: PR 00908
Country: United States of America
License No.: NA
Name No.: 006851

Acronym: PB Marine Transport, Inc.
DBA Name: NA.
Person Type: Non-Vessel-Operating Common Carrier
Street: La Ceramica Industrial Park Calle Rosarito EF-1, P.O. Box 4837
City: Carolina
State: PR 00628
Country: United States of America
License No.: NA
Name No.: 007131

Acronym: Power Consultants International, Inc.
DBA Name: P.C.I.
Person Type: Non-Vessel-Operating Common Carrier
Street: 222 Grand Avenue
City: Englewood
State: NJ 07631
Country: United States of America
License No.: NA
Name No.: 007115

Acronym: Puerto Rico Freight System, Inc.
DBA Name: NA.
Person Type: Non-Vessel-Operating Common Carrier
Street: P.O. Box 9081
City: Santurce
State: PR 00905
Country: United States of America
License No.: NA
Name No.: 006313

Acronym: Quality Transportation Company
DBA Name: NA.
Person Type: Non-Vessel-Operating Common Carrier
Street: Darlington Building, Suite 403 1007 Munoz Rivera Avenue
City: Rio Piedras
State: PR 00925
Country: United States of America
License No.: NA
Name No.: 006343

Acronym: San Lorenzo Express Corporation
DBA Name: NA.
Person Type: Non-Vessel-Operating Common Carrier
Street: 2556 W. Fullerton Avenue
City: Chicago
State: IL 60647
Country: United States of America
License No.: NA
Name No.: 001069

Acronym: Trans-Caribbean Moving & Shipping Inc.
DBA Name: NA.
Person Type: Non-Vessel-Operating Common Carrier
Street: 4466 Park Avenue
City: Bronx
State: NY 10457
Country: United States of America
License No.: NA
Name No.: 002233

Acronym: Transcaribe Freight Corp
DBA Name: NA.
Person Type: Non-Vessel-Operating Common Carrier
Street: Metropolitan Ind. Park Max St. Bldg. 3, 65th Infantry, K.M.13.1
City: Carolina
State: PR 00630
Country: United States of America
License No.: NA
Name No.: 000573

Acronym: Unicold Corporation
DBA Name: NA.
Person Type: Non-Vessel-Operating Common Carrier
Street: 3140 Ualena Street
City: Honolulu
State: HI 96819

Country: United States of America
License No.: NA
Name No.: 008162

Acronym: V.I. Package Express
DBA Name: NA.
Person Type: Non-Vessel-Operating Common Carrier
Street: G.P.O. Box 3433
City: San Juan
State: PR 00936
Country: United States of America
License No.: NA
Name No.: 000002

Acronym: Valley Freight Systems, Inc.
DBA Name: NA.
Person Type: Non-Vessel-Operating Common Carrier
Street: 925 Market Street
City: Patterson
State: NY 07513
Country: United States of America
License No.: NA
Name No.: 006701

Acronym: Agro Steamship Line, Inc.
DBA Name: NA.
Person Type: Ocean Common Carrier (Vessel Operating)
Street: 555 N.E. 15th Street Suite PH B
City: Miami
State: FL 33142
Country: United States of America
License No.: NA.
Name No.: 006619

Acronym: Alaskan & Hawaiian Transport, Inc.
DBA Name: NA.
Person Type: Non-Vessel-Operating Common Carrier
Street: 7123 S. 188th Street
City: Kent
State: WA 98032
Country: United States of America
License No.: NA
Name No.: 006886

Acronym: American Caribbean Transport, Inc.
DBA Name: NA.
Person Type: Non-Vessel-Operating Common Carrier
Street: P.O. Box 3399
City: Humble
State: TX 77347
Country: United States of America
License No.: NA
Name No.: 006991

Acronym: Andrews Forwarders, Inc.
DBA Name: NA.
Person Type: Household Goods Carrier
Street: P.O. Box 1609
City: Norfolk
State: NE 70011
Country: United States of America
License No.: NA
Name No.: 008208

Acronym: Aquatran, Inc.
DBA Name: NA.
Person Type: Non-Vessel-Operating Common Carrier
Street: 1801 Kingwood Drive
City: Kingwood
State: TX 77339
Country: United States of America
License No.: NA
Name No.: 000266

Acronym: Caribbean Best Services, Inc.
DBA Name: CBS
Person Type: Non-Vessel-Operating Common Carrier
Street: G.P.O. Box 4811
City: San Juan
State: PR 00936
Country: United States of America
License No.: NA.
Name No.: 000703

Acronym: Cooperativa Camioneros De Arrastre Del Muelle
DBA Name: NA
Person Type: Non-Vessel-Operating Common Carrier
Street: Gildita Street—Building #5 La Ceramica Industrial Park
City: Carolina
State: PR 00628
Country: United States of America
License No.: NA
Name No.: 006827

Acronym: Crescent City Marine Ways & Dry Dock Co., Inc
DBA Name: NA
Person Type: Non-Vessel-Operating Common Carrier
Street: Suite 1480 700 N.E. Multnomah St.
City: Portland
State: OR 97232
Country: United States of America
License No.: NA
Name No.: 000839

Acronym: Damco International Transportation & Dist Inc
DBA Name: NA
Person Type: Non-Vessel-Operating Common Carrier
Street: 168–01 Rockaway Boulevard, Suite 203–204
City: Jamaica
State: NY 11430
Country: United States of America
License No.: NA
Name No.: 008458

Acronym: Davidson Forwarding Company
DBA Name: NA
Person Type: Ocean Freight Forwarder (Independent) Household Goods Carrier
Street: 6600 Frankford Avenue
City: Baltimore
State: MD 21206
Country: United States of America
License No.: 1086
Name No.: 000919

Acronym: Diamond Freight Consolidators, Inc.
DBA Name: NA
Person Type: Non-Vessel-Operating Common Carrier
Street: 8432 N.W. 66th Street
City: Miami
State: FL 33166
Country: United States of America
License No.: NA
Name No.: 006756

Acronym: E & C Trucking Corporation of New Jersey
DBA Name: NA.
Person Type: Non-Vessel-Operating Common Carrier
Street: 98 Poiner Street
City: Newark
State: NJ 07114
Country: United States of America
License No.: NA
Name No.: 006836

Acronym: Express Marine Transportation Company, Inc.
DBA Name: NA
Person Type: Ocean Common Carrier (Vessel Operating)
Street: 699 N.W. 41ST
City: Seattle
State: WA 98107
Country: United States of America
License No.: NA
Name No.: 006829

Acronym: Florida International Forwarders, Inc.
DBA Name: NA.
Person Type: Non-Vessel-Operating Common Carrier
Street: 8725 N.W. 18th Terrace
City: Miami
State: FL 33172
Country: United States of America
License No.: NA
Name No.: 007299

Acronym: Foreign Trade Export Packing Co.
DBA Name: NA
Person Type: Non-Vessel-Operating Common Carrier Ocean Freight Forwarder (Independent)
Street: 1350 Lathrop St
City: Houston
State: TX 77020
Country: United States of America
License No.: 1344
Name No.: 004620

Acronym: Four Winds Forwarding, Inc
DBA Name: NA
Person Type: Household Goods Carrier
Street: 4275 Campus Point Court
City: San Diego
State: CA 92138
Country: United States of America
License No.: NA
Name No.: 000428

Acronym: Gieno-Hutchinson Incorporated
DBA Name: NA
Person Type: Non-Vessel-Operating Common Carrier

Street: 13737 Artesia Blvd. Suite 204
City: Cerritos
State: CA 90701
Country: United States of America
License No.: NA
Name No.: 006832

Acronym: Gunilla Express, Inc.
DBA Name: NA
Person Type: Non-Vessel-Operating Common Carrier
Street: 7318 N.W. 79th Terrace
City: Miami
State: FL 33166
Country: United States of America
License No.: NA
Name No.: 005895

Acronym: Hawaii American Shipping Company
DBA Name: NA
Person Type: Non-Vessel-Operating Common Carrier
Street: P.O. Box 218
City: Saugus
State: CA 91350
Country: United States of America
License No.: NA
Name No.: 002597

Acronym: Hoyer (USA) Inc.
DBA Name: NA
Person Type: Non-Vessel-Operating Common Carrier
Street: 136 Central Ave.
City: Clark
State: NY 07066
Country: United States of America
License No.: NA
Name No.: 006889

Acronym: IML Freight, Inc.
DBA Name: NA
Person Type: Non-Vessel-Operating Common Carrier
Street: P.O. Box 30277
City: Salt Lake
State: UT 84125
Country: United States of America
License No.: NA
Name No.: 008206

Acronym: Island Shipping Lines, Ltd.
DBA Name: NA
Person Type: Ocean Common Carrier (Vessel Operating)
Street: 1026 Cabras Highway, Suite 110
City: Piti
State: GU 96925
Country: United States of America
License No.: NA
Name No.: 006084

Acronym: J. J. Systems
DBA Name: NA
Person Type: Non-Vessel-Operating Common Carrier.
Street: Quintas De H–55
City: Dorado
State: PR 00646
Country: United States of America
License No.: NA
Name No.: 006841

Acronym: Jupiter Steamship Corp.
DBA Name: NA
Person Type: Non-Vessel-Operating Common Carrier
Street: P.O. Box 1080
City: San Juan
State: PR 00902
Country: United States of America
License No.: NA
Name No.: 006842

Acronym: Kwik Serv Foods, Inc.
DBA Name: C & H Foods Co.
Person Type: Non-Vessel-Operating Common Carrier
Street: 9821 California Avenue
City: South Gate
State: CA 90280
Country: United States of America
License No.: NA
Name No.: 006845

Acronym: La Flor De Mayo Express, Inc.
DBA Name: NA
Person Type: Non-Vessel-Operating Common Carrier; Ocean Freight Forwarder (Independent)
Street: 311 Bruckner Blvd.
City: Bronx
State: NY 10454
Country: United States of America
License No.: 2662
Name No.: 001585

Acronym: Lawton Overseas, Inc.
DBA Name: NA
Person Type: Non-Vessel-Operating Common Carrier
Street: 809 West Street
City: Union City
State: NJ 07087
Country: United States of America
License No.: NA
Name No.: 006846

Acronym: Linea Marlago, S.A.
DBA Name: Linea Marlago
Person Type: Ocean Common Carrier (Vessel Operating)
Street: Av. Francisco De Miranda, Chacaito, Edif, Easo, Piso 4, OFIC 4–E, Apartado 60794
City: Carracas 1060
State:
Country: Venezuela
License No.: NA
Name No.: 005923

Acronym: Lyon Worldwide Shipping, Inc.
DBA Name: NA
Person Type: Non-Vessel-Operating Common Carrier
Street: P.O. Box 4167
City: Bellevue
State: WA 98009
Country: United States of America
License No.: NA
Name No.: 006742

Acronym: Mobel International, Inc.
DBA Name: NA
Person Type: Household Goods Carrier
Street: 2165 5th Avenue South
City: St. Petersburg
State: FL 33733
Country: United States of America
License No.: NA
Name No.: 008203

Acronym: N.T. Cargo Service
DBA Name: NA
Person Type: Non-Vessel-Operating Common Carrier
Street: 1390 E. Burnett Street, Suite E
City: Signal Hill
State: CA 90806
Country: United States of America
License No.: NA
Name No.: 007076

Acronym: Nymarc Trading Corporation
DBA Name: NA
Person Type: Non-Vessel-Operating Common Carrier
Street: Fortaleza 353, No. 3–B
City: San Juan
State: PR 00901
Country: United States of America
License No.: NA
Name No.: 006848

Acronym: P.R. Container Line Inc
DBA Name: NA
Person Type: Non-Vessel-Operating Common Carrier
Street: 2500 83rd St.
City: North Bergen
State: NJ 07047
Country: United States of America
License No.: NA
Name No.: 006852

Acronym: Pan American Express, Inc.
DBA Name: NA
Person Type: Non-Vessel-Operating Common Carrier
Street: 2612 W. Division Street
City: Chicago
State: IL 60622
Country: United States of America
License No.: NA
Name No.: 000985

Acronym: Polynesia Line, Ltd.
DBA Name: NA
Person Type: Ocean Common Carrier (Vessel Operating)
Street: C/O Interocean Steamship Corporation 465 California Street
City: San Francisco
State: CA 94104
Country: United States of America
License No.: NA
Name No.: 001026

Acronym: Priority Transport, Inc.
DBA Name: NA
Person Type: Non-Vessel-Operating Common Carrier
Street: 152–32 B Rockaway Blvd.
City: Jamaica
State: NY 11430
Country: United States of America
License No.: NA
Name No.: 006888

Acronym: Puerto Rico Express Freight, Inc.
DBA Name: NA
Person Type: Non-Vessel-Operating Common Carrier
Street: P.O. Box 6622
City: Hackensack
State: NJ 08818
Country: United States of America
License No.: NA
Name No.: 006855

Acronym: Puerto Rico Express, Inc.
DBA Name: NA
Person Type: Non-Vessel-Operating Common Carrier
Street: P.O. Box 4099, Garden Station
City: Bayanion
State: PR 00620
Country: United States of America
License No.: NA
Name No.: 002599

Acronym: S.D.C. Ocean Line, Inc.
DBA Name: NA
Person Type: Non-Vessel-Operating Common Carrier
Street: 6040 N.W. 84th Avenue
City: Miami
State: FL 33166
Country: United States of America
License No.: NA
Name No.: 006859

Acronym: Sam's Vans, Inc.
DBA Name: NA
Person Type: Households Goods Carrier
Street: 1948 Marina Blvd.
City: San Leandro
State: CA 94577
Country: United States of America
License No.: NA
Name No.: 008216

Acronym: San Juan Freight Forwarders, Inc.
DBA Name: NA
Person Type: Non-Vessel-Operating Common Carrier
Street: P.O. Box 3386
City: Carolina
State: PR 00630
Country: United States of America
License No.: NA
Name No.: 001068

Acronym: Sea Trailers Express, Inc.
DBA Name: NA
Person Type: Non-Vessel-Operating Common Carrier
Street: 4715 N.W. 72nd Avenue
City: Miami
State: FL 33166
Country: United States of America
License No.: NA
Name No.: 007824

Acronym: Seaway Express Corporation
DBA Name: NA
Person Type: Ocean Common Carrier (Vessel Operating)
Street: 7814 Eighth Avenue South
City: Seattle
State: WA 98108
Country: United States of America
License No.: NA
Name No.: 001123

Acronym: T.A.R.R. Transportation, Inc.
DBA Name: NA
Person Type: Non-Vessel-Operating Common Carrier
Street: P.O. Box 13914
City: Santurce Station
State: PR 00908
Country: United States of America
License No.: NA
Name No.: 007799

Acronym: Tagship Sales International, Inc.
DBA Name: NA
Person Type: Non-Vessel-Operating Common Carrier
Street: P.O. Box 350627
City: Fort Lauderdale
State: FL 33335
Country: United States of America
License No.: NA
Name No.: 006371

Acronym: Unico Shipping Company
DBA Name: NA
Person Type: Non-Vessel-Operating Common Carrier
Street: 2724 N.W. 72 Avenue
City: Miama
State: FL 33122
Country: United States of America
License No.: NA
Name No.: 007281

Acronym: Viking Freight System, Inc.
DBA Name: NA
Person Type: Non-Vessel-Operating Common Carrier
Street: 411 East Plumeria Drive, Suite 100
City: San Jose
State: CA 95134
Country: United States of America
License No.: NA
Name No.: 000018

Acronym: Waterborne Marine Services
DBA Name: NA
Person Type: Non-Vessel-Operating Common Carrier
Street: P.O. Box 40175
Minillas Station
City: San Juan
State: PR 00940
Country: United States of America
License No.: NA
Name No.: 002598

Acronym: Westpac Freight
DBA Name: NA
Person Type: Non-Vessel-Operating Common Carrier
Street: 1031 98th Avenue
City: Oakland
State: CA 94603
Country: United States of America
License No.: NA
Name No.: 000102

[FR Doc. 89-16659 Filed 7-14-89; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bankers Trust New York Corp. New York, New York; Proposal To Engage in Placement as Agent of All Types of Securities

Bankers Trust New York Corporation, New York, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.23(a), of the Board's Regulation Y (12 CFR 225.23(a)), for permission for its subsidiary Bankers Trust Securities Corporation, New York, New York ("BTSC"), to engage in the placement, as an agent for issues, of all types of securities.

BTSC is currently authorized to underwrite and deal in, to a limited extent, certain securities. *See* J.P. Morgan & Co. Incorporated, The Chase Manhattan Corporation, Bankers Trust New York Corporation Citicorp and Security Pacific Corporation, 75 Federal Reserve Bulletin 192 (1989) ("J.P. Morgan et al."); Chemical New York Corporation, The Chase Manhattan Corporation, Bankers Trust New York Corporation, Citicorp, Manufacturers Hanover Corporation and Security Pacific Corporation, 73 Federal Reserve Bulletin 731 (1987); Citicorp, J.P. Morgan and Co. Incorporated and Bankers Trust New York Corporation, 73 Federal Reserve Bulletin 473 (1987); and 12 CFR 225.25(b)(16). In addition, BTSC has received approval to provide investment advisory and securities brokerage services on a combined basis to institutional customers. Bankers Trust New York Corporation, 74 Federal Reserve Bulletin 695 (1988).

Bankers Trust has applied to engage in the placement, as agent for issuers, of all types of securities within the following limitations: (i) BTSC will act only as agent, without recourse, solely upon the order and for the account of clients, or as "riskless principal", and will not assume any credit or market risk with respect to the securities privately placed; (ii) BTSC will remain a broker-dealer registered with the Securities and Exchange Commission and subject to the registration, record-keeping, reporting and other fiduciary standards of the Securities Exchange Act of 1934, as amended, and of the National Association of Securities Dealers, Inc.; (iii) BTSC will comply with the provisions of the Securities Act with respect to each private placement of securities; (iv BTSC will place securities only with a limited number of financially sophisticated institutions and individuals, and will not offer securities to the general public or make any

general solicitation or advertisement of the securities it privately places, including with respect to registered securities (BTSC will not angage in "best efforts" underwiring as part of the proposed activities); and (b) BTSC will not purchase or repurchase for its own account any securities privately placed by the Company or inventory (whether overnight or otherwise) unsold portions of an issue, however BTSC may engage in riskless principal transactions not involving a foreign affiliate of BTSC, and, pursuant to the exercise of authority to underwrite or deal in debt securities, may subsequently purchase such securities in the secondary market.

BTSC and its affiliates will also abide by the conditions numbered 5–11, 14, 16–19, 23, 24, 26 and 27 contained in the J. P. Morgan et al. Order, as if references in such conditions to securities underwritten or distributed and to underwriting and distribution were referenced to securities privately placed and to private placement, as the context may require.

The Board has not previously determined that the proposed activities are permissible under section 4(c)(8) of the Bank Holding Company Act. Section 4(c)(8) of the Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto."

Bankers Trust contends that the proposed activities are closely related to banking because banks have provided such services for many years and because they provide such operationally and functionally similar services that they are particularly well equipped to do so.

In determining whether an activity is a proper incident to banking, the Board must consider whether the proposal may "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Bankers Trust maintains that approval of the application can be expected to increase the competitiveness of BTSC in meeting the financing requirements of issuers, and promote the efficiency of the financing markets. Bankers Trust also contends that the proposed services would enhance convenience to customers and the efficiency of BTSC when added to BTSC's other securities activities.

Bankers Trust contents that the proposed activities would not result in adverse effects as the potential conflicts of interest that might be said to arise are no different from those arising from banks' existing securities activites, which have not resulted in any evidence of abuse, and are no different from potential conflicts of interest facing investment banking firms. Bankers Trust also states that any adverse effects are adequately addressed by the above proposed limitations as well as by the anti-fraud prohibitions of the Securities Act and the Securities Exchange Act of 1934, the NASD Rules of Fair Practice, the anti-tying provisions of the banking and antitrust laws, ERISA, and sections 23A and 23B of the Federal Reserve Act.

Bankers Trust contents that the proposed activities do not raise an issue under section 20 of the Glass-Steagall Act [12 U.S.C. 377], relying on *Securities Industry Ass'n* v. *Board of Governors*, 807 F.2d 1052 (D.C. Cir. 1986), *cert. denied*, 107 S.Ct 3228 (1987). Section 20 of the Glass-Steagall Act prohibits the affiliation of a member bank, such as Bankers Trust Company, with a firm that is "engaged principally" in the "underwriting, public sale of distribution" of securities.

Any request for a hearing on this application must comply with section 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)).

The application may be inspected at the offices of the Board of Governors of the Federal Reserve Bank of New York.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than August 7, 1989.

Board of Governors of the Federal Reserve System, July 11, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89–16643 Filed 7–14–89; 8:45 am]

BILLING CODE 6210–01–M

Bryan Bancorp of Georgia, Inc., et al.; Formation of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 4, 1989.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303.

1. *Bryan Bancorp of Georgia, Inc.*, Richmond Hill, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Bryan Bank & Trust, Richmond Hill, Georgia, a *de novo* bank. Comments on this application must be received by July 31, 1989.

B. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Salin Bancshares of North Central Indiana, Inc.*, Indianapolis, Indiana; to merge with Logansport Bancorp, Inc., Indianapolis, Indiana, and thereby indirectly acquire The Farmers & Merchants State Bank, Logansport, Indiana.

C. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *FDH Bancshares, Inc.*, Little Rock, Arkansas; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Fordyce, Fordyce, Arkansas, and Citizens First State Bank, Arkadelphia, Arkansas.

2. *Progressive Financial Services, Inc. Employee Stock Ownership Trust*, McKenzie, Tennessee; to become a bank holding company by acquiring an additional 8.71 percent of the voting shares of Progessive Financial Services, Inc., McKenzie, Tennessee, for a total of 32.81 percent, and thereby indirectly

acquire McKenzie Banking Company, McKenzie, Tennessee. Bank engages in the sale, as agent, of credit related insurance sold in connection with extensions of credit made by Bank. Comments on this application must be received by July 31, 1989.

3. *Union Planters Corporation,* Memphis, Tennessee; to acquire 100 percent of the voting shares of Citizens Bank and Trust Company, Wartburg, Tennessee.

Board of Governors of the Federal Reserve System, July 11, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-16640 Filed 7-14-89; 8:45 am]

BILLING CODE 6210-01-M

Change in Bank Control Notice; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and section 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 31, 1989.

A. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First State Bank of Covington Employee Stock Ownership Trust,* Covington, Tennessee; to increase its ownership in FSB, Inc., Covington, Tennessee, to 19.81 percent as the result of a stock redemption and thereby indirectly acquire First State Bank of Covington, Covington, Tennessee.

Board of Governors of the Federal Reserve System, July 11, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-16641 Filed 7-14-89; 8:45 am]

BILLING CODE 6210-01-M

The Hongkong and Shanghai Banking Corp., Hong Kong et al.; Application To Provide Securities Brokerage and Investment Advisory Services on a Combined Basis, Act as a Futures Commission Merchant, and Provide Certain Financial Advisory Services

The Hongkong and Shanghai Banking Corporation, Hong Kong; Kellett N.V., Curacao, The Netherlands Antilles; and HSBC Holdings B.V., Amsterdam, The Netherlands ("Applicants"), have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (the "Act") and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), for prior approval to engage: (1) Through James Capel Incorporated, New York, New York ("JCI"), an indirect wholly-owned subsidiary of Applicants, in providing securities brokerage and investment advisory services on a combined basis, acting as a futures commission merchant ("FCM") with respect to certain futures contracts and options on such contracts, providing investment advice as an FCM or commodity trading advisor, and providing certain financial advisory services, and (2) through Wardley Incorporated, New York, New York ("Wardley"), an indirect wholly-owned subsidiary of Applicants, in providing certain financial advisory services.

Specifically, Applicants have requested approval to engage in the following activities through JCI:

(a) Providing securites brokerage services, related securities credit activities pursuant to the Board's Regulation T, and incidental activities such as offering custodial services, individual retirement accounts, and cash management services;

(b) Providing research and investment advisory services to institutional customers;

(c) Acting as an FCM for nonaffiliated persons in the execution and clearance on major commodity exchanges of futures contracts and options on futures contracts for bullion, foreign exchange, government securities, certificates of deposit, and other money market instruments that a bank may buy or sell in the cash market for its own account;

(d) Providing investment advice, including counsel, publications, written analyses, and reports, as an FCM or as a commodity trading adviser registered with the Commodity Futures Trading Commission, with respect to the purchase and sale of futures contracts and options on futures contracts for the commodities and instruments referred to in paragraph (c) above;

(e) Acting as an FCM in the execution and clearance, on major U.S. and non-U.S. commodity exchanges, of futures contracts on stock, bond, and other indexes and options on such futures contracts;

(f) Providing the advisory services described in paragraph (d) above with respect to the futures contracts on indexes and options on such contracts described in paragraph (e);

(g) Furnishing general economic information and advice, general economic statistical forecasting services, and industry studies;

(h) Providing financial advice to state and local governments, such as with respect to the issuance of their securities;

(i) Providing advice regarding the structuring of and arranging for loan syndications, interest rate swaps, interest rate caps, and similar transactions;

(j) Providing advice in connection with financing transactions;

(k) Providing valuation services;

(l) Providing advice in connection with mergers, acquisitions, and divestitures;

(m) Rendering fairness opinions in connection with merger, acquisition, and similar transactions; and

(n) Conducting feasibility studies.

Applicants also have requested approval to engage in the activities described in paragraphs (g) through (n) through Wardley.

Securities brokerage services are permissible activities pursuant to § 225.25(b)(15) of Regulation Y, 12 CFR 225.25(b)(15). Investment advisory services are permissible activities pursuant to § 225.25(b)(4) of Regulation Y, 12 CFR 225.25(b)(4). In addition, the Board has determined by Order that the combined offering of investment advice with securities brokerage services to institutional customers is a permissible nonbanking activity. See, e.g., Canadian Imperial Bank of Commerce, 74 Federal Reserve Bulletin 571 (1988); The Royal Bank of Canada, 74 Federal Reserve Bulletin 334 (1988); The Bank of Nova Scotia, 74 Federal Reserve Bulletin 249 (1988); National Westminster Bank PLC, 72 Federal Reserve Bulletin 584 (1986).

The activities described in paragraphs (c) and (d) are permissible nonbanking activities pursuant to subsections 225.25(b) (18) and (19) of Regulation Y, 12 C.F.R. 225.25(b)(18) and (19). In addition, the Board has previously determined by Order that, subject to certain limitations, the FCM activities described in paragraphs (e) and (f) are closely related to banking and permissible for bank holding companies. Northern Trust Corporation, 74 Federal Reserve Bulletin 333 (1988); Citicorp, 73

Federal Reserve Bulletin 220 (1987); J.P. Morgan & Co., Incorporated, 71 Federal Reserve Bulletin 251 (1985).

The activities described in paragraphs (g) and (h) are permissible nonbanking activities pursuant to subsections 225.25(b)(4) (iv) and (v) of Regulation Y, 12 C.F.R. 225.25(b)(4)(iv) and (v). In addition, the Board has previously determined by Order that, subject to certain limitations, the remaining financial advisory activities are closely related to banking and permissible for bank holding companies. See, e.g., Canadian Imperial Bank of Commerce, 74 Federal Reserve Bulletin 571 (1988); Sun Trust Banks, Inc., 74 Federal Reserve Bulletin 256 (1988); Sovran Financial Corporation, 73 Federal Reserve Bulletin 744 (1987); Signet Banking Corporation, 74 Federal Reserve Bulletin 59 (1987).

While the Board has previously determined by Order or regulation that all of the activities listed above are permissible under the Act, the Board has never determined the permissibility of the proposed combination of activities of JCI.

Section 4(c)(8) of the Act provides that a bank holding company may, with prior Board approval, engage directly or indirectly in any activities "which the Board after due notice and opportunity for hearing has determined [by order or regulation] to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." A particular activity may be found to meet the "closely related to banking" test if it is demonstrated that banks have generally provided the proposed activity; that banks generally provide services that are operationally or functionally so similar to the proposed activity so as to equip them particularly well to provide the proposed activity; or that banks generally provide services that are so integrally related to the proposed activity as to require their provision in a specialized form. *National Courier Ass'n v. Board of Governors*, 516 F.2d 1229, 1237 (D.C. Cir. 1975). In addition, the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking or managing or controlling banks. Board Statement Regarding Regulation Y, 49 FR 806 (1984).

In determining whether an activity meets the second, or proper incident to banking, test of section 4(c)(8), the Board must consider whether the performance of the activity by an affiliate of a holding company "can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competiton, conflicts of interests, or unsound banking practices."

Applicants contend that the proposed combination of activities for JCI can be expected to produce benefits to the public that outweigh possible conflicts of interest, unsound banking practices, or other adverse effects. Applicants argue that the provision of the proposed activities on a combined basis by JCI would result, through the sharing of facilities, equipment, and personnel, in operational and managerial efficiencies that would enable JCI to compete more effectively with resulting public benefits such as more competitive prices and services. In addition, Applicants contend that the availability of all of the proposed services from one source would result in added convenience and efficiencies for customers.

Applicants further argue that brokerage and investment advisory services, FCM activities, and financial advisory services are distinct activities such that offering them through one company would not create any conflicts or adverse effects. Applicants have committed that they would conduct the proposed activities subject to the limitations that the Board has imposed in previous Orders approving such activities. Applicants also contend that the possibility of adverse effects such as conflicts of interest is mitigated due to the existence of other laws and regulations that regulate the proposed activities.

Interested persons are requested to express their views in writing on whether consummation of the proposal can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices.

In publishing the proposal for comment, the Board does not take any position on issues raised by the proposal under the Act. Notice of the proposal is published solely in order to seek the views of interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal meets or is likely to meet the standards of the Act.

Any views or requests for a hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than August 17, 1989. Any request for a hearing must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions for 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.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, July 11, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-16642 Filed 7-14-89; 8:45 am]

BILLING CODE 6210-01-M

Mercantile Bancorporation, Inc., et al., Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party

commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 28, 1989.

A. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Mercantile Bancorporation, Inc.*, St. Louis, Missouri; to engage *de novo* in community development activities pursuant to § 225.25(b)(6) of the Board's Regulation Y.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Scandinavian Bank Group, PLC*, London, England; to engage *de novo* through its subsidiary, Scandinavian American Securities, Inc., New York, New York, in securities brokerage services, related securities credit activities, and incidental activities pursuant to § 225.25(b)(15) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, July 10, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89–16593 Filed 7–14–89; 8:45 am]

BILLING CODE 6210–01–M

Plainview Holding Co.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has 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 225.24) 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)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than July 28, 1989.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Plainview Holding Company*, Plainview, Nebraska; to acquire 100 percent of the voting shares of Farmers National Bank, Pilger, Nebraska, and to merge with Deshler State Company, Deshler, Nebraska, and thereby indirectly acquire Nebraska Security Bank, Deshler, Nebraska. Farmers National Bank engages in general insurance directly. Nebraska Security Bank engages in the sale of credit-related insurance (life, accident, and health) and crop hail and crop multi-peril insurance, and has a depositors' hospitalization plan. Both banks are located in communities with populations of less than 5,000.

Board of Governors of the Federal Reserve System, July 10, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89–16594 Filed 7–14–89; 8:45 am]

BILLING CODE 6210–01–M

Stearns Financial Services, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Co.

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 28, 1989.

A. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Stearns Financial Services, Inc.*, Albany, Minnesota; to become a bank holding company by acquiring 80 percent of Stearns Agency, Inc., Albany, Minnesota, and thereby indirectly acquire Stearns County National Bank of Albany, Albany, Minnesota; 100 percent of the voting shares of Financial Services of Evansville, Inc., Evansville, Minnesota, and thereby indirectly acquire Farmers State Bank of Evansville, Evansville, Minnesota; 84.13 percent of the voting shares of Security State Bank of Holdingford, Holdingford, Minnesota; and 94.56 percent of the voting shares of Farmers State Bank of Upsala, Upsala, Minnesota.

In connection with this application, Applicant also proposes to acquire Stearns Agency, Inc., Albany, Minnesota, (doing business as Stearns County Insurance); Financial Services of Evansville, Inc., Evansville, Minnesota (doing business as Farmers State Agency); and Security Insurance Agency, Holdingford, Minnesota, and thereby engage in general insurance sales pursuant to § 225.25(b)(8)(iii)(A) of the Board's Regulation Y. These activities will be conducted in Albany, Evansville, and Holdingford, Minnesota.

Board of Governors of the Federal Reserve System, July 10, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89–16595 Filed 7–14–89; 8:45 am]

BILLING CODE 6210–01–M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individuals cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 062689 AND 070789

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
KKR Associates, Maxwell Communication Corp., PLC, Macmillan Book Clubs, Inc	89-1886	06/26/89
American Express Company, Bernard L. Schwartz, Loral Corporation, Opus Acquisition Corporation	89-1905	06/26/89
Cherokee Resources Incorporated, Mobil Corporation, Mobil Oil Exploration & Producing Southeast Inc	89-2005	06/26/89
Exxon Corporation, Mobil Corporation, Mobil Producing Texas & New Mexico Inc	89-2013	06/26/89
Las Colinas Investment Properties Limited Partnership, Southland Financial Corporation, Southland Financial Corporation	89-1942	06/27/89
The Marcade Group Inc., Morton Brown, Above the Belt, Inc	89-1944	06/27/89
The Marcade Group Inc., Irwin Kaplan, Above the Belt, Inc	89-1945	06/27/89
Grand Metropolitan Public Limited Company, De La Salle Institute, Mont La Salle Vineyards	89-1845	06/28/89
International Minerals & Chemical Corporation, The Wellcome Trust, Coopers Animal Health (Holdings) Ltd	89-1855	06/28/89
Shearson Lehman Hutton Merchant Banking Portfolio Pt LP, Bernard L. Schwartz, Opus Acquisition Corporation	89-1904	06/28/89
Steven J. Simmons, Centel Corporation, Centel Cable Television Company of Kentucky	89-1920	06/28/89
Triton Group Ltd., Fuqua Industries, Inc., Fuqua Industries, Inc	89-1959	06/28/89
Gerald W. Schwartz, The Trust Created Under the Dayton Superior Corp. Agrmt., The Dayton Superior Corporation	89-1978	06/28/89
Barclays PLC, Fine Homes International L.P., Fine Homes International L.P.	89-2010	06/28/89
Sabre North Atlantic International Corp., TW Services, Inc., TW Services, Inc	89-2050	06/28/89
Coniston North Atlantic International Corp., TW Services, Inc., TW Services, Inc	89-2051	06/28/89
Sabre Associates of New Jersey, L.P., TW Services, Inc., TW Services, Inc	89-2052	06/28/89
Coniston Institutional Investors, TW Services, Inc., TW Services, Inc	89-2053	06/28/89
Coniston Partners, TW Services, Inc., TW Services, Inc	89-2054	06/28/89
Jason Incorporated, Canadian Pacific Limited, Braden Division	89-2060	06/28/89
Regent International Hotels Limited, Regent International Hotels (California) Limited, Regent International Hotels (California) Limited	89-1872	06/29/89
FS Champ Associates, Stride Rite Corporation, Stride Rite Corporation	89-1980	06/29/89
Sun Company, Inc., Eaton Corporation, Eaton Credit Corporation	89-1989	06/29/89
Carlisle Companies Incorporated, Edward J. Sydor, National Friction Products Corp	89-2022	06/29/89
Ronald I. Dozoretz, M.D., Comprehensive Care Corporation, Comprehensive Care Corporation	89-1921	06/30/89
Quantum Chemical Corporation, Petrolane Partners, L.P., Petrolane Partners, L.P	89-1932	06/30/89
Quantum Chemical Corporation, Panhandle Eastern Corporation, Petrolane Incorporated	89-1933	06/30/89
CS First Boston, Inc., Petrolane Partners, L.P., Petrolane Partners, L.P	89-1936	06/30/89
CS First Boston, Inc., Panhandle Eastern Corporation, Petrolane Incorporated	89-1937	06/30/89
New World Development Company Limited, Ramada Inc., Ramada Inc	89-1948	06/30/89
LADD Furniture, Inc., Maytag Corporation, Gunlocke Company and the BJC Company	89-1951	06/30/89
ADC Telecommunications, Inc., PI Parent Corporation, Kentrox Industries, Inc	89-1967	06/30/89
Equitable Life Assurance Society of the United States, Aetna Life and Casualty Company, Aetna Life Insurance Company	89-2014	06/30/89
General Electric Company, United Meridan Corporation, Ensource Inc. and Enline Inc	89-2021	06/30/89
808006 Ontario Limited, Tenneco Inc., Tenneco Automotive a Division of Tennessee Gas	89-2036	06/30/89
Matra S.A., Banner Industries, Inc., Fairchild Industries, Inc	89-2056	06/30/89
Merrill Lynch & Co., Inc., Mr. Barry I. Gersten, Centennial Textiles, Inc	89-2070	06/30/89
Mauna Loa Macadamia Partners, L.P., Buyco, Inc., Mauna Loa Orchards, L.P	89-2071	06/30/89
James B. Lindsey, Jr., Cal-Pepsi, Inc., Cal-Pepsi, Inc	89-2096	06/30/89
PepsiCo, Inc., Cal-Pepsi, Inc., Cal-Pepsi, Inc	89-2097	06/30/89
James B. Lindsey, Sr., Cal-Pepsi, Inc., Cal-Pepsi, Inc	89-2104	06/30/89
Republic Engineered Steels, Inc., ESOP, LTV Steel Company, Inc., LTV Steel Company, Inc	89-2112	06/30/89
The Valspar Corporation, The McCloskey Corporation, The McCloskey Corporation	89-1913	07/03/89
Cookson Group PLC, Donald W. McDanel Trust, McDanel Refractory Company	89-1947	07/03/89
Masco Industries, Inc., Trylon Corporation, Trylon Corporation	89-1982	07/03/89
Southmark Corporation, The Mutual Life Insurance Company of New York, General Mortgage Service Company	89-2075	07/03/89
Automated Security (Holdings) PLC, ASHA-GKB Corporation, a newly formed corporation, ASHA-GKB Corporation, a newly formed corporation	89-1968	07/05/89
Welsh, Carson, Anderson & Stowe V, HCA—Hospital Corporation of America, HCA Management Company, Inc	89-2059	07/05/89
Kotobuki Fudosan Ltd., The Coca-Cola Company, Belmont Springs Water Co., Inc	89-2090	07/05/89
Rockwood Holding Company, Household International, Inc., Albion Industries, Inc	89-2091	07/05/89
John Lewis and Associates, L.P., Thomas M. Willingham, II, Interstate Distributors, Inc	89-1929	07/06/89
Charles C.K. Yeung, Farah Incorporated, Generra Sportswear Company, Inc	89-1961	07/06/89
E. Claiborne Robins, c/o A.H. Robins Co., Inc., American Home Products Corporation, American Home Products Corporation	89-2039	07/06/89
GB-Inno-BM S.A., Scotty's, Inc., Scotty's, Inc	89-2055	07/06/89
American Home Products Corporation, A.H. Robins Company, Incorporated, A.H. Robins Company, Incorporated	89-2061	07/06/89
E. Claiborne Robins, Jr., American Home Products Corporation, American Home Products Corporation	89-2066	07/06/89
Loews Corporation, Kaneb Services, Inc., Kaneb Services, Inc	89-1946	07/07/89
Banner Industries, Inc., Clarcor Inc., Clarcor Inc	89-2029	07/07/89
Bessemer Securities Corporation, Core-Mark International Inc., Core-Mark International Inc	89-2083	07/07/89
J.H. Whitney & Co., Prime Computer, Inc., Prime Computer, Inc	89-2117	07/07/89
American Express Company, Prime Computer, Inc., Prime Computer, Inc	89-2122	07/07/89

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, Contact Representative, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, DC 20580, (202) 326–3100.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 89–16692 Filed 7–14–89; 8:45 am]

BILLING CODE 6750–01–M

[File No. 892–3170]

Robert Lewis Wilks, d/b/a Barber Funeral Home; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a Springfield, Tenn. funeral home director from doing business as a funeral service provider, or from having any business relationship with any entity selling or offering to sell funeral goods or services to the public.

DATE: Comments must be received on or before September 15, 1989.

ADDRESS: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Lydia Parnes or Mamie Kresses, FTC/H–238, Washington, DC 20580. (202) 326–3126 or 326–2070.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order(s) to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Order To Cease and Desist

The Agreement herein, by and between Robert Lewis Wilks, individually and doing business as Barber Funeral Home, hereinafter sometimes referred to as "respondent," and by respondent's attorney, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's Rule governing consent order procedures. In accordance therewith the parties hereby agree that:

(1) Robert Lewis Wilks is a resident of the State of Tennessee, with his current residence at the Robertson County Jail, 500 Willow Street, Springfield, Tennessee.

(2) Respondent has been served with a copy of the Complaint issued by the Federal Trade Commission charging him with violations of Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45 (1980).

(3) Respondent admits all the jurisdictional facts set forth in the Commission's Complaint in this proceeding.

(4) Respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this Agreement.

(5) This Agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this Agreement is accepted by the Commission, it will be placed on the public record for a period of (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this Agreement and so notify the respondent, in which event it will take such action as it may consider appropriate, or issue and serve its decision, in disposition of the proceeding.

(6) This Agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in the Complaint.

(7) This Agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 3.25(f) of the Commission's Rules, the Commission may, without further notice to respondent: (a) Issue its decision containing the following Order to Cease and Desist in disposition of the proceeding, and (b) make information public in respect thereto. When so entered, the Order to Cease and Desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The Order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to Order to respondent's address as stated in this Agreement shall constitute service. Respondent waives any right it may have to any other manner of service. The Complaint may be used in construing the terms of the Order not defined therein, and no agreement, understanding, representation, or interpretation not contained in the Order or the Agreement may be used to vary or contradict the terms of the Order.

(8) Respondent has read the Complaint and the Order contemplated hereby and understands that once the Order has been issued, he may be liable for civil penalties in the amount provided by law for each violation of the Order after it becomes final.

Order

Part I

It is ordered that respondent Robert Lewis Wilks, directly or through any corporation, subsidiary, division or other device, shall forthwith cease and desist from transacting business as a funeral service provider or having any employment, consultancy, or business affiliation with any person or entity that sells or offers to sell funeral goods or services to the public.

Part II

It is Further ordered that for a period of ten (10) years from the date of service of this Order or the date of respondent's release from incarceration, should he be convicted of any crimes charged in the indictments presented by the State of Tennessee, whichever occurs later, respondent shall promptly notify the Commission of any change of name, residence, business address, occupation, place of business, or place of employment. Respondent's notification shall be made by submitting a report in writing, by certified mail, to the Federal Trade Commission, Bureau of Consumer Protection, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580, or to such other address as the Commission or its designated staff shall by written notice require.

The expiration of this notice provision shall not affect any other provision of this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Robert Lewis Wilks ("Wilks"). Wilks was sole proprietor and director of the Barber Funeral Home in Springfield, Tennessee from July 1968 through November 1988. In his capacity as a funeral director, Wilks sold funeral goods and services to customers in Tennessee and Kentucky.

The proposed consent order has been placed on the public record for sixty (60) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After sixty days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint charges Wilks, individually and doing business as Barber Funeral Home, with making misrepresentations to consumers, directly or by implication, about his providing the funeral goods and services selected and paid for by his customers. Paragraphs Five and Six allege that Wilks, in numerous instances, buried the bodies of deceased persons without the caskets or burial vaults that his customers selected and purchased. Paragraph Seven alleges that Wilks, in numerous instances, desecrated the bodies and graves of deceased persons by such actions as dumping trash into the caskets or graves.

Part I of the proposed consent order would prohibit Wilks from doing business as a funeral director or from having any business affiliation with any person or other entity that offers or sells funeral goods or services to the public. Part II would require Wilks to report any change in his address or employment to the Commission for a period of ten years from the date of service of this order or the date of his release from incarceration, whichever occurs later, if he is convicted of any crimes charged in the indictments presented by the State of Tennessee.

The purpose of this analysis is to facilitate public comment on the proposed order; it is not intended to constitute an official interpretation of the agreement and proposed order, or to modify their terms in any way.

Donald S. Clark,

Secretary.

[FR Doc. 89-16565 Filed 7-14-89; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

Agency Information Collection Activities Under OMB Review

The GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to approve new information collections General Services Administration Acquisition Regulations Part 552.228-72, Performance Bond, and 552.228-73, Performance and Payment Bonds. An offeror awarded a service contract may be required to submit a performance bond to protect the Government's interests. Use of the GSA Form 3604 will resolve problems encountered when service contracts contain option provisions to extend the period of performance.

ADDRESSES: Send comments to Bruce McConnell, GSA Desk Officer, Room 3235, NEOB, Washington, DC, 20503, and to Mary L. Cunningham, GSA Clearance Officer, General Services Administration (CAIR), F Street at 18th, NW., Washington, DC 20405.

Annual Reporting Burden: Firms responding, 1,100; responses, 1 per year; average hours per response, .25; burden hours, 275.

For Further Information Contact: Ida M. Ustad, 202-566-1224

Copy of Proposal: A copy of the proposal may be obtained from the Information Collection Management Branch (CAIR), Room 3014, GS Bldg., Washington, DC 20405, or by telephoning 202-535-7691.

Dated: July 3, 1989.

Emily C. Karam,

Director, Information Management Division (CAI).

[FR Doc. 89-16654 Filed 7-14-89; 8:45 am]

BILLING CODE 6820-61-M

Agency Information Collection Activities Under OMB Review

The GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to approve a new information collection, titled Packing List. A uniquely numbered Government commercial credit card has been authorized for making payment for orders under $25,000 placed against certain receipts of orders placed orally. Additional information not normally included in packing lists is required.

AGENCY: Office of GSA Acquisition Policy and Regulations (V), GSA.

ADDRESSES: Send comments to Bruce McConnell, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Mary L. Cunningham, GSA Clearance Officer, General Services Administration (CAIR), F Street at 18th, NW., Washington, DC 20405.

Annual Reporting Burden: Firms responding, 3,000; responses, 48.4 per year; average hours per response, .0167; burden hours, 2,425

For Further Information Contact: Ida M. Ustad, 202-566-1224

Copy of Proposal: A copy of the proposal may be obtained from the Information Collection Management Branch (CAIR), Room 3014, GS Bldg., Washington, DC 20405, or by telephone 202-535-7691.

Dated: July 3, 1989.

Emily C. Karam,

Director, Information Management Division (CAI).

[FR Doc. 89-16655 Filed 7-14-89; 8:45 am]

BILLING CODE 6820-01-M

National User Panel on Writing Pads

Notice is hereby given of a National Meeting of the Federal Supply Service WRITING PADS USER PANEL. The meeting will be held on Tuesday, July 25, 1989, 9:00 a.m. to completion on that date (approximately 4:00 p.m.), in room 704, Crystal mall Building #4, 1941 Jefferson Davis Highway, Crystal City, Arlington, Virginia.

The meeting will be devoted to a discussion of the quality of the various Writing Pads procured by the Federal Supply Service for redistribution to using agencies.

The meeting will be open to representatives of Government Agencies, The National Industry for the Blind and interested commercial suppliers of the subject pads.

Charles Hulick

Assistant Commissioner for Quality and Contract Administration.

Dated: July 10, 1989.

[FR Doc. 89-16683 Filed 7-14-89; 8:45 am]

BILLING CODE 6820-24-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 88N-0040]

Sulfamethazine; National Center for Toxicological Research Technical Reports; Availability

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of two final technical reports on sulfamethazine from its National Center for Toxicological Research (NCTR). The reports are entitled "Chronic Toxicity and Carcinogenesis Study on Sulfamethazine in B6C3F1 Mice" and "Chronic Toxicity and Carcinogenesis Study on Sulfamethazine in Fischer 344 Rats." The final technical reports supersede two draft technical reports FDA previously made available.

ADDRESSES: Written requests for single copies of the NCTR final technical reports "Chronic Toxicity and Carcinogenesis Study on Sulfamethazine in B6C3F1 Mice," dated April 1989, and "Chronic Toxicity and Carcinogenesis Study on Sulfamethazine in Fischer 344 Rats," dated May 1989, should be submitted to the 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. The final technical reports are available for public examination 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.

FOR FURTHER INFORMATION CONTACT: Norris Alderson, Center for Veterinary Medicine (HFV–500), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6510.

SUPPLEMENTARY INFORMATION: FDA has received and is making available two final technical reports of two chronic toxicity studies conducted by NCTR on sulfamethazine. In the studies, sulfamethazine was fed over a 24-month period to mice (one study) and rats (second study) to determine the toxicity and carcinogenicity of sulfamethazine. The final technical reports supersede two draft versions of NCTR technical reports FDA had previously made avaialble. (See 53 FR 9492; March 23, 1988 (notice of availability of draft technical report on the mouse study), and 53 FR 17850; May 18, 1988 (notice of availability of draft technical report on the rat study).) The draft reports stated that they should not be considered final until after a peer review of the pathology data was completed. The final technical reports being made available by this notice reflect changes to the pathology data base in each study as recommended during the peer review, which was conducted by NCTR pathologists in cooperation with the National Toxicology Program's Pathology Working Group .

Dated: July 11, 1989.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89–16703 Filed 7–14–89; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

June 27, 1989.

This is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.8(a) (formerly 25 CFR 54.8(a)) notice is hereby given that the Indian Canyon Band of Coastanoan/Mutsun, Indians of California, c/o Ms. Ann Marie Sayers, P.O. Box 28, Hollister, California 95024–0028 has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The letter petition was received by the Bureau of Indian Affairs on June 9, 1989, and was signed by the Chairman of the group.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be sent by mail to the petitioner and other interested parties at the appropriate time.

Under § 83.8(d)(formerly 54.8(d)) of the Federal regulations, interested parties may submit factual and/or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the Bureau of Indian Affairs' files. Such submissions will be provided to the petitioner upon receipt by the Bureau. The petitioner will be provided an opportunity to respond to such submissions prior to a final determination regarding the petitioner's status.

The petition may be examined by appointment in the Department of the Interior, Bureau of Indian Affairs, Branch of Acknowledgment and Research, Mail Stop 4627–MIB, 18th and C Streets NW., Washington, DC 20240, Phone: (202) 343–3592.

Hazel E. Elbert,

Acting Deputy to the Assistance Secretary, Indian Affairs (Operations)

[FR Doc. 89–16690 Filed 7–14–89; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[UT–940–09–4212–11; U–0141112]

Terminiation of Recreation and Public Purpose Classification; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice terminates Recreation and Public Purpose Classification affecting 2.5 acres in Rich County, Utah.

EFFECTIVE DATE: July 17, 1989.

FOR FURTHER INFORMATION CONTACT: Mikes Barnes, BLM Utah State Office, 324 South State Street, Suite 301, Salt Lake City, Utah 84111–2303, (801) 539–4119.

By virtue of the authority vested in the Secretary of the Interior by the Recreation and Public Purpose Act of June 14, 1926, as amended; 43 U.S.C. 869–4, it is ordered as follows:

1. Pursuant to 43 CFR 2091.7–1(b)(1) and the authority delegated to me by BLM Manual section 1203 (48 FR 85), classification decision U–0141112 dated March 8, 1968, which classified 2.5 acres of public land as suitable for recreation and public purposes is hereby revoked insofar as it affects the following described lands:

Salt Lake Meridian

T. 9N., R. 7 E.,
Sec. 4, NW¼SW¼SW¼SW¼.

The area described contains 2.5 acres located in Rich County.

2. At 9:00 a.m. on July 17, 1989, the lands described in paragraph one shall be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable laws. All valid applications received at or prior to 9:00 a.m. on the effective date stated above shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

3. At 9:00 a.m. on July 17, 1989, the lands described in paragraph one will be opened to location and entry under the United States mining laws subject to valid existing rights. Appropriation of any of the lands described in paragraph

one of this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no right against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

Ted D. Stephenson,

Chief, Branch of Lands and Mineral Operations.

[FR Doc. 89-16647 Filed 7-14-89; 8:45am]

BILLING CODE 4310-DQ-M

[MT-921-08-4120-11; NDM 78336]

Coal Exploration License Application; North Dakota

AGENCY: Bureau of Land Management, Montana State Office.

ACTION: Notice of invitation.

Coal Exploration License Application NDM 78336

Members of the public are hereby invited to participate with The Coteau Properties Company in a program for the exploration of coal deposits owned by the United States of America in the following described lands located in Mercer County, North Dakota:

5th Principal Meridian, North Dakota

T. 145 N., R. 87 W.,
Sec. 2: Lot 3, SE¼NW¼;
Sec. 6: SE¼.
T. 144 N., R. 88 W.,
Sec. 2: Lots 3, 4, S½NW¼.
T. 145 N., R. 88 W.,
Sec. 2: Lot 1, SE¼NE¼.
481.98 acres, Mercer County.

Any party electing to participate in this exploration program shall notify, in writing, both the State Director, Bureau of Land Management, P.O. Box 36800, Billings, Montana 59107; and The Coteau Properties Company, 2000 Schafer Street, P.O. Box 5500, Bismarck, North Dakota 58502-5500. Such written notice must refer to serial number NDM 78336 and be received no later than 30 calendar days after publication of this Notice in the **Federal Register** or 10 calendar days after the last publication of the Notice in the Beulah Beacon, whichever is later. This Notice will be published once a week for 2 consecutive weeks.

The proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the Bureau of Land Management. Copies of the exploration plan as submitted by The Coteau Properties Company may be examined during normal business hours at the Bureau of Land Management, Montana State Office, Granite Tower Building, 222 North 32nd Street, Billings, Montana.

Robert W. Faithful, IV,

Associate State Director.

Date: July 7, 1989.

[FR Doc. 89-16587 Filed 7-14-89; 8:45 pm]

BILLING CODE 4310-DM-M

Meeting on Title Claims Resolution for Public Lands in Monroe County, MI

Time and Date: 7:00 p.m., Wednesday, July 19, 1989.

Place: Monroe High School, 901 Herr Road, Monroe, Michigan.

Status: This meeting is open to the public.

Matters To Be Considered: Explanation of the proposed procedures to resolve title claims against certain public domain lands located in Monroe County, Michigan; pursuant to section 3 of the Michigan Public Lands Improvement Act of 1988 (102 Stat. 2711).

Contact Person For More Information: Duane Marti, Realty Specialist, Telephone number: 414-291-4429.

Leon R. Kabat,

Acting District Manager.

[FR Doc. 89-16645 Filed 7-14-89; 8:45 am]

BILLING CODE 4310-GJ-M

[CO-920-89-4111-15; COC46775]

Colorado; Proposed Reinstatement

Notice is hereby given that a petition for reinstatement of oil and gas lease COC46775 for lands in Moffat and Routt Counties, Colorado, was timely filed and was accompanied by all the required rentals and royalties accruing from March 1, 1989, the date of termination.

The lessee has agreed to new lease terms for rentals and royalties at rates of $5.00 and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee for the lease and has reimbursed the Bureau of Land Management for the estimated cost of this **Federal Register** notice.

Having met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920, as amended, (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease effective March 1, 1989, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Questions concerning this notice may be directed to Joan Gilbert of the Colorado State Office at (303) 236-1772.

Janet M. Budzilek,

Chief Fluid Minerals Adjudication Section.

[FR Doc. 89-16588 Filed 7-14-89; 8:45 am]

BILLING CODE 4310-JB-M

[NM-943-07-4111-15; OK NM 31970]

Proposed Reinstatement of Terminated Oil and Gas Lease; Oklahoma

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Under the provisions of 43 CFR 3108.2-3, Robert G. Anderson petitioned for reinstatement of oil and gas lease OK NM 31970, covering the following described lands located in Roger Mills County, Oklahoma:

T. 14 N., R. 25 W., IM,
Sec. 22: S½NE¼;
Sec. 23: S½NW¼.
Containing 160.00 acres.

It has been shown to my satisfaction that failure to make timely payment of rental was due to inadvertence.

No valid lease has been issued affecting the lands. Payment of back rentals and administrative cost of $500.00 has been paid. Future rentals shall be at the rate of $5.00 per acre per year and royalties shall be at the rate of 16⅔ percent. Reimbursement for cost of the publication of this notice shall be paid by the lessee.

Reinstatement of the lease will be effective as of the date of termination, November 1, 1988.

Date: July 6, 1989.

Dolores L. Vigil,

Acting Chief, Adjudication Section.

[FR Doc. 89-16657 Filed 7-14-89; 8:45 am]

BILLING CODE 4310-FB-M

[CO-030-09-4333-10-8372]

Draft Dolores River Corridor Management Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Review and Comment Period for Draft Dolores River Corridor Management Plan.

SUMMARY: Notice is hereby given that the Bureau of Land Management is accepting comments until August 18, 1989 on a draft multi-resource activity

plan which prescribes management for the Dolores River Special Recreation Management Area (SRMA) in southwest Colorado.

SUPPLEMENTARY INFORMATION: The Montrose District, Bureau of Land Management, has prepared a draft activity plan designed to direct management of approximately 106 miles of the Dolores River corridor between Cahone, Colorado and the Montrose District boudary, approximately eight miles downstream from the San Miguel River confluence. The draft plan addresses recreational, wildlife, riparian, and cultural resources and provides guidelines for visitor use within the planning area. Key issues include river corridor carrying capacities, commercial use allocation, reduction of wildlife/recreation use conflicts, and visitor education provisions. Copies of the document are available for public review at the following locations:

Montrose District, BLM, 2465 South Townsend, Montrose, CO 81401, (303) 249–7791

San Juan Resource Area, BLM, Federal Building, 701 Camino del Rio, Durango, Colorado 81301, (303) 247–4082

Colorado State Office, BLM, 2850 Youngfield, Lakewood, Colorado 80215, (303) 236–1756.

Comments on the draft plan will be accepted until August 18, 1989. Submit comments in writing to Tom Christensen at San Juan Resource Area, BLM (see address above).

Dated: July 7, 1989.

Kenneth D. Herman,

Acting District Manager.

[FR Doc. 89–16656 Filed 7–14–89; 8:45 am]

BILLING CODE 4310–JB–M

Fish and Wildlife Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's Information Collection Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service and OMB, Paperwork Reduction Project (1018–0014), Washington, DC 20503, telephone 202–395–7340.

Title: Application for National Wildlife Refuge Use

OMB Approval No: 1018–0014

Abstract: The permitting of economic and public uses on lands of the National Wildlife Refuge System is authorized by the National Wildlife Refuge System Administration Act and the Refuge Recreation Act and implemented in regulations in 50 CFR Subchapter C. The information collected on the application form is necessary to issue permits for otherwise prohibited activities on wildlife refuges. Such information is necessary to identify and contact applicants and determine eligibility for permit issuance.

Service Form number: 3–2001

Frequency: On occasion

Description of Respondents: Individuals and households, farms, small businesses or organizations, non-profit institutions, businesses or other for profit

Estimated Completion Time: The reporting burden is estimated to be 6 minutes per response

Annual Responses: 256,842

Annual Burden Hours: 25,684.

Service Information Collection Clearance Officer: James E. Pinkerton, 703–358–1943, 224 Arlington Square, U.S. Fish and Wildlife Service, Washington, DC 20240.

Date: June 22, 1989.

Rollin D. Sparrowe,

Acting Assistant Director—Refuges and Wildlife.

[FR Doc. 89–16689 Filed 7–14–89; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

Secretary of the Interior's Standards for Historic Vessel Preservation Projects with Guidelines for Applying the Standards

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: Notice is given of the intent to publish uniform standards to be applied to preservation projects involving historic vessels. Drafts are available for public review and comment before final publication.

The standards set forth supplement the *Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* and together with the accompanying guidelines are intended to recognize the unique problems of historic preservation in a maritime context. These standards and guidelines are not regulatory and do not set or interpret agency policy. They are intended to provide technical advice about historic preservation activities and methods.

DATE: Written comments must be delivered or mailed by September 15, 1989.

ADDRESS: Requests for drafts and written comments should be sent to: National Maritime Initiative, History Division (418), National Park Service, P.O. Box 37127, Washington, DC 20013–7127.

FOR FURTHER INFORMATION CONTACT: James P. Delgado, Maritime Historian, History Division (418), National Park Service, U.S. Department of the Interior, P.O. Box 37127, Washington, DC 20013–7127, 202–343–9528.

SUPPLEMENTARY INFORMATION: Congress requested in the fiscal year 1985 National Park Service appropriation that the Service in "cooperation with the National Trust for Historic Preservation and the maritime preservation community * * * conduct a survey of historic maritime resources, including those of the Service; recommend standards and priorities for the preservation of those resources; and recommend the appropriate Federal and private sector roles in addressing those priorities." (CONGRESSIONAL RECORD, October 10, 1984, p. 11922.)

The Secretary of the Interior has general authority to prepare Standards and Guidelines under sections 101 (f), (g), and (h), and section 110 of the National Historic Preservation Act of 1966.

Drafting Information

The document was developed and adapted by Michael Naab, Project Manager at San Francisco Maritime National Historical Park. A working committee of five maritime preservation professionals, Don Birkholz, Jr., preservation consultant, Tri-Coastal Marine, Inc.; Maynard Bray, private maritime consultant; Norman Brouwer, curator of ships, South Street Seaport; Dana Hewson, shipyard director, Mystic Seaport; and Walter Rybka, preservation consultant, Tri-Coastal Marine; extensively reviewed the various drafts. Others participating in the review were Roger Allen, Peter Neill, Anne Witty, Marcia Myers, David Gillespie, Clare Adams, Merrill Hesch, and Michael Lynch. Within the Service, Glennie Wall, Steve Hyman, Steve Hastings, H. T. McGrath, Ron Oakes, James Delgado, Kevin Foster, Edwin Bearss, Randall Biallas, Gary Hume,

Beth Savage, D. Patterson Tiller, Lawrence Aten, and Carol Shull reviewed the document.

Date: July 3, 1989.

John M. Morehead,

Acting Director of the National Park Service.

[FR Doc. 89-16675 Filed 7-14-89; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 290 (Sub-No. 4)]

Railroad Cost Recovery Procedures-Productivity Adjustment

AGENCY: Interstate Commerce Commission.

ACTION: Notice.

SUMMARY: The Commission is proposing to adopt a 1987 value for productivity change and incorporate that value, along with previously calculated data, into a six-year (1982–1987) averaging period. Estimated productivity growth for 1987 is 1.100. The six-year (1982–1987) average productivity growth is 1.031. The productivity adjustment was adopted in Ex Parte No. 290 (Sub No. 4), *Railroad Cost Recovery Procedures-Productivity Adjustment.* 5 ICC 2d 434. That decision observed that data for additional years would be added as it became available. The productivity adjustment is used to adjust the quarterly Rail Cost Adjustment Factor for productivity improvements.

DATES: Notices of intent to file comments are due July 24, 1989. Comments are due August 14, 1989. Replies are due 15 days thereafter.

FOR FURTHER INFORMATION CONTACT: William T. Bono (202) 275–7354, Robert C. Hasek (202) 275–0938, TDD for hearing impaired (202) 275–1721.

SUPPLEMENTARY INFORMATION:

Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to, call or pick-up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or telephone (202) 289–4357/4359. Assistance for the hearing impaired is available through TDD services (202) 275–1721 or by pickup from Dynamic Concepts, Inc., Room 2229 at Commission Headquarters.

This action will not significantly affect either the quality of the human environment or energy conservation. It will not have a significant impact on a substantial number of small entities.

Dated: July 7, 1989

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips. Commissioner Lamboley commented with a separate expression.

Noreta R. McGee,

Secretary.

[FR Doc. 89-16710-7-14-89; 8:45 am]

BILLING CODE 7035-01-M

LOWER MISSISSIPPI DELTA DEVELOPMENT COMMISSION

Change of Schedule for Meeting and Announcement of Arkansas Public Hearing

Background

The Lower Mississippi Delta Development Commission was created by Pub. L. 100–460, signed on October 1, 1988. The purpose of the Commission is to identify and study the economic development, infrastructure, employment, transportation, resource development, education, health care, housing, and recreation needs of the Lower Mississippi Delta region by seeking and encouraging the participation of interested citizens, public officials, groups, agencies, and others in developing a 10-year plan that makes recommendations and establishes priorities to alleviate the needs identified. The Commission will make its report to Congress, the President, and the Governors of Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee no later than May 14, 1990.

This notice announces a change in schedule for a regular business meeting. It also announces the Arkansas public hearing.

Meeting

Previously scheduled for:

Time: 5:00 p.m., July 13, 1989

Place: Sikeston Inn, I–55 and U.S. 62, Sikeston, MO 63801

Status: Open meeting

Moved to:

Time: 4:30 p.m., July 25, 1989

Place: Phillips County Community College, Campus Drive, Helena, Arkansas, 72042

Status: Open meeting

Public Hearing

Time: 8:30 a.m. to 6:00 p.m., July 26, 1989

Place: Phillips County Community College, Campus Drive, Helena, Arkansas, 72042

Status: Public oral and written testimony encouraged

Contact: Ann Sartwell, Telephone (901) 753–1400.

Wilbur F. Hawkins,

Executive Director.

[FR Doc. 89-16638 Filed 7-14-89; 8:45 am]

BILLING CODE 6820-SN-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (89-54)]

NASA Advisory Council (NAC), Space Science and Applications Advisory Committee (SSAAC), Communications and Information Systems Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science and Applications Advisory Committee, Communications and Information Systems Subcommittee.

DATES: July 26, 1989, 8:30 a.m. to 5 p.m., and July 27, 1989, 8:30 a.m. to 12:30 p.m.

ADDRESSES: Capital Gallery, East Wing, Room 235, 600 Maryland Avenue, SW., Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Mr. Ray J. Arnold, Code EC, National Aeronautics and Space Administration, Washington, DC 20546 (202/453–1510).

SUPPLEMENTARY INFORMATION: The Space Science and Applications Advisory Committee consults with and advises the NASA Office of Space Science and Applications (OSSA) on long-range plans for, work in progress on, and accomplishments of NASA's Space Science and Applications programs. The Communications and Information Systems Subcommittee provides technical support to the Committee and will conduct ad hoc studies and assessments. The Committee is chaired by Dr. Robert T. Filep and is composed of 7 members. The meeting will be closed Thursday, July 27, from 8:30 a.m. to 12:30 p.m., to discuss and evaluate qualifications of candidates being considered for membership. Such discussions would invade the privacy of the individuals involved. Since the session will be concerned with matters listed in 5 U.S.C. 552b(c)(6), it has been determined that the meeting will be closed to the public for this period of time. The meeting will be open to the public up to the capacity

of the room (approximately 12 people including members of the Subcommittee). It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Type of Meeting: Open—except for a closed session as noted in the agenda below.

Agenda:

Wednesday, July 26

8:30 a.m.—Welcome/Introduction of New Chairman.
8:45 a.m.—Opening Remarks/Review Agenda.
9 a.m.—Advanced Communications Technology Satellite (ACTS).
10:15 a.m.—NASA/Industry Initiative.
10:30 a.m.—Communications Program Center Reviews.
11:30 a.m.—NASA Research Announcement (NRA): Satellite Communications Applications Research Program.
1:30 p.m.—Space Applications Board (SAB) Report.
2:30 p.m.—Information Systems Strategic Planning (ISSP) Project.
4 p.m.—Networking Strategic Plan.
4:30 p.m.—NASA Research Announcement (NRA): Information Systems.
5 p.m.—Adjourn.

Thursday, July 27

8:30 a.m.—Closed Session.
12:30 p.m.—Adjourn.

July 10, 1989.

John W. Gaft,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 89-16649 Filed 7-14-89; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL COMMUNICATIONS SYSTEM

Industry Executive Subcommittee of the National Security Telecommunications Advisory Committee; Meeting

A meeting of the Industry Executive Subcommittee of the National Security Telecommunications Advisory Committee will be held Friday, August 18, 1989. The meeting will be held at the MITRE Corporation, 7525 Colshire Drive, McLean, VA. Registration will begin at 8:30 a.m. and the meeting will start at 9 a.m. The agenda is as follows:

A. Opening remarks.
B. Administrative remarks.
C. Briefings on indusry and Government activities.

Due to the requirement to discuss classified information, in conjunction with the issues listed above, the meeting will be closed to the public in the interest of National Defense. Any person desiring information about the meeting may telephone (202) 692-9274 or write the Manager, National Communications System, Washington, DC 20305-2010.

Terrence N. Danner,

Captain, USN, Assistant Manager, NCS Joint Secretariat.

[FR Doc. 89-16679 Filed 7-14-89; 8:45 am]

BILLING CODE 3610-05-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Performance Review Board

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: This notice announces membership in the National Endowment for the Humanities' Performance Review Board.

FOR FURTHER INFORMATION CONTACT: Timothy G. Connelly, Director of Personnel, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

SUPPLEMENTARY INFORMATION: Pursuant to 5 U.S.C. 4314(c) the National Endowment for the Humanities (NEH) hereby revises the notice of membership published in the **Federal Register** on October 1,1986 by extending the current membership of the NEH SES Performance Review Board to March 31, 1990, so that the appointment cycle can be adjusted to a more administratively feasible timeframe.

The members of the Performance Review Board are: (1) Thomas Kingston, Assistant Chairman for Programs—Board Chairman; (2) Susan Metts, Assistant Chairman for Administration—Member; (3) Stephen Cherrington, Director, Office of Planning and Budget—Member; Richard Ekman, Director, Division of Research Programs—Alternate member, and Donald Gibson, Director, Division of General Programs—Alternate member.

Lynne Cheney,

Chairperson.

[FR Doc. 89-16693 Filed 7-14-89; 8:45 am]

BILLING CODE 7536-01-M

NATIONAL SCIENCE FOUNDATION

Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received under the Antarctic Conservation Act of 1978, Pub. L. 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at Title 45 Part 670 of the Code of Federal Regulations.

DATES: Interested parties are invited to submit written data, comments, or view with respect to these permit applications by August 18, 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 mammals and certain geographic areas as requiring special protection. The regulations establish such a permit system and designate Specially Protected Areas and Sites of Special Scientific Interest. The regulations may be found at Title 45, Part 670 of the Code of Federal Regulations. Copies are available from the National Science Foundation.

The purpose of the regulations is to conserve and protect the mammals, birds, and plants of Antarctica and the ecosystem upon which they depend. To that end, unless the following activities are specifically authorized by permit, it is unlawful:

- To take any mammal or bird native to Antarctica (note that "take" means "to remove, harass, molest, harm, pursue, hunt, shoot, wound, kill, trap, capture, restrain, or tag" any native mammal or bird or to attempt to engage in such conduct)
- To collect any plant native to Antarctica in specially protected areas
- To enter any Specially Protected Area or certain Sites of Special Scientific Interest
- To import into or export from the United States any mammal or bird

native to Antarctica or any plant collected in a Specially Protected Area

• To introduce to Antarctica any non-indigenous plant or animal.

The Antarctic Conservation Act of 1978 mandates civil and criminal penalties for noncompliance with the regulations.

All mammals and birds normally found in Antarctica, excluding whales regulated by the International Whaling Commission, are designated as native mammals or native birds. Activities involving these mammals or birds require a permit. Areas of outstanding ecological interest are designated as Specially Protected Areas. No one may enter these areas or collect any native plants in these areas without a permit. Areas of unique scientific value that need protection from interference are designated as Sites of Special Scientific Interest. Entry into certain of these areas without a permit is prohibited.

The permit system is described in the regulations. To obtain a permit, each applicant must provide the scientific names and numbers of native mammals or birds to be taken, including age, size, sex, and condition (e.g., pregnant or nursing) or the scientific names and numbers of native plants to be collected in a Specially Protected Area. Each applicant must include a complete description of the location, the time period, and the manner of taking or collecting specimens. If the specimens are to be imported into the United States, the applicant must also indicate the ultimate disposition of the materials.

Permits for taking or collecting mammals, birds, or plants will be issued by the Director of the National Science Foundation or his designated representative. Each permit will be evaluated in terms of the objectives of the Antarctic Conservation Act, that is, the conservation and protection of antarctic flora and fauna and the antarctic ecosystem. Permits issued under these regulations (or copies of them) must be held in the possession of those authorized to engage in a permitted action. The permits must be displayed upon request to any person responsible for enforcing the regulations.

Anyone who knowingly commits an act prohibited by the Antarctic Conservation Act of 1978 is liable to a civil penalty of up to $10,000 for each violation. If the violation was committed without knowledge of the regulations, the fine will not exceed $5,000. Criminal penalties for willful violation of the regulations may involve a fine of up to $10,000 and/or imprisonment for not more than 1 year.

The Antarctic Conservation Act of 1978 does not supersede the Marine Mammal Protection Act, the Endangered Species Act, or the Migratory Bird Treaty Act. Permit applications involving native mammals or native birds covered by these acts will be forwarded by NSF to the agencies that administer them. If a proposed activity involves approval under more than one law, then the activity must satisfy the conditions of all applicable laws or a permit cannot be granted. Even if a permit is approved by other appropriate agencies, the Director of the National Science Foundation still must decide whether to issue a permit according to the requirements of the Antarctic Conservation Act of 1978.

The applications received by the National Science Foundation are as follows:

1. Applicant

J. Ward Testa
Institute of Marine Science
University of Alaska
Fairbanks, Alaska 99775

A. Activity for Which Permit Requested

Taking; import into U.S.A. The applicant is conducting a study of dispersal and diving behavior of seals. Seals will be instrumented and tracked using satellite telemetry. The applicant requests permission to capture, tag, and release up to 2000 Weddell seals (adult) and up to 1500 Weddell seals (pup). In addition, the applicant may approach up to 50 each of Leopard, Crabeater, Ross, Elephant, and Kerguelen fur seals in the course of the work with Weddell seals.

B. Location

McMurdo Sound, Ross Sea, Antarctica

C. Dates

October 1989—February 1992

2. Applicant

Zoe A. Eppley and Albert F. Bennett
Ecology and Evolutionary Biology
University of California
Irvine, California 92717

A. Activity for Which Permit Requested

Taking, import into U.S.A., export from U.S.A., enter specially protected area, introduce non-indigenous species into Antarctica. The applicants are conducting a study of physiological adaptation of Antarctic birds to cold. They request permission to take the following specimens: South Polar Skua, 15; Southern Black-backed Gull, 15; Sheathbill, 75 eggs, 5 adults; Blue-eyed Shag, 5; Southern Giant Fulmar, 5; Wilson's Storm Petrel, 5; Adelie Penguin, 5; Antarctic Tern, 5; Brown Skua, 5. The applicants request permission to enter Litchfield Island Specially Protected Area for work on Brown Skuas. The applicants will import all specimens taken to the U.S.A. At the conclusion of the studies, skeletal materials will be donated to the Los Angeles County Museum of Natural History. The applicants further request permission to import into Antarctica for comparative studies, 4 taxidermic mounts (copper cast of body covered with bird's skin and plumage) of each of the following: Larus dominicanus, Catharacta Maccormiki, Larus occidentalis.

B. Location

South Shetland Islands, Antarctica Peninsula and nearby areas; Palmer Station, Antarctica

C. Dates

November 1989–June 1990

3. Applicant

William R. Fraser, Point Reyes Bird Observatory, 4990 Shoreline Highway, Stinson Beach, California 94970

A. Activity for Which Permit Requested

Taking; enter specially protected area. The applicant requests permission to enter Litchfield Island specially protected area to census penguins and other seabirds breeding at the site. The applicant is conducting a study of the impacts on birds of the fuel oil spill of January 1989 from the *Bahia Paraiso*.

B. Location

Litchfield Island, Arthur Harbor, Antarctic Peninsula

C. Dates

November 1989–March 1990

4. Applicant

Arthur L. DeVries, 4524 Burrill Hall, University of Illinois, Urbana, Illinois 61801

A. Activity for Which Permit Requested

Introduction of a non-indigenous species into Antarctica. The applicant is conducting a study of the role of blood glycopeptide antifreezes in preventing freezing of body fluids of antarctic fishes. The applicant requests permission to introduce up to 20 specimens of the fish Notothenia angustata into Antarctica. The specimens will be kept in a closed sea water aquarium and will not be released into Antarctic waters.

B. Location

McMurdo Station, Antarctica

C. Dates

October 1989–January 1990

5. Applicant

Gerald L. Kooyman, Scripps Institution of Oceanography, University of California, San Diego, La Jolla, California 92093

A. Activity for Which Permit Requested

Taking, import into U.S.A., enter specially protected area. The applicant is conducting a study of the physiology of diving in Emperor Penguins, and requests permission to take the following specimens: Emperor penguins, 70 adults, 50 chicks—capture, attach instrumentation, release. After completion of the studies, the birds will be recaptured and the instruments removed. The applicants also request permission to salvage dead specimens of Emperor penguins—5 adults, 5 chicks, 20 eggs.

B. Location

Cape Washington, Cape Roget, McMurdo Sound, Antarctica

C. Dates

October 1989–May 1990

6. Applicant

W. Zehnder and Jim Claus, Society Expeditions Cruises, Inc., 3131 Elliott Avenue, Suite 700, Seattle, Washington 98121

A. Activity for Which Permit Requested

Taking. The applicant requests permission to salvage dead specimens (i.e., penguin wing or flipper, seal skull or bird beak) on an opportunity basis. Specimens would be used for educational purposes during discussions and lectures to cruise ship passengers.

B. Location

Antarctic Peninsula and offshore islands

C. Dates

November 1989–March 1991

7. Applicant

Mark D. Osadjan, Department of Physiology and Biophysics, University of Illinois, Urbana, Illinois 61801

A. Activity for Which Permit Requested

Introduction of a non-indigenous species into Antarctica. The objective of the project is to isolate and sequence the antifreeze peptide (AFP) genes from Austrolycicthys brachycephalus and Rhigophila dearborni. To accomplish this, the DNA from each fish will be isolated, cut into fragments, and packaged into lambda phage. E. coli is used as a host for amplication of the phage. The gene libraries will provide information to help more completely understand the production, regulation, structure, and function of these peptides. The applicant requests permission to transport to McMurdo Station, Antarctica a supply of E. coli (bacteria) and lambda phage (virus) for the 1989–1990 season.

The actual use of the E. coli and lambda bacteriophage will be under sterile, non-contaminating laboratory conditions. All waste and glassware will be autoclaved, as dictated by proper molecular biology laboratory technique, before disposal. The genomic libraries will be hand-carried back to the University of Illinois.

B. Location

Ekland Biology Laboratory, McMurdo Station, Antarctica

C. Dates

August 22, 1989 to February 1, 1990.

Charles E. Myers,

Permit Office.

[FR Doc. 89–16592 Filed 7–14–89; 8:45 am]

BILLING CODE 7555-01-M

Task Force on Women, Minorities and the Handicapped in Science and Technology; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Task Force on August 9, 1989.

Meeting

Name: Task Force on Women, Minorities and the Handicapped in Science and Technology.

Date: August 9, 1989.

Time: 9 a.m. to 3 p.m.

Place: National Aeronautics and Space Administration, Federal Office Building No. 6, 400 Maryland Avenue, SW., Room 6104, Washington, DC 20546

Task of Meeting: Open.

Purpose: Discussion (1) dissemination of the task force interim report; (2) progress on data collection by agencies; and (3) status of each agency's plans for implementation of the task force interim report.

Summary Minutes: Sue Kemnitzer, Executive Director, 330 C Street NW., (202) 245–7477.

June 27, 1989.

Sue Kemnitzer,

Executive Director.

[FR Doc. 89–16658 Filed 7–14–89; 8:45 am]

BILLING CODE 7555-01-M

Presidential Young Investigator Awards For the Nation's Most Outstanding and Promising Young Science and Engineering Faculty

The National Science Foundation (NSF) announces the competition for Presidential Young Investigator (PYI) Awards to be made in late March, 1990.

The awards are established to achieve the following objectives:

- To attract and retain the Nation's most outstanding and promising young scientists and engineers to an academic career of research and teaching so they may help to meet the need for highly qualified scientists and engineers.
- To help develop improved links and cooperation between industry and universities.

A maximum of 200 new Presidential Young Investigator Awards will be made in this competition. Awards will be made for up to five years based on the annual determination of satisfactory performance and subject to the availability of funds.

Eligibility

Any U.S. institution that awards a baccalaureate, master's or doctoral degree in a field supported by the Foundation is eligible to participate in this program. Only the department chairperson or analogous administrative official at the institution may nominate its faculty members for the awards.

Nominees must be U.S. citizens or permanent residents as of October 2, 1989. To be eligible, nominees must have a tenure-track or tenured faculty position at their nominating institution or receive an appointment to such a position to begin on or before October 1, 1990. Nominees must have begun their first tenure-track position at any college or university after April 30, 1986 and must have a Ph.D. degree, or equivalent, awarded or to be awarded after January 1, 1984.

Since PYI awards must be used to fund research activities, which normally will involve undergraduate and graduate students from the nominating institution, PYI nominees must have a clearly demonstrated ability to conduct a research program. Awardees may conduct research in any branch of science or engineering normally supported by the NSF. Particular emphasis in the selection of awardees will be given to those fields where there are substantial needs for faculty development.

NSF normally will not support clinical research such as biomedical research with disease-related goals, including work on the etiology, diagnosis, or

treatment of physical or mental disease, abnormality, or malfunction in human beings or animals. Animal models of such conditions, or the development or testing of drugs or other procedures for their treatment also generally are not eligible for support. NSF does not normally support pilot plant efforts, research requiring security classification, the development of products for commercial marketing, or market research for a particular product or invention.

The PYI awards are intended to encourage the development of our future academic leaders, both in teaching and research. Presidential Young Investigators are expected to carry a normal teaching load relative to non-PYI faculty at the nominating institution.

The PYI awards are tenable only in tenure-track or tenured positions at eligible institutions. Presidential Young Investigators who transfer to an ineligible institution at any time prior to or during the period of their grants must resign their awards.

Support and Commitments

The minimum Presidentia1 Young Investigator Award will consist of an annual base grant of $25,000 from NSF, to be used to support the research activities of the awardee. Furthermore, in accordance with the program goals of leveraging Federal funds and fostering industry-university cooperation, the Foundation will provide up to $37,500 of additional funds per year on a dollar-for-dollar matching basis to contributions from industrial sources, resulting in total annual support of up to $100,000.

Institutions are also expected to make a significant commitment to the support of their awardees, including arranging for the industrial support and guaranteeing full academic-year salary for the awardee. None of the Presidential Young Investigator funds, whether provided by the Foundation or by industry, may be used to underwrite academic-year salaries of the awardees. However, up to ten percent of the Foundation funds may be used to defray administrative expenses in lieu of indirect costs.

Application Procedures

Nominations from an institution must originate from department chairperson or analogous administrative official. Each nomination submission must include:

- The Nomination Form provided in the PYI Program Guidelines. (The five-page form contains the Cover Sheet, Nominator's Narrative Statement, Nominee's Research and Teaching Qualifications, Nominee's Research Plan, and Support and Commitments.)
- A complete curriculum vitae, which provides additional information not covered in the Nomination Form, including a list of research grants awarded and bibliography of publications.
- The Supplementary Nominee Information Form.
- Recommendations from three referees who are familiar with the research and teaching interests and capability of the nominee. Referees must not be from the nominating institution. The referees are to return the Reference Forms directly to the NSF in the accompanying pre-addressed #10 envelopes.

Five (5) copies of the Nomination Form and the nominee's curriculum vitae, and one copy of the Supplementary Nominee Information Form must be submitted, postmarked no later than October 2, 1989.

Since review of PYI nominations take place shortly after the closing date for nominations, NSF cannot assure the inclusion in the review process of any reference letters which arrive at NSF after the deadline for nominations.

Evaluation and Selection

Selection will be based on an evaluation of the nominee's ability and potential as a researcher and teacher for contributing to the future vitality of the Nation's scientific and engineering effort. The evaluation criteria include:

- Nominee's competence in science or engineering—as evidenced by the nominee's most outstanding achievements to date, particularly as attested to by the quality of research and publications, teaching accomplishments, educational background, and the letters of recommendation.
- Nominee's potential for continued professional growth as a research scientist or engineer—as evidenced by the quality of the nominee's research plan, the currency and significance of the research in the expressed field, the appropriateness of the research to his/her academic setting and its probable impact upon the institution's research environment.
- Nominee's potential for significant development as a teacher and academic leader in the training of future scientists and/or engineers—as evidenced by the nominee's commitment to an academic career, the narrative statements describing the nominee's qualifications for this award with regard to their bearing on the nominee's development as an academic leader and the nominee's potential impact on the institution in its teaching mission.

Other factors, such as national needs, infrastructure needs of the field, representation of women and minorities, geographical and institutional balance, will also be considered after the technical merits of the nominations have been ascertained.

The selection of individuals to receive Presidential Young Investigator Awards will be made by the National Science Foundation with the advice of panels of outstanding scientists and engineers.

After an awardee has been selected, the employing institution will be asked to prepare a first-year budget request in support of the awardee's research activities. The budget should show both the amount requested from the Foundation and the sources and amounts of industrial support. This information will be used in determining the amount of the award and other terms and conditions. Except as otherwise provided in this announcement, the terms and conditions, as well as the expected institution commitment, will be analogous to those stated in the publication, NSF 83–57 (March 1989)—Grants for Research and Education in Science and Engineering. Similar submissions will be required annually for each successive year of support under this program.

The FY 1990 PYI awardees will be announced in late March 1990 and have until June 1, 1990 to accept the offers from NSF. They will be expected to begin their research activities under this program by October 2, 1990, or sooner if they wish.

Inquiries

Inquiries regarding the awards may be addressed to the Presidential Young Investigator Awards, National Science Foundation, Washington, DC 20550, or telephoned inquiries to (202) 357–9466.

Chor Weng Tan,

Progam Director, PYI.

July 11, 1989.

[FR Doc. 89–16604 Filed 7–14–89; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 30-30810; License No. 08-28277-01 EA 89-27]

Christian E. Chinwuba, M.D.; Order Imposing Civil Monetary Penalty

I

Christian E. Chinwuba, M.D., Southwest Imaging Lab, Washington, DC ("licensee") is the holder of License No. 08-28277-01 ("license") issued by the Nuclear Regulatory Commission ("Commission" or "NRC") which authorizes the medical use of byproduct material by the licensee in accordance with the conditions specified therein. The license was issued on December 8, 1988 and is due to expire on December 31, 1993.

II

An NRC safety inspection of the licensee's activities under the license was conducted on January 26, 1989. During the inspection, the NRC staff determined that the licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty was served upon the licensee by letter dated April 5, 1989. The Notice states the nature of the violations, the provisions of the Nuclear Regulatory Commission's requirements that the licensee had violated, and the civil penalty amount for the violations. A response, dated May 12, 1989, to the Notice of Violation and Proposed Imposition of Civil Penalty, was received from the licensee.

III

Upon consideration of the answer received, the statements of fact, explanations, and argument for remission or mitigation of the proposed civil penalty contained therein, the Deputy Executive Director for Nuclear Materials Safety, Safeguards and Operations Support has determined, as set forth in the Appendix to this Order, that the penalty proposed for the violations designated in the Notice of Violation and Proposed Imposition of Civil Penalty should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, *It is hereby ordered that:*

The licensee pay a civil penalty in the amount of Two Hundred Fifty Dollars ($250) within thirty days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555.

V

The licensee may, within thirty days of the date of this order, request a hearing. A request for a hearing shall be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission: ATTN: Document Control Desk, Washington, DC 20555. A copy of the hearing request shall also be sent to the Assistant General Counsel for Hearings and Enforcement, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the Regional Administrator, Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the licensee fails to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the licensee was in violation of the Commission's requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalty referenced in Section II above; and

(b) Whether, on the basis of the violations set forth in the Appendix, this Order should be sustained.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 7th day of July 1989.

Hugh L. Thompson, Jr.,

Deputy Executive Director of Nuclear Materials Safety, Safeguards and Operations Support.

Appendix—Evaluation and Conclusion

On April 5, 1989 a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was issued for violations of a license issued to Christian E. Chinwuba, M.D., Southwest Imaging Center. The license responsed to the Notice on May 12, 1989, admitting Violations A, B, C, and E in total, stating "No Denial" in response to Violation D, and denying Violation F in total. The licensee also requested further mitigation of the civil penalty. The NRC's evaluation and conclusion regarding the licensee's response are as follows:

I. Restatement of Violations

A. 10 CFR 35.21(b)(2) requires that the Radiation Safety Officer shall establish, collect in one binder or file, and implement written policy and procedures for the operation of the radiation safety program.

Contrary to the above, as of January 26, 1989, the Radiation Safety Officer had not collected in one binder or file nor implemented written policy and procedures for the operation of the radiation safety program. A specific example is that the Radiation Safety Officer failed to establish and implement action levels for performing dose calibrator constancy checks as required by the dose calibrator calibration procedures referenced in the licensee's letter dated October 31, 1988, which is listed as a basis of the license by License Condition 13.

B. 10 CFR 19.12 requires, in part, that all individuals working in a restricted area be instructed in the applicable provisions of the Commission's regulations and licenses.

Contrary to the above, as of January 26, 1989, the technologist working in the Nuclear Medicine Area, a restricted area, had not been instructed in the provisions of the regulations or the license.

C. 10 CFR 35.59(d) requires that records of leak test results contain the model number, and serial number, if assigned, of each source tested, the identity of each source radionuclide and its estimated activity, the measured activity of each test sample expressed in microcuries, a description of the method used to measure each test sample, and date of the test, and the signature of the Radiation Safety Officer. A licensee shall retain such leakage test records for five years.

Contrary to the above, as of January 26, 1989, the record of the results of barium-133 leak tests performed on November 22, 1988 did not contain the signature of the Radiation Safety Officer and there was no record of the cesium-137 leak test results.

D. 10 CFR 35.50(b)(2) requires that the accuracy of the dose calibrator be determined at installation and annually thereafter. 10 CFR 35.50(b)(3) requires that the linearity of the dose calibrator be determined at installation and quarterly thereafter.

Contrary to the above, as of January 12, 1989, the dose calibrator had been installed, but accuracy and linearity had not been determined. Specifically, initial testing of the dose calibrator on January 4-6, 1989 indicated an equipment malfunction in that accuracy and linearity testing revealed errors in excess of 10 percent, and repeat testing of the dose calibrator was not completed before initiation of a patient study on January 12, 1989.

E. 10 CFR 35.51(c) requires that each survey instrument be checked for proper operation with the dedicated check source each day of use.

Contrary to the above, as of January 12, 1989, a survey meter was used to perform required surveys without having been checked with a dedicated check source prior to use, since the licensee did not possess, nor did the instrument contain, a dedicated check source.

F. 10 CFR 35.220 requires, in part, that licensees authorized to use byproduct material for imaging and localization studies possess a portable radiation measurement survey instrument capable of measuring dose rates over the range 1 millirem per hour to 1000 millirem per hour.

Contrary to the above, on January 12, 1989, the licensee, who was authorized for imaging and localization studies, did not possess a portable radiation measurement survey instrument capable of measuring dose rates over the range 1 millirem per hour to 1000 millirem per hour.

These violations have been categorized in the aggregate as a Severity Level III problem (Supplements IV and VI).

II. Summary of License Response and NRC Evaluation

A. Summary of Licensee Response Stating "No Denial" of Violation D

The licensee states that the tests on the dose calibrator had been carried out, but were being independently checked and verified and that the patient study was performed on the basis that "a cursory review of the test results . . . appeared fairly within allowable limits." The licensee also states that he was not sure that the equipment was functioning normally.

NRC Evaluation. The requirement to perform a test is not fulfilled until the test data is fully analyzed and a final result is obtained. This did not occur until January 13, 1989, when the final results of the dose calibrator accuracy and linearity tests indicated equipment malfunction, causing the licensee to discontinue patient studies. The violation occurred on January 12, 1989 as stated in the Notice because, on that date, the dose calibrator had been installed and was used by the licensee to calibrate a patient does before the testing for accuracy and linearity was completed.

B. Summary of License Response Concerning Denial of Violation F

The licensee asserts that at the time of the inspection, (January 26, 1989), the NRC was aware that he possessed a Victoreen portable survey instrument which was being recalibrated in California.

NRC Evaluation. 10 CFR 35.220 requires the licensee to have in its possession a portable radiation measurement survey instrument capable of measuring dose rates over the range of 1 millirem per hour to 1000 millirem per hour. At the time of the violation, the licensee owned such an instrument; however, the instrument was not in the licensee's possession. Rather, as the licensee states, this instrument was away in California for the purpose of being recalibrated. The violation occurred on January 12, 1989 as stated in the Notice because, on that date, the licensee administered a dose to a patient and at the time, he had in his possession only a loaner survey instrument which was not capable of measuring dose rates over the range of 1 millirem per hour to 1000 millirem per hour.

C. Summary of Licensee Response Requesting Further Mitigation of the Civil Penalty

The licensee, in his response, requests mitigation of the civil penalty because; (1) The violations were not willful, but stemmed from difficulty encountered by both he and his consultant in interpreting the new NRC regulations; (2) his corrective actions were extensive and sincere; (3) he has no prior enforcement history; and (4) he has incurred financial losses in implementing the corrective actions.

NRC Evaluation. While the existence of a willful violation may result in an increase in the severity level and consequent escalation of a civil penalty, the fact that a violation was not willful does not form a basis for mitigation of a civil penalty. Furthermore, rather than providing a basis for mitigation, the fact that neither the licensee nor his consultants understood the regulatory requirements and responsibilities associated with the license is additional evidence of an increased need for stronger management oversight and control of the program to ensure that licensed activities are carried out in conformance with license conditions and regulatory requirements.

The NRC recognizes and agrees with the licensee's response that his corrective actions were both prompt and extensive. On that basis, the NRC has already mitigated the base civil penalty by 50% in accordance with the enforcement policy. Full mitigation based on this factor alone is both inappropriate and not in accordance with the established enforcement criteria set forth in 10 CFR Part 2, Appendix C.

The NRC disagrees that the absence of any enforcement history regarding the licensee's facility provides a basis for further mitigation of the civil penalty. The enforcement policy provides for escalation of a civil penalty for a licensee with a poor enforcement history and conversely, for mitigation of a penalty for a licensee with a good enforcement history. However, since this was the first inspection of the licensee's facility, there is no enforcement history and there is no basis for either escalation or mitigation of the civil penalty.

Finally, the incursion of financial losses as a result of corrective actions to achieve regulatory compliance provides no basis for mitigation of civil penalty. The cost of achieving and maintaining regulatory compliance is an operating cost borne by the licensee.

Accordingly, the licensee has not provided a basis for mitigation of the civil penalty.

III. NRC Conclusion

The licensee did not provide a sufficient basis for withdrawal of Violation D or F, or for any additionial mitigation of the amount of the civil penalty. Therefore, the NRC concludes that a civil penalty of $250 should be imposed.

[FR Doc. 89-16662 Filed 7-14-89; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-294]

Michigan State University Triga Nuclear Reactor; Order Authorizing Dismantling of Facility and Disposition of Component Parts

By application dated January 20, 1989, as supplemented on May 4, 1989, the Michigan State University (licensee) requested authorization to dismantle the TRIGA Nuclear Reactor, Facility License No. R-114, located in East Lansing, Michigan and to dispose of the component parts, in accordance with the plan submitted as part of the application. A "Proposed Issuance of Orders Authorizing Disposition of Component Parts and Terminating Facility License" was published in the **Federal Register** on March 2, 1989 (54 FR 8853). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Nuclear Regulatory Commission (the Commission) has reviewed the application in accordance with the provisions of the Commission's rules and regulations and has found that the dismantling and disposal of component parts in accordance with the licensee's dismantling plan will be in accordance with the regulations in 10 CFR Chapter I, and will not be inimical to the common defense and security or to the health and safety of the public. The basis of these findings is set forth in the concurrently issued Safety Evaluation by the Office of Nuclear Reactor Regulation.

The Commission has prepared an Environmental Assessment and Finding of No Significant Impact, dated June 30, 1989, for the proposed action. Based on that Assessment, the Commission has determined that the proposed action will not result in any significant environmental impact and that an environmental impact statement need not be prepared.

Accordingly, the licensee is hereby ordered to dismantle the reactor facility and dispose of the component parts in accordance with its dismantling plan and the Commission's rules and regulations.

After completion of the dismantling and disposal, the licensee will submit a report on the radiation survey it will perform to confirm that radiation and surface contamination levels in the facility area satisfy the values specified in the dismantling plan and in the Commission's guidance. Following an inspection by representatives of the Commission to verify the radiation and contamination levels in the facility, consideration will be given to issuance of a further order terminating Facility License No. R-114.

For further details with respect to this action, see: (1) The licensee's application for authorization to dismantle the facility and dispose of component parts, dated January 20, 1989, as supplemented on May 4, 1989, (2) the Commission's related Safety Evaluation;

and (3) the Environmental Assessment and Finding of No Significant Impact. These items are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC. Copies 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 11th day of July 1989.

For the Nuclear Regulatory Commission.

Gary M. Holahan,

Acting Director, Division of Reactor Projects—III, IV, V, and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89-16663 Filed 7-14-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-275 and 50-323]

Pacific Gas and Electric Co.; Issuance of Amendments to Facility Operating Licenses

The United States Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 42 and 41 to Facility Operating Licenses Nos. DPR-80 and DPR-82, issued to the Pacific Gas and Electric Company (the licensee), which revised the Technical Specifications (TS) for operation of the Diablo Canyon Power Plant, Unit Nos. 1 and 2, located in San Luis Obispo County, California. The amendments are effective as of the date of issuance.

The amendments change the Technical Specifications by revising the surveillance test frequency of the turbine stop valves, the governor valves and the intercept valves associated with the turbine overspeed protection.

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 regulations. The Commission has made appropriate findings, as required by the Act and the Commission's 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 May 18, 1988 (53 FR 17806). 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 May 4, 1989 at 54 FR 19263.

For further details with respect to this action, see: (1) The application for amendments dated January 22, 1988, as supplemented by letter dated May 15, 1989, (2) Amendments Nos. 42 and 41 to Licenses Nos. DPR-80 and DPR-82, 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 California Polytechnic State University Library, Government Documents and Maps Department, San Luis Obispo, California 93407. 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 10th day of July 1989.

For the Nuclear Regulatory Commission.

Harry Rood,

Senior Project Manager, Project Directorate V, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89-16661 Filed 7-14-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-353]

Limerick Generating Station, Unit No. 2; Issuance of Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission), has issued Facility Operating License No. NPF-84 to the Philadelphia Electric Company, (the licensee) which authorizes operation of the Limerick Generating Station, Unit No. 2 (the facility), by Philadelphia Electric Company at reactor core power levels not in excess of 165 megawatts thermal in accordance with the provision of the License, the Technical Specifications and the Environmental Protection Plan.

The Limerick Generating Station, Unit No. 2, is a boiling water nuclear reactor located on the licensee's site in Montgomery and Chester Counties, Pennsylvania on the banks of the Schuylkill River approximately 1.7 miles southeast of the city limits of Pottstown, Pennsylvania and 21 miles northwest of the city limits of Philadelphia, Pennsylvania.

The application for the license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the License. Prior public notice of the overall action involving the proposed issuance of an operating license was published in the **Federal Register** on August 21, 1981 (46 FR 42557-42558).

The Commission has determined that the issuance of this license will not result in any environmental impacts other than those evaluated in the Final Environmental Statement since the activity authorized by the license is encompassed by the overall action evaluated in the Final Environmental Statement.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of the exemption included in this license will have no significant impact on the environment (54 FR 15851) and (54 FR 24607).

For further details in respect to this action, see: (1) Facility Operating License NPF-84 complete with Technical Specifications and the Environmental Protection Plan; (2) the final report of the Advisory Committee on Reactor Safeguards, dated May 11, 1989; (3) the Commission's Safety Evaluation Report, dated August 1983 (NUREG-0991), Supplements 1 through 8; (4) the Final Safety Analysis Report and Amendments thereto; (5) the Environmental Report and supplements thereto; (6) the Final Environmental Statement dated April 1984 (NUREG-0974); (7) the Atomic Safety and Licensing Board Decision, LBP-85-25, dated July 22, 1985 and (8) the Commission's Order dated July 7, 1989.

These items are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania, 19464. A copy of Facility Operating License NPF-84 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects I/II. Copies of the Safety Evaluation Report and its Supplements 1 through 8 (NUREG-0991) and the Final Environmental Statement (NUREG-0974) may be purchased through the U.S. Government Printing Office by calling (202) 275-2060 or by

writing to the U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013–7082. Copies may also be purchased from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Rockville, Maryland, this 10th day of July 1989.

For the Nuclear Regulatory Commission.

Walter R. Butler,

Director, Project Directorate I–2, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89–16660 Filed 7–14–89; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Implementation of the Accelerated Tariff Elimination Provision in the United States; Canada Free-Trade Agreement

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of articles under consideration for negotiations with the Canadian Government for accelerated tariff elimination.

SUMMARY: Section 201(b) of the United States—Canada Free-Trade Agreement Implementation Act of 1988 ("FTA Implementation Act") grants the President, subject to the consultation and layover requirements of section 103 of that Act, the authority to proclaim any accelerated schedule for duty elimination that may be agreed to by the United States and Canada under FTA Article 401(5). This notice is intended to inform the public of those articles that may be the subject of negotiations between the United States and Canada for accelerated tariff elimination.

Additional Information: Further information on this subject may be found in the **Federal Register** notice of January 23, 1989, Volume 54, Number 13, at pages 3175 and 3176. A list of abbreviated descriptions of the articles provided for in the tariff chapters, headings, and subheadings listed in Annexes I and II below, can be obtained by contacting Frances Birdsall at the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22061, telephone (703) 487–4650. Inquiries regarding this notice or other aspects of the implementation of accelerated tariff elimination under the FTA should be directed to the Office of North American Affairs, Office of the U.S. Trade Representative, Room 501, 600 17th Street, NW., Washington, DC 20506, telephone (202) 395–5663.

Request for Comments

Comments supporting or opposing accelerated U.S. or Canadian duty elimination on articles provided for in the tariff chapters, headings, and subheadings listed in Annex I or Annex II will be accepted until August 18, 1989. Comments should be type-written and submitted in eight copies to Rick Ruzicka, Director for Canadian Affairs, Office of North American Affairs, Office of the United States Trade Representative, Room 501, 600 17th Street, NW., Washington, DC 20506. All submissions must specify the United States and/or Canadian tariff chapter, heading or subheading to which the comments refer, and must include the name, address and telephone number of the person, firm or organization making the comments.

Advice of the International Trade Commission

The International Trade Commission is being furnished with the list of articles published in this notice for the purpose of securing from the Commission its judgment as to the probable economic effect of acceleration of elimination of United States duties on industries producing like or directly competitive articles and on consumers.

Articles That May Be Considered in Negotiations

Except as noted, all articles provided for in the chapters, headings, and subheadings of the Harmonized Tariff Schedule of the United States that are listed in Annex I to this notice, and in the chapters, headings, and subheadings of the Customs Tariff of Canada that are listed in Annex II, may be subject to negotiations with Canada for accelerated duty elimination. These lists include all articles for which acceleration of tariff elimination has been requested in petitions submitted either to the Government of the United States or to the Government of Canada.

Charles E. Roh, Jr.,

Acting Assistant U.S. Trade Representative for North American Affairs.

BILLING CODE 3190–01–M

Annex I

Chapters, Headings, and Subheadings in the Harmonized Tariff

Schedule of the United States

0102.90	0708.10	1104.19.00	1516.20	1702.50.00	2009.80.60	2710.00
0104.20.00	0708.20	1104.21.00	1516.10.00	1702.60.00	2009.90	2804.10.00
0201.10.00	0708.90.15	1104.22.00	1517.10.00	1702.90	2103.10.00	2804.21.00
0201.20	0709.51.00	1104.23.00	1517.90	1703.10	2103.20	2804.29.00
0201.30	0710.10.00	1104.29.00	1518.00	1703.90	2103.30	2804.30.00
0202.10.00	0710.21	1104.30.00	1519.19	1704.10.00	2103.90	2804.40.00
0202.20	0710.80.20	1105.10.00	1521.90	1704.90	2104.10.00	2805.21.00
0202.30	0710.80.70	1105.20.00	1602.10.00	1805.00.00	2104.20.00	2805.22
0203.12	0710.80.95	1106.10.00	1602.20	1806.10	2105.00.00	2805.30.00
0203.19	0710.90.90	1106.30	1602.31.00	1806.20	2106.10.00	2811.19
0203.22	0711.90.40	1107.10.00	1602.39.00	1806.31.00	2106.90	2811.22
0203.29	0712.30	1107.20.00	1602.41	1806.32	2201.10.00	2811.29
0204.10.00	0811.20.20	1108.11.00	1602.42	1806.90.00	2202.10.00	2812.10
0204.21.00	0811.90.35	1108.12.00	1602.49	1901.10.00	2202.90.10	2821.10.00
0204.22	0811.90.60	1108.13.00	1602.50.90	1901.20.00	2202.90.20	2825.90.10
0204.23	1001.10.00	1108.20.00	1602.90	1901.90	2202.90.90	2826.19.00
0204.30.00	1001.90	1109.00	1603.00	1902.11	2204.10.00	2827.10.00
0204.41.00	1003.00	1202.10.00	1604.12.20	1902.19	2204.21	2827.31.00
0204.42	1005.90.20	1202.20.00	1604.13	1902.20.00	2204.29	2827.39.50
0204.43	1006.10.00	1204.00.00	1604.19.40	1902.30.00	2204.30	2827.60
0208.90	1006.20	1205.00.00	1604.19.50	1902.40.00	2205.10	2828.10.00
0209.00.00	1006.30	1207.20.00	1604.19.80	1903.00	2205.90	2833.29
0304.10	1006.40.00	1208.10.00	1604.20	1904.10.00	2206.00	2835.10.00
0304.20	1007.00.00	1208.90.00	1605.10	1904.90.00	2207.10	2835.22.00
0305.30	1008.30.00	1501.00.00	1605.20	1905.90	2207.20.00	2835.23.00
0305.41.00	1101.00.00	1503.00.00	1605.30	2001.10.00	2208.10	2835.24.00
0305.61	1102.10.00	1506.00.00	1605.90.05	2003.10.00	2208.20	2835.29
0305.69.40	1102.20.00	1507.10.00	1605.90.10	2004.10.00	2208.50.00	2835.31.00
0306.14	1102.30.00	1507.90	1605.90.20	2004.90	2208.90	2835.39
0306.24	1102.90	1512.11.00	1701.11	2005.20.00	2209.00.00	2836.20.00
0407.00.00	1103.11.00	1512.19.00	1701.12.00	2007.99	2304.00.00	2836.99
0408.91.00	1103.12.00	1512.21.00	1701.91	2008.70.00	2306.20.00	2839.11.00
0408.99.00	1103.13.00	1512.29.00	1701.99.00	2008.92	2306.40.00	2839.19.00
0409.00.00	1103.14.00	1514.10	1702.10.00	2008.99	2526.20.00	2841.60.00
0410.00.00	1103.19.00	1514.90	1702.20	2009.20.20	2607.00.00	2843.21.00
0603.90.00	1104.11.00	1515.11.00	1702.30	2009.50.00	2608.00.00	2843.29.00
0701.10.00	1104.12.00	1515.19.00	1702.40.00	2009.60.00	2709.00	2843.90.00

2847.00.00	2912.11.00	2926.90	3214.90	3702.41.00	3904.10.00	3920.73.00
2850.00.50	2912.19	2929.10	3215.11.00	3702.42.00	3904.21.00	3920.92.00
2851.00.00	2914.11	2929.90	3215.19.00	3702.52.00	3904.22.00	3920.99
2901.10	2914.12.00	2930.30.00	3215.90	3702.92.00	3904.30.00	3921 [a]
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2903.12.00	2915.24.00	2933.29.50	3304.10.00	3802.90.50	3905.90	3923.21.00
2903.13.00	2915.31.00	2933.39	3304.20.00	3804.00	3906.10.00	3923.29.00
2903.14.00	2915.32.00	2933.59	3304.30.00	3806.10.00	3906.90	3923.30.00
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2903.19	2915.90	2933.71.00	3304.99.00	3808.10	3907.60.00	3923.50.00
2903.21.00	2916.12	2933.90	3305.10.00	3808.20.10	3908.10.00	3923.90.00
2903.22.00	2916.19.50	2934.20	3305.20.00	3808.20.30	3908.90.00	3924.10
2903.23.00	2916.32	2934.90	3305.30.00	3808.20.50	3909.10.00	3924.90
2903.30.15	2916.39	2935.00	3305.90.00	3808.30.50	3909.40.00	3925.10.00
2903.30.20	2917.12	2936.24.00	3307.10	3808.40.50	3909.50	3925.90.00
2903.40.00	2917.19	2936.27.00	3307.20.00	3808.90	3910.00.00	3926.10.00
2903.59	2917.39	2936.29	3307.30	3809.91.00	3911.10.00	3926.30.50
2905.11	2918.14.00	2936.90.00	3307.41.00	3809.99.50	3911.90	3926.90
2905.12.00	2918.15	2939.30.00	3307.49.00	3810.90	3912.31.00	4006.90
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2905.31.00	2918.29	3003.90.00	3402.12	3812.10	3916.90	4009.50.00
2905.32.00	2919.00	3004.10	3402.13	3812.20	3917.10	4010.10
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2905.50	2921.29.00	3004.90	3403.19	3819.00.00	3917.29.00	4014.90
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Annex II

Chapters, Headings, and Subheadings in the

Customs Tariff of Canada

0102.90	0811.20.00	1109.00.00	1605.10.00	1905.90	2208.20.00	2835.31.00
0104.20	0811.90	1208.10	1605.30	2001.10.00	2208.50.00	2835.39.00
0201.10.00	1001.10.00	1208.90	1605.90.10	2003.10.00	2208.90	2836.20.00
0201.20.00	1001.90.00	1501.00.00	1605.90.94	2004.10.00	2209.00.00	2836.30.00
0201.30.00	1003.00.00	1503.00.00	1701.11	2004.90	2309.10.00	2836.50.00
0202.10.00	1005.90.10	1506.00.00	1701.12.00	2005.20.00	2526.20	2836.99.00
0202.20.00	1006.30.00	1507.10.00	1701.91.00	2007.99	2709.00	2839.11.00
0202.30.00	1006.40.00	1507.90	1701.99.00	2008.70	2710.00	2839.19.00
0204.10.00	1007.00.00	1512.11	1702.10.00	2008.92	2712.90	2841.60.00
0204.21.00	1008.30	1512.19	1702.30.00	2008.99	2713.20.00	2843.21.00
0204.22	1101.00.00	1512.21.00	1702.40.00	2009.20	2804.10.00	2843.29.00
0204.23	1102.10.00	1512.29.00	1702.60.00	2009.50.00	2804.21.00	2843.90.00
0204.30.00	1102.20.00	1514.10.00	1702.90	2009.60	2804.29.00	2847.00.00
0204.41.00	1102.30.00	1514.90.00	1703.10	2009.70.10	2804.30.00	2850.00
0204.42	1102.90.00	1515.11.00	1703.90	2009.80.19	2804.40.00	2851.00.00
0204.43	1103.11.00	1515.19.00	1704.10.00	2009.90	2804.70.00	2901.10
0209.00	1103.12.00	1516.10.00	1704.90	2103.10.00	2805.21.00	2901.29.00
0306.14.00	1103.13	1516.20.00	1805.00.00	2103.20.00	2805.22.00	2902.50.00
0306.24.00	1103.19	1517.10.00	1806.10.00	2103.30.20	2805.30.00	2902.60.00
0407.00.00	1104.11.00	1517.90	1806.20	2103.90	2809.20.00	2902.90.00
0408.91.00	1104.12.00	1518.00	1806.31.00	2104.10.00	2811.19	2903.11.00
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0409.00.00	1104.21.00	1520.90.00	1806.90.00	2105.00.00	2811.29.90	2903.13.00
0410.00.00	1104.22.00	1521.90.10	1901.10	2106.10.00	2812.10	2903.14.00
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8427.90.00	8485.90.00	8511.30.00	8523.12.00	8535.30	8602.10.00	8716.31.00
8428.10.00	8501.10	8511.90	8523.13.00	8535.40.00	8604.00.90	8716.39
8428.20	8501.20	8512.20.00	8523.90.00	8535.90	8605.00.00	8716.40.00
8428.39	8501.31	8512.40.00	8524.10.00	8536.10.00	8606.10.00	8716.80.20
8428.90	8501.32	8512.90.00	8524.21	8536.41.00	8606.20.00	8716.90.90
8429.20	8501.33	8514.10.10	8524.22	8536.49.00	8606.30.00	8903.10.00
8429.51	8501.34	8514.20.10	8524.23	8536.50	8606.91.00	8903.91.00
8430.49.90	8501.40	8514.30.10	8524.90.90	8536.69.00	8606.92.00	8903.92.00
8431.31.00	8501.51	8514.40.10	8525.10	8536.90	8606.99.00	8903.99
8431.39	8501.52	8514.90.91	8525.20	8537.10	8607.11.10	8905.10.00
8431.41	8501.53	8515.11.00	8525.30	8537.20	8607.12.90	8905.20
8432.40	8501.61	8515.19.00	8526.10.00	8538.10	8607.19.10	8905.90
8433.11.00	8501.62	8515.21	8526.91.00	8538.90	8607.19.91	9002.11.20
8450.11.00	8501.63	8515.29	8526.92.00	8539.10	8607.19.93	9003.11
8451.21.00	8501.64	8515.31.00	8527.11	8539.21	8607.30.00	9003.19.20
8451.90	8503.00	8515.39.00	8527.31	8539.22.00	8607.91.00	9003.90
8458.99.00	8504.10.00	8515.80.00	8527.32	8539.29	8607.99	9004.90
8460.21	8504.21	8515.90	8527.39	8539.31.00	8608.00	9007.29.00
8460.40.00	8504.23.00	8516.10	8527.90	8539.39	8701.30	9007.92
8460.90	8504.31.00	8516.29	8528.10	8539.40	8701.90.11	9010.20
8465.93.00	8504.40	8516.40.00	8529.10	8539.90	8703.21	9010.30.00
8466.93	8504.90.10	8516.60.00	8529.90	8540.11.00	8703.22.00	9010.90
8468.90.20	8505.11.00	8516.71.10	8531.10	8540.20.00	8703.23.00	9013.80
8472.10.00	8506.11.00	8516.72.00	8531.20.00	8540.30.00	8703.24.00	9013.90.20
8472.90.90	8506.12.00	8516.79.00	8531.80	8540.41.00	8704.10.00	9013.90.30
8473.10	8506.13.00	8516.80.99	8531.90	8540.42.00	8705.40.00	9014.80.90
8473.40 10	8506.19.00	8516.90.49	8532.10.00	8540.49.00	8705.90	9017.30.00
8477.30	8506.20.00	8516.90.90	8532.21.00	8541.60.00	8707.10 90	9017.80.10
8477.80	8506.90	8517.30.11	8532.22.00	8543.20.00	8707.90	9017.90
8477.90	8507.10.00	8517.30.13	8532.23.00	8543.80	8708.10.00	9025.11
8479.89	8507.20.00	8517.40	8532.24.00	8543.90.40	8708.21.00	9025.19.10
8479.90	8507.30.00	8517.81.00	8532.25.00	8544.11.00	8708.29	9026.10
8481.10	8507.40.00	8517.82.90	8532.29.00	8544.19.00	8708.31	9026.20
8481.30	8507.80.00	8517.90.20	8532.30.00	8544.20.00	8708.39	9026.80

9026.90	9405.60.00
9027.80.90	9405.91.99
9028.30.00	9405.92.00
9030.31	9405.99
9030.39	9501.00.00
9030.40	9502.10.00
9030.90.91	9502.91.00
9031.20	9502.99.00
9031.40.00	9503.10
9031.80	9503.20
9031.90.40	9503.30.00
9032.10.00	9503.41.00
9032.20.00	9503.49.00
9032.81.00	9503.50.00
9032.89	9503.60.00
9032.90	9503.70.00
9105.11.00	9503.80
9105.19	9503.90.00
9105.21	9504.10.00
9105.29.00	9504.90.10
9105.91	9504.90.90
9105.99	9505.10.00
9107.00	9505.90
9113.20.00	9506.29.00
9113.90.90	9506.91
9202.90	9506.99.70
9207.10.10	9506.99.90
9207.90	9507.30.00
9306.21.00	9603.21.00
9306.29.00	9603.90.30
9306.30	9606.21
9401.10.00	9606.22.00
9401.20.00	9606.29.00
9401.30.10	9607.19.00
9401.40.00	9608.10.00
9401.61.00	9608.39.00
9401.69.90	9608.40.00
9401.71.00	9608.60.00
9401.90	9608.99.00
9402.10	9609.20.00
9403.20.00	9612.10
9403.50	9616.10.00
9403.60.00	9616.20
9403.70.00	9617.00.00
9403.90	9618.00.00
9405.40	

BILLING CODE 3190-01-C

Footnotes

[a] Coated textile fabric for use as outer covering for manufacture of upholstered furniture.

[b] Fabrics for use as outer coverings in the manufacture of upholstered furniture.

[c] Entire tariff line.

[d] Flat-rolled products of iron or non-alloy steel, of a width of 600 mm or more, hot-rolled, non-clad, plated or coated for use in the manufacture of pressure vessels or heat exchangers.

[e] Flat-rolled products of iron or non-alloy steel, of a width of 600 mm or more, cold-rolled (cold reduced), non-clad, plated or coated for use in the manufacture of pressure vessels or heat exchangers.

[f] Flat-rolled products of iron or non-alloy steel of a width of 600 mm or more, clad, plated or coated for manufacture of pressure vessels or heat exchangers.

[g] Flat-rolled products of stainless steel for manufacture, repair or replacement of pressure vessels or heat exchangers.

[h] Flat-rolled products of stainless steel, of a width of 600 mm for the manufacture of pressure vessels or heat exchangers.

[i] Flat-rolled products of alloy steel, other than stainless steel, of a width of 600 mm or more for the manufacture of pressure vessels or heat exchangers.

[j] Flat-rolled products of alloy steel, other than stainless steel, of a width of less than 600 mm for the manufacture of pressure vessels or heat exchangers.

[k] Seamless tubes, pipes and hollow profiles, seamless, of iron (other than cast iron) or steel for manufacture of heat exchangers, and seamless carbon steel pipe to 6" in outside diameter and seamless carbon steel (SA–179) and stainless steel (SA–213) tubing from ⅝" to 2" outside diameter for heat exchangers.

[l] Welded carbon steel pipe to 6" in outside diameter and welded carbon steel (SA–214) and stainless steel (SA–249) tubing of ⅝" to 2" outside diameter for heat exchangers.

[m] Tube or pipe fittings (for example couplings, elbows, sleeves), of iron or steel for heat exchangers.

[n] Steel roofing and siding being roll-formed panels made from flat rolled steel sheet.

[o] Copper tubes and pipes for heat exchangers.

[FR Doc. 89–16598 Filed 7–14–89; 8:45 am]

BILLING CODE 3190–01–M

POSTAL RATE COMMISSION

[Docket No. A89–10; Order No. 830]

Fineview, New York 13640 (David E. Brown, Petitioner); Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)

Issued July 10, 1989.

Before Commissioners: Janet D. Steiger, Chairman; Henry R. Folsom, Vice Chairman; John W. Crutcher; W.H. "Trey" LeBlanc, III; Patti Birge Tyson.

Docket Number: A89–10

Name of Affected Post Office: Fineview, New York

Name(s) of Petitioner(s): David E. Brown

Type of Determination: Consolidation

Date of Filing of Appeal Papers: June 30, 1989

Categories of Issues Apparently Raised: 1. Whether the Postal Service's actions have been in accordance with the procedure required by law [39 U.S.C. 404(b)(1)].

Other legal issues may be disclosed by the record when it is filed, or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition, in light of the 120-day decision schedule [39 U.S.C. 404(b)(5)], the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the petitioner. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference nay such memoranda previously filed.

The Commission Orders

(A) The record in this appeal shall be filed on or before July 17, 1989.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register.**

By the Commission.

Charles L. Clapp,

Secretary.

Appendix

June 30, 1989	Filing of Petition.
July 10, 1989	Notice and Order of Filing of Appeal.
July 25, 1989	Last day of filing of petitions to intervene [*see* 39 CFR 3001.111(b)].
Aug. 4, 1989	Petitioner's Participant Statement or Initial Brief [*see* 39 CFR 3001.115(a) and (b)].
Aug. 24, 1989	Postal Service Answering Brief [*see* 39 CFR 3001.115(c)].
Sept. 8, 1989	Petitioner's Reply Brief should Petitioner choose to file one [*see* 39 CFR 3001.115(d)].
Sept. 15, 1989	Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [*see* 39 CFR 3001.116].
Oct. 28, 1989	Expiration of 120-day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

[FR Doc. 89–16666 Filed 7–14–89; 8:45 am]

BILLING CODE 7715–01–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 270–315]

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272–2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Public Reference Branch, Washington, DC 20549.

Revision Regulation S

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for OMB approval revised Regulation S which provides clarification of the extraterritorial application of the registration requirements of the Securities Act of 1933. The revised proposed Regulation is not a form and would be assigned one burden hour for administrative purposes.

Direct general comment to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with the Commission's rules and forms to Kenneth A. Fogash, Deputy Executive Director, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–6004, and Gary Waxman, Clearance Officer, Office of Management and Budget (Paperwork Reduction Project 3235–0357), Room 3208, New Executive Office Building, Washington, DC 20503.

Jonathan G. Katz,

Secretary.

July 11, 1989.

[FR Doc. 89–16633 Filed 7–14–89; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended July 7, 1989

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the

application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket No. 46382
Date Filed: July 5, 1989.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: August 2, 1989.
Description: Application of Bahamasair Holdings Ltd. pursuant to Section 402 of the Act and Subpart Q of the Rules of Practice applies for an amendment of the foreign air carrier permit so as to authorize it to engage in foreign air transportation of passengers, mail and property between any point or points in the Commonwealth of the Bahamas and the new coterminal point of Philadelphia, Pennsylvania, to be served through Philadelphia International Airport.

Docket No. 46331
Date Filed: July 6, 1989.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: August 3, 1989.
Description: Amendment No. 1 to Application of American Airlines, Inc. request amendment of its certificate of public convenience and necessity for Route 137 so as to authorize in addition to air service between Chicago and Warsaw—air service between Chicago and Budapest, Hungary, either nonstop or via intermediate points.

Phyllis T. Kaylor,
Chief, Documentary Services Division.

[FR Doc. 89-16581 Filed 7-14-89; 8:45 am]
BILLING CODE 4910-62-M

Federal Aviation Administration

[Summary Notice No. PE-89-29]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

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

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

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: August 7, 1989.

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

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

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on July 10, 1989.

Denise Donohue Hall,
Manager, Program Management Staff, Office of the Chief Counsel.

Petitions for Exemption

Docket No.: 23392
Petitioner: Beaver Aviation
Sections of the FAR Affected: 14 CFR 141.91(a)
Description of Relief Sought: To extend Exemption No. 3682 that allows petitioner to conduct training at a satellite base in Venice, Florida. The satellite base is not a wholly-owned subsidiary and is more than 25 nautical miles from the main base of operations.

Docket No.: 25940
Petitioner: Charles N. Saulisberry
Regulations Affected: 14 CFR 43.3 (a) and (g)
Description of Relief Sought: To allow petitioner to perform the preventive maintenance function of removing and replacing the passenger seats in an aircraft used in Part 135 operations.

Docket No.: 25946
Petitioner: Northwest Airlines, Inc.
Sections of the FAR Affected: 14 CFR 121.471(a)(4) and Part 121, Subpart Q
Description of Relief Sought: To allow certain scheduled domestic and international flights of petitioner to operate in accordance with Subpart R—Flight Time Limitations: Flag Air Carriers.

Docket No.: 25939
Petitioner: Central States Airlines, Inc.
Regulations Affected: 14 CFR 135.337(a)(2), (3), and (4) and 135.339(c)(1)
Description of Relief Sought/Disposition: To allow petitioner to use certain instructor pilots of British Aerospace Corporation to train petitioner's initial cadre of pilots in the British Aerospace Jetstream 31 (BA-3201) type airplane without meeting all of the applicable training requirements of Subpart H of Part 135.
Grant, June 28, 1989, Exemption No. 5064

[FR Doc. 89-16674 Filed 7-14-89; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

Treatment of Interest Charges in the Customs Value of Imported Merchandise

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Statement of clarificaton.

SUMMARY: Questions have been raised concerning the implementation of the Committee on Customs Valuation of the General Agreement on Tariffs and Trade (GATT) decision that interest charges relating to the purchase of imported goods are not to be included in the customs value of the goods. This document serves as clarification of Customs position on the treatment of interest charges in an effort to adhere to the international agreement.

Background

On April 26, 1984, the Committee on Customs Valuation of the General Agreement on Tariffs and Trade adopted a decision concerning the treatment of interest charges in the customs value or imported merchandise. The decision is attached as Annex A. Under the decision, the interest charges are not part of the price actually paid or payable for the merchandise if certain criteria are met.

Specifically, the decision states that interest charges under a financing arrangement entered into by the buyer and relating to the purchase of the imported goods shall not be regarded as part of the customs value provided the following conditions are met:

(a) The charges are distinguished from the price actually paid or payable for the goods;

(b) The financing arrangement was made in writing;

(c) Where required, the buyer can demonstrate that

—Such goods are actually sold at the price actually paid or payable, *and*

—The claimed rate of interest does not exceed the level for such transactions prevailing in the country where, and at the time when the financing was provided. (emphasis added)

Customs implemented the GATT decision by publication of T.D. 85–111 in the **Federal Register** on July 8, 1985 (50 FR 27886), effective April 25, 1985. In the T.D. Customs stated that

> Inquiries regarding the criteria in "C" shall be considered satisfied, *inter alia*, if the claimed charges for interest and principal are consistent with those usually reflected in sales of identical or similar merchandise. If the claimed amount of interest is inconsistent with that usually reflected in sales of identical or similar merchandise, or is inconsistent when compared to the level for such transaction prevailing in the country where, and at the time when the financing was provided, only that amount which is consistent shall be allowed as non-dutiable, the excess being disallowed.

It has been brought to Customs attention that this language only discusses the acceptability of the interest rate but does not discuss what is meant by the term "interest" or what is needed to demonstrate that the goods are actually sold at the price declared as the price actually paid or payable.

Statement of Clarification

Customs interprets the term "interest" to encompass only *bona fide* interest charges, not simply the notion of interest arising out of delayed payment. *Bona fide* interest charges are those payments that are carried on the importer' books as interest expenses in conformance with generally accepted accounting principles.

To demonstrate that the goods undergoing appraisement are actually sold at the price declared as the price actually paid or payable, the buyer must be able to prove, if requested, that the price actually paid or payable for identical or similar goods sold without a financing arrangement closely approximates the price paid or payable for the goods being appraised. If the buyer fails to meet this test, no authority exists for distinguishing the alleged interest payments from the price actually paid or payable for the merchandise. This does not relieve the buyer's burden to demonstrate the validity of the interest rate under criteria "C" as required by the GATT decision.

This clarification shall be effective October 16, 1989.

Dated: June 28, 1989.
Attachment.

R. Rosettie,

Deputy Assistant Commissioner, Commerical Operations.

(Annex A was originally published in the **Federal Register** on July 8, 1985, 50 FR 27886)

Annex A—General Agreement on Tariffs and Trade

Committee on Customs Valuation

Decision on the Treatment of Interest Charges in the Customs Value of Imported Goods

Adopted by the Committee on April 26, 1984

The Parties of the Agreement on Implementation of Article VII of the GATT agree as follows:

Charges for interest under a financing arrangement entered into by the buyer and relating to the purchase of imported goods shall not be regarded as part of the customs value provided that:

(a) The charges are distinguished from the price actually paid or payable for the goods;

(b) The financing arrangement was made in writing;

(c) Where required, the buyer can demonstrate that

—Such goods are actually sold at the price declared as the price actually paid or payable, and

—The claimed rate of interest does not exceed the level for such transactions prevailing in the country where, and at the time when the finance was provided.

This Decision shall apply regardless of whether the finance is provided by the seller, a bank or another natural or legal person. It shall also apply, if appropriate, where goods are valued under a method other than the transaction value.

Each party shall notify the Committee of the date from which it will apply the Decision.

Robert P. Schaffer,

Acting Commissioner on Customs.

Approved June 20, 1985.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 89–16580 Filed 7–14–89; 8:45 am]
BILLING CODE 4820-02-M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 135
Monday, July 17, 1989

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 54 F.R. 28552.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 a.m., July 17, 1989.

CHANGES IN THE AGENDA: The Commodity Futures Trading Commission has added to the agenda a Policy Statement concerning Swap Transactions to the open meeting scheduled for 10:00 a.m., July 17, 1989.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, Secretary of the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 89-16746 Filed 7-13-89; 10:08 am]

BILLING CODE 6351-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:10 p.m. on Tuesday, July 11, 1989, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider: (1) Reports of the Director, Office of Corprorate Audits and Internal Investigations; (2) administrative enforcement proceedings; (3) a personnel matter; (4) matters relating to the possible closing of certain insured banks; and (5) a matter concerning the Corporation's corporate activities.

In calling the meeting, the Board determined, on motion of Director C. C. Hope, Jr. (Appointive), seconded by Ms. Judith A. Walter, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington DC.

Dated: July 12, 1989.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 89-16735 Filed 7-14-89; 4:21 pm]

BILLING CODE 6714-01-M

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: July 10, 1989, 54 FR 28861.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: July 12, 1989, 10:00 a.m.

CHANGE IN THE MEETING: The following Docket Numbers and Companies have been added as Item CAG-55 to the Agenda of 7/12/89:

Item No.	*Docket No. and Company*
CAG-55	RP84-94-000, RP85-66-000 and CP86-720-000, Trailblazer Pipeline Company.
	RP85-39-000, Wyoming Interstate Company, Ltd.
	RP85-60-000, Overthrust Pipeline Company.

Lois D. Cashell,

Secretary.

[FR Doc. 89-16806 Filed 7-13-89; 3:49 pm]

BILLING CODE 6717-02-M

federal register

Monday
July 17, 1989

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 14

Implementation of Equal Access to Justice Act; Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 14

[Docket No. 25958; NPRM 89-19]

RIN 2120-AD17

Implementation of Equal Access to Justice Act

AGENCY: Federal Aviation Administration [FAA], DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration (FAA) is publishing this proposed regulation to implement the Equal Access to Justice Act (Pub. L. 96-481, 94 Stat. 2325), as amended (Pub. L. 99-80, 99 Stat. 183) (EAJA). The Act, which took effect on October 1, 1981, provides for the award of attorney fees and other expenses to parties who prevail over the Federal Government in certain administrative and court proceedings under section 554 of the Administrative Procedure Act (APA). It requires agencies conducting proceedings under section 554 to establish uniform procedures for making awards.

These proposed regulations will set uniform procedures under the EAJA for any adversary adjudications conducted pursuant to section 554 by the FAA.

DATES: Comments must be received on or before August 16, 1989.

ADDRESSES: Comments on this proposed rulemaking may be delivered or mailed in triplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 25958, 800 Independence Avenue, SW., Room 915G, Washington, DC 20591. Comments submitted on the final rule must be marked: Docket No. 25958. Comments may be inspected in Room 915G between 8:30 a.m. and 5:00 p.m. on weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Allan H. Horowitz, Manager Enforcement Policy Branch (AGC-260), Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591, (202)267-3137.

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-related aspects of the proposal. Communications should identify the docket number 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 Docket No. 25958." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

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

History

The Equal Access to Justice Act (EAJA), authority for this rule, was enacted by the 96th Congress (Pub. L. 96-481, 94 Stat, 2325, 5 U.S.C. 504 *et seq.*) and amended by the 99th Congress (Pub. L. 99-80, 99 Stat. 183). It provides for the award of attorney fees and other expenses to eligible individuals and entities who are parties to administrative proceedings before government agencies and who prevail over the government. These proceedings are conducted under section 554 of the Administrative Procedure Act (APA). Eligible prevailing parties are entitled to awards of attorney fees and other expenses, unless the adjudicative officer or judge of the proceeding finds that the position of the United States is substantially justified or that special circumstances make an award unjust

Under the EAJA, eligible parties include individuals with a net worth of not more than $2 million; sole owners of unincorporated businesses, partnerships, corporations, associations, or organizations with a net worth of not more than $7 million and not more than 500 employees; and tax-exempt charitable, educational or religious associations as defined by the Agricultural Marketing Act with not more than 500 employees regardless of net worth. The Act directs agencies to establish uniform procedures for the submission and consideration of fee and expense applications. Section 554 of the APA applies in every case of adjudication required by statute to be determined on the record after opportunity for an agency hearing.

In response to the EAJA, the Administrative Conference of the United States (ACUS) published model EAJA regulations on which it requested comments (46 FR 15895). After considering all comments submitted, ACUS published final model EAJA regulations on June 25, 1981 (46 FR 32900). A slightly different set of model EAJA regulations was published by the Department of Justice (DOJ) on April 13, 1982 (47 FR 15774). The FAA has patterned its EAJA regulations after the ACUS and DOJ model rules (which served as the model for the EAJA regulations of the Department of Transportation and the National Transportation Safety Board [48 FR 1068 and 46 FR 48208 respectively]).

The FAA is adopting EAJA regulations at this time because it is now, for the first time, conducting proceedings to which the EAJA applies. On August 31, 1988, the FAA implemented the provisions of section 204(g) of the Airport and Airway Safety and Capacity Expansion Act of 1987 (Pub. L. 100-223) by issuing the Rules of Practice for FAA Civil Penalty Actions (53 FR 34646; September 7, 1988). Such regulations provide the procedural framework for the FAA to assess civil penalties (not to exceed $50,000) for violations arising under the Federal Aviation Act of 1958, as amended (49 U.S.C. 1471 *et seq.*), or a rule, regulation, or order issued thereunder, after written notice and a finding of violation by an FAA Decisionmaker. These regulations, which were enacted to provide for effective enforcement of the FAA's safety regulations, enable the FAA to conduct proceedings of the type covered by section 554 of the APA. The FAA's EAJA regulations apply only to those proceedings required to be brought pursuant to the FAA's "Civil Penalty

Assessment Demonstration Program," as codified in 14 CFR 13.201(a)(1).

In the FAA's disposition of comments received following the publication of the procedural regulations on September 7, 1988 (54 FR 11914), the FAA addressed the concerns of four commenters that the regulations did not provide procedures for the award of attorney fees and other expenses under EAJA. At that time, the FAA stated that it would undertake a separate rulemaking project to prescribe the procedures governing EAJA awards. Prior to the implementation of the above-referenced regulations, the FAA did not conduct adversary adjudications to which EAJA applied.

Economic Summary

The rule sets out procedures which eligible prevailing parties must follow to apply for and receive EAJA awards. The rule will facilitate filing applications for EAJA awards and, consequently, reduce costs to the applicant. Since this rule does not impose any costs on applicants, the impact of the rule is minimal and no full Regulatory Evaluation is necessary.

Trade Impact Assessment

The rule will have no impact on international trade. The subject of the rule is unrelated to the manufacture or distribution of aviation-related products and services either by United States-based manufacturers and air carriers or foreign-based manufacturers and air carriers.

Regulatory Impact Determination

Additionally, the rule will not have a significant economic impact on the operating costs of those small entities filing applications for EAJA awards with the FAA. There may be some small benefit to small entities by facilitating filing for awards, but this will not be substantial. Therefore, the rule is not expected to have a significant economic impact, positive or negative. Accordingly, a regulatory flexibility analysis is not required.

Federalism Impact

The regulations proposed 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 proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

To the extent that this proposal will have an economic effect on airmen, it will only be a minimal positive one since it will facilitate the filing for EAJA awards. Therefore, the FAA has determined that this proposal involves a proposed regulation which is not major under Executive Order 12291 or significant under the De0artment of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). For this same reason, it is certified that under the criteria of the Regulatory Flexibility Act the proposed rule, if adopted, will not have a significant economic impact, positive or negative, on a substantial number of entities. Because of the absence of any costs attendant with the proposal, the FAA has determined that the expected impact of the proposed regulations is so minimal that they do not warrant a full regulatory evaluation.

List of Subjects in 14 CFR Part 14

Equal access to justice, Lawyers.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to add Part 14 of the Federal Aviation Regulations (14 CFR Part 14) to read as follows:

PART 14—RULES IMPLEMENTING THE EQUAL ACCESS TO JUSTICE ACT OF 1980

Subpart A—General Provisions

Sec.

14.1 Purpose of these rules.
14.2 Proceedings covered.
14.3 Eligibility of applicants.
14.4 Standards for awards.
14.5 Allowable fees and expenses.

Subpart B—Information Required From Applicants

14.10 Contents of application.
14.11 Net worth exhibit.
14.12 Documentation of fees and expenses.

Subpart C—Procedures for Considering Applications

14.20 When an application may be filed.
14.21 Filing and service of documents.
14.22 Answer to application.
14.23 Reply.
14.24 Comments by other parties.
14.25 Settlement.
14.26 Further proceedings.
14.27 Decision.
14.28 Review by FAA Decisionmaker.
14.29 Judicial review.
14.30 Payment of award.

Authority: Equal Access to Justice Act (Pub. L. 96-481, 94 Stat. 2325) as amended (Pub. L. 99-80, 99 Stat. 183) (5 U.S.C. 504(c)(1)).

Subpart A—General Provisions

§ 14.1 Purpose of these rules.

The Equal Access to Justice Act, 5 U.S.C. 504 (the Act), provides for the award of attorney fees and other expenses to eligible individuals and entities who are parties to certain administrative proceedings (adversary adjudications) before the Federal Aviation Administration (FAA). An eligible party may receive an award when it prevails over the FAA, unless the agency's position in the proceeding was substantially justified or special circumstances make an award unjust. The rules in this part describe the parties eligible for awards and the proceedings that are covered. They also explain how to apply for awards, and the procedures and standards that the FAA Decisionmaker will use to make them. As used hereinafter, the term "agency" applies to the FAA.

§ 14.2 Proceedings covered.

(a) The Act applies to certain adversary adjudications conducted by the FAA. These are adjudications under 5 U.S.C. 554 in which the position of the FAA is represented by an attorney or other representative who enters an appearance and participates in the proceeding. This subpart applies to proceedings in which a civil penalty action was initiated by the FAA after September 7, 1988, pursuant to 14 CFR 13.201(a)(1).

(b) The Act further applies to any FAA action or failure to act which is the basis for an adversary adjudication, as herein defined.

(c) The FAA Decisionmaker may also designate a proceeding not listed in paragraph (b) of this section as an adversary adjudication for purposes of the Act by so stating in an order initiating the proceeding or designating the matter for hearing. The FAA Decisionmaker's failure to designate a proceeding as an adversary adjudication shall not preclude the filing of an application by a party who believes the proceeding is covered by the Act; whether the procedure is covered will then be an issue for resolution in proceedings on the application.

(d) If a proceeding includes both matters covered by the Act and matters specifically excluded from coverage, any award made will include only fees and expenses related to covered issues.

(e) Fees and other expenses may not be awarded to a party for any portion of the adversary adjudication in which such party has unreasonably protracted the proceedings.

§ 14.3 Eligibility of applicants.

(a) To be eligible for an award of attorney fees and other expenses under the Act, the applicant must be a party to the adversary adjudication for which it seeks an award. The term "party" is defined in 5 U.S.C. 551(3). The applicant must show that it meets all conditions of eligibility set out in this subpart and in subpart B.

(b) The types of eligible applicants are as follows:

(1) An individual with a net worth of not more than $2 million at the time the adversary adjudication was initiated;

(2) The sole owner of an unincorporated business who has a net worth of not more than $7 million, including both personal and business interests, and not more than 500 employees at the time the adversary adjudication was initiated;

(3) A charitable or other tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) with not more than 500 employees at the time the adversary adjudication was initiated; and

(4) A cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)) with not more than 500 employees at the time the adversary adjudication was initiated; and

(5) Any other partnership, corporation, association, or public or private organization with a net worth of not more than $7 million and not more than 500 employees at the time the adversary adjudication was initiated.

(c) For the purpose of eligibility, the net worth and number of employees of an applicant shall be determined as of the date the proceeding was initiated.

(d) An applicant who owns an unincorporated business will be considered an "individual" rather than a "sole owner of an unincorporated business" if the issues on which the applicant prevails are related primarily to personal interests rather than to business interest.

(e) The employees of an applicant include all persons who regularly perform services for remuneration for the applicant, under the applicant's direction and control. Part-time employees shall be included on a proportional basis.

(f) The net worth and number of employees of the applicant and all of its affiliates shall be aggregated to determine eligibility. Any individual, corporation, or other entity that directly or indirectly controls or owns a majority of the voting shares or other inte2est of the applicant, or any corporation or other entity of which the applicant directly or indirectly owns or controls a majority of the voting shares or other interest, will be considered an affiliate for purposes of this part, unless the administrative law judge determines that such treatment would be unjust and contrary to the purposes of the Act in light of the actual relationship between the affiliated entities. In addition, the administrative law judge may determine that financial relationships of the applicant, other than those described in this paragraph, constitute special circumstances that would make an award unjust.

(g) An applicant that participates in a proceeding primarily on behalf of one or more other persons or entities that would be ineligible is not itself eligible for an award.

§ 14.4 Standards for awards.

(a) A prevailing applicant may receive an award for attorney fees and other expenses incurred in connection with a proceeding, or in a significant and discrete substantive portion of the proceeding, unless the position of the agency over which the applicant has prevailed was substantially justified. Whether or not the position of the FAA was substantially justified shall be determined on the basis of the record (including the record with respect to the action or failure to act by the agency upon which the civil action is based) which was made in the civil action for which fees and other expenses are sought. The burden of proof that an award should not be made to an eligible prevailing applicant is on the agency counsel, who may avoid an award by showing that the agency's position was reasonable in law and fact.

(b) An award will be reduced or denied if the applicant has unduly or unreasonably protracted the proceeding or if special circumstances make the award sought unjust.

§ 14.5 Allowable fees and expenses.

(a) Awards will be based on rates customarily charged by persons engaged in the business of acting as attorneys, agents, and expert witnesses, even if the services were made available without charge or at a reduced rate to the applicant.

(b) No award for the fee of an attorney or agent under these rules may exceed $75 per hour. No award to compensate an ex0ert witness may exceed the highest rate at which the agency pays expert witnesses. However, an award may also include the reasonable expenses of the attorney, agent, or witness as a separate item, if the attorney, agent, or witness ordinarily charges clients separately for such expenses.

(c) In determining the reasonableness of the fee sought for an attorney, agent, or expert witness, the administrative law judge shall consider the following:

(1) If the attorney, agent, or witness is in private practice, his or her customary fee for similar services, or if an employee of the applicant, the fully allocated cost of the services;

(2) The prevailing rate for similar services in the community in which the attorney, agent, or witness ordinarily performs services;

(3) The time actually spent in the representation of the applicant.

(4) The time reasonably spent in light of the difficulty or complexity of the issues in the proceeding; and

(5) Such other factors as may bear on the value of the services provided.

(d) The reasonable cost of any study, analysis, engineering report, test, project, or similar matter prepared on behalf of a party may be awarded, to the extent that the charge for the service does not exceed the prevailing rate for similar services, and the study or other matter was necessary for preparation of the applicant's case.

(e) Fees may be awarded only for work performed after designation of a proceeding.

Subpart B—Information Required From Applicants

§ 14.10 Contents of application.

(a) An application for an award of fees and expenses under the Act shall identify the applicant and the proceeding for which an award is sought. The application shall show that the applicant has prevailed and identify the position of the agency in the proceeding that the applicant alleges was not substantially justified. Unless the applicant is an individual, the application shall also state the number of employees of the applicant and describe briefly the type and purpose of its organization or business.

(b) The application shall also include a statement that the applicant's net worth does not exceed $2 million (if an individual) or $7 million (for all other applicants, including their affiliates) at the time the adversary adjudication was initiated. However, an applicant may omit this statement if:

(1) It attaches a copy of a ruling by the Internal Revenue Service that it qualifies as an organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)), or in the case of a tax-exempt organization not required to obtain a ruling from the Internal Revenue Service on its exempt status, a statement that describes the

basis for the applicant's belief that it qualifies under such section; or

(2) It states that it is a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)).

(c) The application shall state the amount of fees and expenses for which an award is sought.

(d) The application may also include any other matters that the applicant wishes this agency to consider in determining whether and in what amount an award should be made.

(e) The application shall be signed by the applicant or an authorized officer or attorney for the applicant. It shall also contain or be accompanied by a written verification under oath or under penalty of perjury that the information provided in the application is true and correct.

(f) If the applicant is a partnership, corporation, association, organization, or sole owner of an unincorporated business, the application shall state that the applicant did not have more than 500 employees at the time the adversary adjudication was initiated, giving the number of its employees and describing briefly the type and purpose of its organization or business.

§ 14.11 Net worth exhibit.

(a) Each applicant except a qualified tax-exempt organization or cooperative association must provide with its application a detailed exhibit showing the net worth of the applicant and any affiliates when the proceeding was initiated. If any individual, corporation, or other entity directly or indirectly controls or owns a majority of the voting shares or other interest of the applicant, or if the applicant directly or indirectly owns or controls a majority of the voting shares or other interest of any corporation or other entity, the exhibit must include a showing of the net worth of all such affiliates or of the applicant including the affiliates. The exhibit may be in any form convenient to the applicant that provides full disclosure of the applicant's and its affiliates' assets and liabilities and is sufficient to determine whether the applicant qualifies under the standards in this part. The administrative law judge may require an applicant to file additional information to determine the eligibility for an award.

(b) The net worth exhibit shall describe any transfers of assets from, or obligations incurred by, the applicant or any affiliate, occurring in the one-year period prior to the date on which the proceeding was initiated, that reduced the net worth of the applicant and its affiliates below the applicable net worth transactions, the applicant shall so state.

(c) Ordinarily, the net worth exhibit will be included in the public record of the proceeding. However, an applicant that objects to public disclosure of information in any portion of the exhibit and believes there are legal grounds for withholding it from disclosure may submit that portion of the exhibit directly to the administrative law judge in a sealed envelop labeled "Confidential Financial Information," accompanied by a motion to withhold the information from public disclosure. The motion shall describe the information sought to be withheld and explain, in detail, why it falls within one or more of the specific exemptions from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552(b)(1)–(9), why public disclosure of the information would adversely affect the applicant, and why disclosure is not required in the public interest. The material in question shall be served on counsel representing the agency against which the applicant seeks an award, but need not be served on any other party to the proceeding. If the administrative law judge finds that the information should not be withheld from disclosure, it shall be placed in the public record of the proceeding. Otherwise, any request to inspect or copy the exhibit shall be disposed of in accordance with the FAA's established procedures under the Freedom of Information Act as implemented by 49 CFR 7, Appendix C of the FAA's rules.

§ 14.12 Documentation of fees and expenses.

The application shall be accompanied by full documentation of the fees and expenses, including the cost of any study, analysis, engineering report, test, project or similar matter, for which an award is sought. A separate itemized statement shall be submitted for each professional firm or individual whose services are covered by the application, showing the hours spent in connection with the proceedings by each individual, a description of the specific services performed, the rate at which each fee has been computed, any expenses for which reimbursement is sought, the total amount claimed, and the total amount paid or payable by the applicant or by any other person or entity for the services provided. The administrative law judge may require the applicant to provide vouchers, receipts, or other substantiation for any expenses claimed.

Subpart C—Procedures for Considering Applications

§ 14.20 When an application may be filed.

(a) An application may be filed whenever the applicant has prevailed in the proceeding, but in no case later than 30 days after the FAA Decisionmaker's final disposition of the proceeding.

(b) If review or reconsideration is sought or taken of a decision to which an applicant believes it has prevailed, proceedings for the award of fees shall be stayed pending final disposition of the underlying controversy.

(c) For purposes of this rule, final disposition means the later of:

(1) The date on which an unappealed initial decision becomes administratively final;

(2) Issuance of an order disposing of any petitions for reconsideration of the FAA Decisionmaker's Final order in the proceeding;

(3) If no petition for reconsideration is filed, the last date on which such a petition could have been filed; or

(4) Issuance of a final order or any other final resolution of a proceeding, such as a settlement or voluntary dismissal, which is not subject to a petition for reconsideration.

§ 14.21 Filing and service of documents.

Any application for an award or other pleading or document related to an application shall be filed and served on all parties to the proceeding in the same manner as other pleadings in the proceeding, except as provided in § 14.11(b) for confidential financial information.

§ 14.22 Answer to application.

(a) Within 30 days after service of an application, counsel representing the agency against which an award is sought may file an answer to the application. Unless agency counsel requests an extension of time for filing or files a statement of intent to negotiate under paragraph (b) of this section, failure to file an answer within the 30-day period may be treated as a consent to the award requested.

(b) If agency counsel and the applicant believe that the issues in the fee application can be settled, they may jointly file a statement of their intent to negotiate a settlement. The filing of this statement shall extend the time for filing an answer for an additional 30 days, and further extensions may be granted by the administrative law judge upon request by agency counsel and the applicant.

(c) The answer shall explain in detail any objections to the award requested

and identify the facts relied on in support of agency counsel's position. If the answer is based on any alleged facts not already in the record of the proceeding, agency counsel shall include with the answer either supporting affidavits or a request for further proceedings under § 14.26.

§ 14.23 Reply.

Within 15 days after service of an answer, the applicant may file a reply. If the reply is based on any alleged facts not already in the record of the proceeding, the applicant shall include with the reply either supporting affidavits or a request for further proceedings under § 14.26.

§ 14.24 Comments by other parties.

Any party to a proceeding other than the applicant and agency counsel may file comments on an application within 30 days after it is served or on an answer within 15 days after it is served. A commenting party may not participate further in proceedings on the application unless the administrative law judge determines that the public interest requires such participation in order to permit full exploration of matters raised in the comments.

§ 14.25 Settlement.

The applicant and agency counsel may agree on a proposed settlement of the award before final action on the application, either in connection with a settlement of the underlying proceeding, or after the underlying proceeding has been concluded. If a prevailing party and agency counsel agree on a proposed settlement of an award before an application has been filed, the application shall be filed with the proposed settlement.

§ 14.26 Further proceedings.

(a) Ordinarily the determination of an award will be made on the basis of the written record; however, on request of either the applicant or agency counsel, or on his or her own initiative, the administrative law judge assigned to the matter may order further proceedings, such as an informal conference, oral argument, additional written submissions, or an evidentiary hearing. Such further proceedings shall be held only when necessary for full and fair resolution of the issues arising from the application and shall be conducted as promptly as possible.

(b) A request that the administrative law judge order further proceedings under this section shall specifically identify the information sought or the disputed issues and shall explain why the additional proceedings are necessary to resolve the issues.

§ 14.27 Decision.

The administrative law judge shall issue an initial decision on the application within 60 days after completion of proceedings on the application. The decision shall include written findings and conclusions on the applicant's eligibility and status as a prevailing party and an explanation of the reasons for any difference between the amount requested and the amount awarded. The decision shall also include, if at issue, findings on whether the agency's position was substantially justified, whether the applicant unduly protracted the proceedings, or whether special circumstances make an award unjust.

§ 14.28 Review by FAA Decisionmaker.

Either the applicant or the FAA counsel may seek review of the initial decision on the fee application in accordance with Subpart G of Part 13 of the Federal Aviation Regulations, specifically 14 CFR 13.233. Additionally, the FAA Decisionmaker may decide to review the decision on its own initiative. If neither the applicant nor the agency counsel seeks review within 30 days after the decision is issued, it shall become final. Whether to review a decision is a matter within the discretion of the FAA Decisionmaker. If review is taken, the FAA Decisionmaker will issue a final decision on the application or remand the application to the administrative law judge who issued the initial fee award determination for further proceedings.

§ 14.29 Judicial review.

If an applicant is dissatisfied with a determination of fees and other expenses made under this subsection, pursuant 5 U.S.C. 504(c)(2), that applicant may, within thirty (30) days after the determination is made, appeal the determination to the court of the United States having jurisdiction to review the merits of the underlying decision of the FAA adversary adjudication. The court's determination on any appeal heard under this paragraph shall be based solely on the factual record made before the FAA. The court may modify the determination of fees and other expenses only if the court finds that the failure to make an award of fees and other expenses, or the calculation of the amount of the award, was unsupported by substantial evidence.

§ 14.30 Payment of award.

An applicant seeking payment of an award shall submit to the disbursing official of the FAA a copy of the FAA Decisionmaker's final decision granting the award, accompanied by a statement that the applicant will not seek review of the decision in the United States courts. Applications for award grants in cases involving the FAA shall be sent to: The Office of Accounting and Audit, AAA-1, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. The agency will pay the amount awarded to the applicant within 60 days, unless judicial review of the award or of the underlying decision of the adversary adjudication has been sought by the applicant or any other party to the proceeding.

Issued in Washington, DC, on July 10, 1989.

Gregory S. Walden,

Chief Counsel.

[FR Doc. 89-16591 Filed 7-14-89; 8:45 am]

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federal register

Monday
July 17, 1989

Part III

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 47 and 52
Federal Acquisition Regulation (FAR); Tailgate Delivery; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 47 and 52

Federal Acquisition Regulation (FAR); Tailgate Delivery

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering revising the Federal Acquisition Regulation (FAR) to provide an exception for heavy or bulky freight to a requirement in FAR 47.303–6 and the contract clause at FAR 52.247–34, F.o.b. Destination, that supplies be delivered to the truck's tailgate.

DATE: Comments should be submitted to the FAR Secretariat at the address shown below on or before September 15, 1989 to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to:

General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW, Room 4041, Washington, DC 20405.

Please cite FAR Case 89–56 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, (202) 523–4755. Please cite FAR Case 89–56.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed change results from problems associated with enforcement of FAR 47.303–6 and the clause at 52.247–34, coupled with a recognition of the following factors:

It is unrealistic to expect a truck driver to be able to move heavy or bulky freight to the truck's tailgate.

If the consignee has the personnel and equipment needed to remove heavy or bulky freight from the truck's tailgate, the same personnel and equipment may be used to remove the heavy or bulky freight from the inside of the truck.

If the consignee does not have such equipment and/or personnel, the contracting officer should require the contractor to perform the necessary delivery services by using the clause at 52.247–35, F.o.b. Destination, within Consignee's Premises.

B. Regulatory Flexibility Act

The proposed rule is not expected to 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 proposed change will not impose any new requirements on business, large or small. It is anticipated that business would view this change favorably because it would eliminate the need for them to make special handling and delivery arrangements with motor carriers when delivering heavy or bulky freight under Government contracts containing the clause at FAR 52.247–34, F.o.b. Destination. Therefore, an Initial Regulatory Flexibility Analysis has not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected FAR sections will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite 89–610 (FAR Case 89–56) in correspondence pertaining to Tailgate Delivery.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, et. seq.

List of Subjects in 48 CFR Parts 47 and 52

Government procurement.

Dated: July 7, 1989.

Harry S. Rosinski,

Acting Director, Office of Federal Acquisition and Regulatory Policy.

Therefore, 48 CFR Parts 47 and 52 are amended as set forth below:

1. The authority citations for 48 CFR Parts 47 and 52 continue to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

PART 47—TRANSPORTATION

2. Section 47.303–6 is amended by revising in paragraph (a)(2), the fourth and fifth sentences to read as follows:

47.303–6 F.o.b. destination.

(a) * * *

(2) * * * If motor carrier (including "piggyback") is used, supplies shall be delivered to truck tailgate at the unloading platform of the consignee, except when the supplies delivered meet the requirements of Item 568 of the National Motor Freight Classification for "heavy or bulky freight." When supplies meeting the requirements of the referenced Item 568 are delivered, unloading (including movement to the tailgate) shall be performed by the consignee, with assistance from the truck driver, if requested. If the contractor uses rail carrier or freight forwarder for less than carload shipments, the contractor shall ensure that the carrier will furnish tailgate delivery when required, if transfer to truck is required to complete delivery to consignee.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 52.247–34 is amended in the introductory text by inserting a colon following the word "clause" and removing the remainder of the paragraph; by removing in the title of the clause the date "(APR 1984)" and inserting in its place "(JUL 1989)"; by revising in paragraph (a)(2), the fourth and fifth sentences; and by removing both derivation lines following "(End of clause)" to read as follows:

52.247–34 F.o.b. destination.

* * * * *

(a) * * *

(2) * * * If motor carrier (including "piggyback") is used, supplies shall be delivered to truck tailgate at the unloading platform of the consignee, except when the supplies delivered meet the requirements of Item 568 of the National Motor Freight Classification for "heavy or bulky freight." When supplies meeting the requirements of the referenced Item 568 are delivered, unloading (including movement to the tailgate) shall be performed by the consignee, with assistance from the truck driver, if requested. If the contractor uses rail carrier or freight forwarder for less than carload shipments, the contractor shall ensure that the carrier will furnish tailgate delivery, when required, if transfer to truck is required to complete delivery to consignee.

* * * * *

[FR Doc. 87–16653 Filed 7–14–87; 8:45 am]

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federal register

Monday
July 17, 1989

Part IV

Environmental Protection Agency

Final NPEDS General Permit for Petroleum Fuel Contaminated Ground/ Storm Waters in the State of Florida

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3616-7; NPDES No. FLG040001]

Final NPDES General Permit for Petroleum Fuel Contaminated Ground/Storm Waters in the State of Florida

AGENCY: Environmental Protection Agency.

ACTION: Notice of Final National Pollutant Discharge Elimination System (NPDES) General Permit.

SUMMARY: The Regional Administrator of Region IV is today issuing a final National Pollutant Discharge Elimination System (NPDES) General Permit No. FLG040001 to facilities within the political boundary of the State of Florida. This NPDES general permit establishes effluent limitations, prohibitions, reporting requirements and other conditions on facilities which discharge treated groundwater and/or stormwater incidental to the groundwater cleanup operation which have been contaminated by automotive gasoline, aviation and/or diesel fuels. This final general permit authorizes discharges from facilities currently located in and discharging to surface waters, or to tributaries/conveyances thereof, within the political boundary of the State of Florida, and any new treatment facility placed in operation during the term of the permit. Issuance of this final permit will allow cleanup actions at contaminated sites to begin without the delays of individual NPDES permit issuance procedures. This general permit will potentially cover more than 2000 sites.

DATES: This permit shall be effective on July 17, 1989 at 1:00 p.m. Eastern Daylight Savings Time. Notification of coverage by the general permit will be by certified mail from the Director, Water Management Division, EPA, Region IV. This method of notification will be applicable to both new dischargers and existing dischargers that submit notices of intent for general permit coverage. Existing dischargers must also request that current individual permits be revoked upon notification of coverage by the general permit. The date for coverage under the general permit will be the date the applicant receives the assigned NPDES number under the general permit.

In accordance with 40 CFR 23.2, the Region hereby specifies that this permit shall be considered the final agency action for purposes of judicial review at 1:00 p.m. Eastern Daylight Savings Time on the date of this notice. In order to assist Region IV to correct any typographical errors, incorrect cross references, and similar administrative errors, comments of a nonsubstantive nature on the final permit be submitted on or before August 28, 1989.

The administrative record, including application, final permit, fact sheet, public notice, comments received, and additional information are available by writing the EPA, Region IV, or for review and copying at 345 Courtland Street NE., 3rd Floor, Atlanta, Georgia 30365, between the hours of 8:15 a.m. and 4:30 p.m., Monday through Friday. Copies will be provided at a minimal charge per page. Additional information concerning the permit may be obtained at the address and during the hours noted above from Ms. Dianne Brown, Public Notice Coordinator, (404) 347-3004.

ADDRESS: Notifications required under this permit should be sent to: Director, Water Management Division, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, George 30365.

Request For Coverage: Written notification of intent to be covered by the general permit shall be provided as described in the permit, Part II.F. Request for coverage must contain evidence that the operation has been approved for Initial Remedial Actions (IRA), or has obtained a Site Rehabilitation Initiation Order and an approved Remedial Action Plan (RAP) from the State of Florida Department of Environmental Regulation.

FOR FURTHER INFORMATION CONTACT: Roosevelt Childress, Chief, South Areas NPDES Permits Unit, or Larry Cole, Environmental Engineer, Facilities Performance Branch, Water Management Division, U.S. Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365, (404) 347-3012.

SUPPLEMENTARY INFORMATION:

I. Introduction

On August 25, 1988, EPA Region IV published a notice of the draft general permit (53 FR 32442) that is being issued in final form today. The Region received materials from fourteen (14) commenters on the proposed permit, plus a request for an extension of the public comment period. On October 25, 1988 (53 FR 43035), the public comment period was extended until November 15, 1988. All the public comments received during this period are included in the administrative record and were considered by Region IV in the formulation of a final determination of the conditions of today's final permit. The Region published a detailed fact sheet with the draft permit in 53 FR 32442. The Region is incorporating by reference that fact sheet and supplementary information as part of the final fact sheet for today's final permit. The discussions presented in these sections should be consulted in reviewing the applicability and scope of the final permit conditions.

II. Other Legal Requirements

A. Executive Order 12291

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12291 pursuant to Section 8[b] of that order.

B. Paperwork Reduction Act

EPA has reviewed the requirements imposed on the regulated facilities in this final general permit under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The information collection requirements of this permit have already been approved by the Office of Management and Budget in submissions made for the NPDES permit program under the provisions of the Clean Water Act (hereafter, "the Act").

C. State Certification Requirements

Section 301(b)(1)(c) of the Act requires that NPDES permits contain conditions which ensure compliance with applicable state water quality standards or limitations. Under Section 401(a)(1) of the Act, EPA may not issue a NPDES permit until the state in which the discharge will originate grants or waives certification to ensure compliance with appropriate requirements of the Act and state law. EPA requested certification of the permit on August 11, 1988. On June 14, 1989, the Florida Department of Environmental Regulation waived certification of the general permit.

D. Effective Date

The final NPDES general permit issued today is effective on July 17, 1989, and upon written notification of coverage from the Permit Issuing Authority.

E. Regulatory Flexibility Act

After review of the facts presented in this document, I hereby certify, pursuant to the provisions of 5 U.S.C. 605(b), that this general NPDES permit will not have a significant impact on a substantial number of small entities. Moreover, the

permit reduces a significant burden on regulated sources.

Lee A. DeHihns III,

Acting Regional Administrator, Region IV.

Summary of Comments

Appendix A—Public Comments

Public notice of the draft permit was published at 53 FR 32442 (August 25, 1988). The comment period was scheduled to close on September 25, 1988. Region IV received a request from the Florida Petroleum Council for an extension of public comment period, since the proposed draft raised issues of potentially significant concern to the petroleum industry. The comment period was noticed at 53 FR 43035 (October 25, 1988) and extended until the close of business on November 15, 1988. Significant comments presented during the public comment periods were considered in the formulation of a final decision regarding the proposed permit.

The following parties responded with written comments on the general permit: Total Petroleum Inc., Kerr-McGee Corporation, Hopping Boyd Green & Sams, Florida Petroleum Council, Chevron U.S.A. Inc., Shell Oil Company Professor Richard L. Williamson, Jr., Florida Petroleum Marketers Association, Hunton & Williams, Florida Department of Environmental Regulation (FDER), Kaiser Engineers, Conoco Inc., and the American Petroleum Institute.

(1) *Comment:* Several industry commenters stated that the Region has failed to consider adequately the factors necessary to establish technology—based effluent limitations for benzene, lead, and napthalene. They mentioned that there are no promulgated effluent guidelines applicable for these point sources, therefore, this permit must necessarily establish technology based effluent limitations on a site-by-site basis [40 CFR 125.3(c)(2)]. Consequently, the Region must consider, inter alia, the "engineering aspects of the application of various types of control techniques and the cost of achieving such effluent reductions." They stated that treating benzene contaminated groundwater to 1.0 μg/1 on a consistent basis would require optimal conditions to be met, and also mentioned that long term treatment could amount to $1,000,000 or more per site. In some cases it may be a technical impossibility to treat hydrocarbon contaminated groundwater to trace levels in the aquifer, even if the most advanced technology currently available is used.

Response: The Region agrees that optimal conditions for complying with the proposed benzene limit may not be available at every site. Each operator must consider which factors may prevent compliance with the proposed limits before applying for coverage under the general permit. Other factors, such as iron and manganese levels above 5.0 mg/1 in the influent require polishing steps before using carbon absorption as a cleanup alternative. However, on individual permit requests, previous facilities were designed to meet a benzene limit of 1.0 μg/1 by applying engineering techniques to keep the influent to the airstripper at low concentrations before treatment occurred. Some facilities were using infiltration galleries and were in operation before applying for an NPDES permit and were consistently meeting the 1.0 μg/1 effluent limitation for benzene from their treatment facilities prior to requesting a discharge permit to surface waters. If enormous costs could be verified after hydrogeologic consideration due to a long term cleanup project, an individual permit might seem more appropriate; however, Chapter 17–70 of the State Underground Petroleum Environmental Response Program does provide flexibility with regard to costs and time frame after a minimum of one year or less if data exist to verify that the cleanup remedial action is complete.

The State of Florida would have the responsibility to make a determination as to whether the remedial action operations would be deemed complete based on concentrations found in the groundwater and consider the technical feasibility of other proven groundwater techniques to further reduce contaminant levels at the site. Therefore, compliance with the proposed limits of the general permit does not infer high cleanup costs, since FDER would verify whether a remediation plan is complete based on individual site data received from the operator. Even though airstripping independently does very little for removal of leaded compounds in gasoline, airstripping plus other treatment processes combined do reduce the lead levels enough to meet the permit limit. Considering the amount of hydrocarbons recovered in the mobile free floating phase and the high adsorption potential of organic leading compounds onto the soils, treatment to comply with the lead limit has not raised concern at other facilities with individual permits. The technology being used, even though not a lead removal technology, is able to reduce the levels of leaded compounds.

(2) *Comment:* Several commenters mentioned that the proposed limitations for benzene, lead and naphthalene are more stringent than necessary to meet applicable water quality standards. The commenters mentioned that outside of the mixing zone, Florida has established a general water quality criteria for lead of 50.0 μg/l [FAC 17–3.061(2)(i)], yet the Region proposed to establish end-of-pipe effluent limitations at the point of discharge of 30.0 μg/l, apparently assuming that all discharges will be to Class I Waters-Potable Water Supplies [FAC 17–3.091(16)] and that the drinking water intake pipe will be adjacent to the effluent discharge, a specifically prohibited practice [FAC 17–4.244(1)(d)]. It was stated that the Florida Petroleum Council 1986 report entitled "Benzene in Florida Groundwater" demonstrated that drinking water containing less than 25 μg/l of benzene would not contribute to leukemia. Commenters also mentioned that 5.0 μg/l is the U.S. EPA drinking water standard and that the Florida Department of Environmental Regulation is proposing to set the benzene limit equal to EPA's standard.

Response: The effluent limitations are technology-based and applied at the end-of-pipe; therefore, a mixing zone is not granted under this general permit. On previous individual permit requests for cleanups of this type, the limits were applied at the end-of-pipe. Zones of mixing are granted on a case-by-case basis by FDER and will be considered in individual permit issuances. The State of Florida had considered raising their standard to 5.0 μg/l (MCL) for benzene in the drinking water, but these proposed limits have not been finalized. The 1.0 μg/l limit for benzene has been proven to be technologically achievable, and is coincidentally between the 10^{-5} and 10^{-6} risk levels of 6.6 μg/l and 0.66 μg/l for increase in cancer over a lifetime (EPA 440/5–80–018); therefore, a revision upward is not justified. Also, as discussed in response to Comment (1), the level of influent concentrations by petroleum contamination to the treatment system should be controlled by the operator, i.e., segregating the more concentrated contaminated groundwaters for product reclamation or off-site disposal.

(3) *Comment:* Several commenters stated that the Region's proposed toxicity limitations are both procedurally and substantively infirm and should be used for information screening purposes only. They mentioned the proposed toxicity limitation is more stringent than required under applicable Florida water quality standards and that the subject State regulation provides that the maximum concentration of wastes in the mixing zone shall not exceed the amount lethal to 50% of the test

organisms in 96 hours (96 hr LC_{50}) for a species significant to the indigenous aquatic community [FAC 17–4.244(4)(a)]. They mentioned the Region purports to equate the "effluent with the 'mixing zone' and three appropriate test species with a species significant to the indigenous aquatic community", an approach at odds with the Florida Department of Environmental Regulation. It was also mentioned that while this may be Agency policy, no substitute can exist for the exercise of informed decision making. CF NRDC v. EPA, No. 80–1607 (D.C. Cir. 1988) slip op. at 64–65.

Response: The "Whole Effluent Toxicity Testing Policy for Florida", dated May 5, 1986, was developed by EPA, Region IV, for use in writing NPDES permits in Florida. Our requirements, procedures and methods do not have to correspond with those required by the FDER.

After consideration of comments received regarding the toxicity requirement, the language in this permit has been revised to allow additional confirmatory testing if the toxicity tests fail. These additional toxicity tests will be used to determine if coverage by the general permit should continue or if an individual permit will be required. Failure of the tests does not constitute a permit violation. The use of non-indigenous species for standard laboratory toxicity is consistent with EPA's Technical Support Document and the final report of the Bioassay Task Force Report of August 1985, by the FDER. This report recommended that "standard stock monocultures of known health and sensitivity must be used in testing." In interpreting the meaning of the use of organisms significant to the indigenous aquatic community, this has been interpreted by FDER as meaning "any recognized organisms can be used for bioassay testing as long as that organism is known to be sensitive to toxic substances that can be expected to impact the indigenous community", (page 6, Final Report—Bioassay Task Force). With regard to allowance of a mixing zone under Florida's standards, these discharges do not have approved mixing zones. In the absence of a mixing zone, the least stringent rule [17–4.244(4)], which prohibits wastes at the point of discharge from exceeding the 96 hour LC_{50} (LC_{50} < 100%), applies at the end-of-pipe (page 5, Final Report of the Bioassay Task Force).

(4) *Comment:* Some commenters stated that EPA lacks the authority to require development of a Best Management Practices (BMP) Plan. The Clean Water Act (CWA) empowers EPA to include such requirements in an NPDES permit only if it has published industry-specific BMP regulations and, even then, only after making certain specified regulatory determinations. Since EPA has yet to promulgate requirements applicable to these discharges, it is without the statutory authority to impose them in the general permit. In *NRDC* v. *EPA*, industry petitioners, including API challenged EPA's authority under sections 125.100 and 125.103 to include BMPs in NPDES permits on a case-by-case basis under section 402(a)(1). In a *Settlement Agreement* dated June 7, 1982, the parties agreed that the BMP issue was not ripe for adjudication because EPA had suspended the effectiveness of its BMP regulations pending further review, and the BMP issue was dismissed on the ripeness ground on August 6, 1982. Pursuant to the *Settlement Agreement*, the industry petitioners reserve the right to challenge any new BMP regulations which may be promulgated. Many of the same concerns would be addressed in the applicable Site Remedial Action Plan.

Response: Section 402(a)(2) of the Act and the implementing regulations at 40 CFR 122.43(a) authorize EPA to require Best Management Practices Plans in NPDES permits. *Decision of the General Counsel*, No. 72, Issue VI. The permit requires that the BMP plan be prepared in conjunction with the Site Remedial Action Plan.

(5) *Comment:* An industry commenter stated that the separate authorization to combine contaminated groundwater pumped to above-ground storage tanks with contaminated groundwater from the sites recovery well should be deleted.

Response: The Region did not intend to construe this as a separate permit requirement, but could be included in the notification stages when the facility will be combining discharges. This would give the Region an accurate account of facilities that would actually be using these treatment processes to treat the storage tank bottom waters. This can be handled in the Notice of Intent (NOI) which is required by EPA for the permittee to be covered under the general permit.

(6) *Comment:* Several commenters mentioned that as long as the permittee is meeting the effluent limits, the one-time analysis of the effluent for priority pollutants appears to be unnecessary.

Response: This one-time scan was incorporated into the general permit to check the treatment facilities' performance near the start of operation for the reduction of other priority pollutants which are also discharged. It is the Region's view that if the treatment efficiency is adequate in the initial cleanup operations, the effluent quality in the later stages of cleanup operations should not deteriorate as the cleanup operations progress and the groundwater quality is restored.

(7) *Comment:* One commenter stated that since these are technology based limits, if an "upset" occurs, it necessarily follows that it should be possible to raise that defense to any permit violation. They recommended deleting the water-quality qualifier which appears to limit unnecessarily the availability of the upset defense in this setting.

Response: The Region agrees that this statement should not be included and it has been deleted in the final issuance of the general permit.

(8) *Comment:* One commenter stated that it was unnecessary for general permittees to receive permission from EPA to deactivate coverage under the general permit.

Response: The language in the permit has been clarified to state that EPA will inactivate coverage by the general permit after review of site closure documentation.

(9) *Comment:* One commenter stated that the 30 μg/l effluent limit imposed for lead would not necessarily in all circumstances protect human health. The EPA 440/5–80–057 Ambient Water Criteria document for lead is obsolete, since EPA Headquarters has proposed a new drinking water standard for lead which contains an impressive array of health information of 5.0 μg/l (53 FR 31565, August 18, 1988). Past practice for Florida is to keep the water quality criteria for lead well below the federal standard; therefore, anticipation can be made that the State will lower their standards. If the State of Florida imposes this 5.0 μg/l for lead, this would be measured outside the mixing zone after dilution has been taken into account. For example, with a dilution of 5:1, the effluent could have a concentration of 30 μg/l and still not exceed the new water quality standard.

The general permit should be more stringent than individual permits based on reasonable worst case, yet, nowhere is the general permit discharge limited to those with substantial low flow or to conditions where there are ambient background levels of lead. This would result in the instream concentration of 5.0 μg/l to be exceeded. The lead limit of 30.0 μg/l will not protect freshwater organisms. The current documents include values that would protect organisms themselves. For some

substances, including lead, the value for the protection of aquatic organisms could be more stringent than human health, particularly in streams with very low hardness (7.7 μg/l at a hardness of 200 μg/l). The effluent limit will not be protective of aquatic organisms in streams with low flows and/or high background levels. It was recommended that a one-time priority pollutant scan be used to ensure the treated water did not contain any toxic pollutants. Also, that a more frequent sampling be imposed in the permit if a failure does occur during toxicity testing to determine if the limit is being maintained using a larger data base and this permit violation would trigger applying for an individual NPDES permit.

Response: This general permit was not written to consider existing or proposed drinking water standards by any regulatory agency. The testing requirement for lead is currently being required by the State of Florida for the groundwater at sites which do not satisfy the "no further action" or "monitoring only" alternative. With regard to toxicity testing, the Region has revised the toxicity testing requirement based on significant comments received on the draft general permit. The Regional toxicity testing requirements still supports the use of organisms significant to the indigenous aquatic community as mentioned in the response to Comment (3); however, additional tests will be required to support continuance or revocation of coverage under the general permit. Part II, Section G. does provide exclusion of coverage under the general permit, if a permittee proposes a discharge to receiving waters that are classified as "Special Protection, Outstanding Florida Waters." A priority pollutant scan is included into Part I B. of the general permit.

(10) *Comment:* One commenter recommended a reduction from the three to two species for use in toxicity tests. Also, language should be included in the permit to clarify that these operations must also meet the approval of Florida prior to receipt of NPDES general permit coverage.

Response: The recommendation for a reduction from the proposed three (3) species for toxicity testing to the two (2) species was incorporated into the conditions of the final permit. Language was included into the notification stages of the final permit to indicate that these facilities must also obtain approval from the State of Florida prior to attaining coverage under the NPDES general permit.

(11) *Comment:* One commenter recommended that the proposed limits for a pH range of 6.0–8.5 should be dropped since the limits are unrealistic for Florida and natural groundwater often measures in the 4.0–6.0 range for pH.

Response: On previous individual permits issued the pH range of 6.0–8.5 was required and actual operating data indicate that some facilities are operating within this range; therefore, deletion of this pH range is not justified.

III. Other Changes to Final Permit

After review of the proposed permit, Region IV incorporated other changes into the final permit that are part of today's final issued permit.

(1) In Part I, Section D, the schedule of compliance was changed to reflect operational level attainment dates for permittees with revoked individual permits and new dischargers.

(2) In Part II, Section A.2, revised language was incorporated into the permit for penalties for violations of permit conditions, in accordance with the Water Quality Act of 1987.

(3) In Part II, Section F, language was included to allow coverage under the general permit for permittees during initial cleanup operations when Initial Remedial Actions (IRA) have been approved by Florida Department of Environmental Regulation, or if a Site Rehabilitation Initiation Order has been approved.

(4) In Part IV of the Best Management Practices (BMP) plan, language was added to insure that the plan is maintained at the facility and made available upon request from the Permit Issuing Authority.

Appendix B—General Permit To Discharge Under the National Pollutant Discharge Elimination System

In compliance with the provisions of the Clean Water Act, as amended (33 U.S.C. 1251 et seq.; the "Act"),

Discharges of treated groundwater and stormwater incidental to groundwater cleanup operations which are contaminated with gasoline or aviation fuel are authorized to discharge to waters of the United States within the State of Florida in accordance with effluent limitations, monitoring requirements and other conditions set forth herein. The permit consists of Part I, Part II, Part III, Part IV, and Part V.

This permit shall become effective at 1:00 p.m. Eastern Daylight Savings Time, on Monday, July 17, 1989.

This permit and the authorization to discharge shall expire at midnight, Eastern Daylight Savings Time, on July 16, 1994.

John T. Marlar,

Chief, Facilities Performance Branch, for Bruce R. Barrett, Director, Water Management Division Region IV.

Part I

A. Effluent Limitations and Monitoring Requirements: Existing Sources and New Dischargers

1. During the period beginning on the effective date of the permit and lasting through the term of this permit, the permittee is authorized to discharge treated groundwater and stormwater that has been contaminated by *Automotive Gasoline*. It is anticipated that these contaminated waters will be treated by air stripping, followed by activated carbon adsorption, if necessary, or equivalent treatment to meet the following effluent limitations.

Such discharges shall be limited and monitored by the permittee as specified below:

Effluent characteristic	Discharge limitations		Monitoring requirements	
	Daily average	Daily maximum	Measurement frequency	Sample type
Flow, MGD	Report	Report	Continuous	Flowmeter.
Benzene, μg/1		1.0	1/month	Grab.
*Total Lead, μ/1		30.0	1/month	Grab.

The effluent (100%) shall not be lethal to more than 50% of appropriate fish and invertebrate test organisms in 48 hour static toxicity tests (48-hr. LC_{50}). Failure to demonstrate compliance with the acute toxicity requirement may result in coverage under this permit being revoked, (see Part V–2).

The pH shall not be less than 6.0 standard units nor greater than 8.5 standard units and shall be monitored once every month by grab sample, or continuously with a recorder, at the discretion of the permittee (See item I.B. 4).

There shall be no discharge of floating solids or visible foam in other than trace amounts.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): nearest accessible point after final treatment but prior to actual discharge or mixing with the receiving waters.

*Monitoring for this parameter is required only when contamination results from leaded fuel.

A. Effluent Limitations and Monitoring Requirements: Existing Sources and New Dischargers

2. During the period beginning on the effective date of the permit and lasting through the term of this permit, the permittee is authorized to discharge treated groundwater and stormwater that has been contaminated by *Aviation Gasoline, Jet Fuel* or *Diesel.* It is anticipated that these contaminated waters will be treated by air stripping, followed by activated carbon adsorption if necessary or equivalent treatment to meet the foregoing effluent limitations.

Such discharges shall be limited and monitored by the permittee as specified below:

Effluent characteristic	Discharge limitations		Monitoring requirements	
	Daily average	Daily maximum	Measurement frequency	Sample type
Flow, MGD	Report	Report	Continuous	Flowmeter.
Benzene, µg/1		1.0	1/month	Grab.
Naphthalene, µg/1		100.0	1/month	Grab.
*Total Lead, µg/1		30.0	1/month	Grab.

The effluent (100%) shall not be lethal to more than 50% of appropriate fish and invertebrate test organisms in 48 hour static toxicity tests (48-hr. LC_{50}). Failure to demonstrate compliance with the acute toxicity requirement may result in coverage under this permit being revoked, (see Part V–2).

The pH shall not be less than 6.0 standard units nor greater than 8.5 standard units and shall be monitored once every month by grab sample, or continuously with a recorder, at the discretion of the permittee (See item I.B. 4).

There shall be no discharge of floating solids or visible foam in other than trace amounts.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): nearest accessible point after final treatment but prior to actual discharge or mixing with the receiving waters.

*Monitoring for this parameter is required only when contamination results from leaded fuel.

B. Other Requirements

1. Any more frequent effluent discharge monitoring required by the Florida Department of Environmental Regulation (FDER) for the parameters limited in this permit, or different parameters, shall be reported to the Permit Issuing Authority in accordance with the requirements of Part III–A of this permit.

2. Effluent limitations for combining contaminated groundwater pumped to above-ground storage tanks, with contaminated groundwater from the sites recovery wells.

a. The permittee shall notify FDER of any intent to combine contaminated groundwater pumped to above-ground storage tanks with contaminated groundwater from the recovery well. Approval of this combined effluent discharge by FDER will constitute approval for coverage by this general permit.

3. Within 60 days of the effective date of this permit or startup of discharge the permittee shall also submit the results of the following analyses. These analyses shall be performed on a representative sample of the groundwater effluent discharge, taken after final treatment. Required analyses (one time only):

a. EPA Method 625—Acid and base/neutral extractable organics.

b. EPA Method 624—Purgeable Organics.

If the analyses required in the above Part B–3 reveal other toxic pollutants or subsequent biomonitoring test shows lethality (less t han 50% survival of test organisms in 100% effluent), this General Permit may be terminated and an individual permit issued.

4. If the pH is monitored continuously, the pH values shall not deviate outside the required range more than 7 hours and 26 minutes in any calendar month and no individual excursion shall exceed 60 minutes. An "excursion" is an unintentional and temporary incident in which the pH value of discharge wastewater exceeds the range set forth in the permit.

C. Test Procedures

In performing the analysis for the dissolved constituents in the surface water and groundwater, the permittee shall use the guidelines recommended and described in Sections 17–70.008(9)[a–e] of the petroleum contamination site cleanup criteria rule for the State of Florida.

a. If the petroleum contamination is from a petroleum fuel in which the source of contamination has not been identified, the groundwater shall be analyzed (using the recommended methods) for the following parameters as described in Section 17.70.008(9)[d] of the State Underground Petroleum Environmental Response Program:

(1) Lead (EPA Method 239.2 or Standard Method 304)
(2) Priority Pollutant Volatile Organics (EPA Method 624)
(3) Priority Pollutant Extractable Organics (EPA Method 625)
(4) Non-Priority Pollutant Organics (with GC/MS Peaks greater than 10 ppb) (EPA Methods 624 & 625)

D. Schedule of the Compliance

1. The permittee shall achieve compliance with the effluent limitations specified for discharges in accordance with the following schedule:

Permittees with Revoked Individual Permits Operational Level Attained, Upon Receipt of Notification of Coverage

New Dischargers: Operational Level Attained, Upon Commencement of Discharge

2. No later than 14 calendar days after any date identified in the above

schedule of compliance the permittee shall submit either a report of progress or, in the case of specific actions being required by identified dates, a written notice of compliance or noncompliance. In the latter case, the notice shall include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirement.

Part II—Standard Conditions for NPDES Permits

Section A. General Conditions

1. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

2. Penalties for Violations of Permit Conditions

Any person who violates a permit condition is subject to a civil penalty not to exceed $25,000 per day of such violation. Any person who willfully violates permit conditions is subject to a fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than 3 years, or both. Any person who negligently violates permit conditions is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

3. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

4. Permit Modification

After notice and opportunity for a hearing, this permit may be modified, terminated or revoked for cause including, but not limited to, the following:

a. Violation of any terms or conditions of this permit;

b. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts;

c. A change in any conditions that requires either temporary interruption or elimination of the permitted discharge; or

d. Information newly acquired by the Agency indicating the discharge poses a threat to human health or welfare.

It the permittee believes that any past or planned activity would be cause for modification or revocation and reissuance under 40 CFR 122.62, the permittee must report such information to the Permit Issuing Authority. The submittal of a new application may be required of the permittee. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

5. Toxic Pollutants

Notwithstanding Paragraph A–4, above, if a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under Section 307(a) of the Act for a toxic pollutant which is present in the discharge and such standard or prohibition is more stringent than any limitation for such pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition and the permittee so notified.

The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

6. Civil and Criminal Liability

Except as provided in permit conditions on "Bypassing" Section B, Paragraph B–3, nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

7. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Act.

8. State Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the Act.

9. Property Rights

The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

10. Severability

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

11. Duty to Provide Information

The permittee shall furnish to the Permit Issuing Authority, within a reasonable time, any information which the Permit Issuing Authority may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the Permit Issuing Authority upon request, copies of records required to be kept by this permit.

Section B. Operation and Maintenance of Pollution Controls

1. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

2. Need to Halt or Reduce not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the condition of the permit.

3. Bypass of Treatment Facilities

a. Definitions:

(1) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility, which is

not a designed or established operating mode for the facility.

(2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

b. Bypass not exceeding limitations.

The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Paragraphs c. and d. of this section.

c. Notice.

(1) *Anticipated bypass.* If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass; including an evaluation of the anticipated quality and effect of the bypass.

(2) *Unanticipated bypass.* The permittee shall submit notice of an unanticipated bypass as required in Section D, Paragraph D–4 (24-hour notice).

d. Prohibition of bypass.

(1) Bypass is prohibited and the Permit Issuing Authority may take enforcement action against a permittee for bypass, unless:

(a) Bypass was unavoidable to prevent loss of life, personal injury, or severe and extensive property damage;

(b) There were no feasible alternatives to the bypass, such as maintenance of sufficient reserve holding capacity, the use of auxiliary treatment facilities, retention of untreated wastes, waste hauling, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(c) The permittee submitted notices as required under Paragraph b. of this section.

(2) The Permit Issuing Authority may, within its authority, approve an anticipated bypass, after considering its adverse effects, if the Permit Issuing Authority determines that it will meet the three conditions listed above in Paragraph d.(1) of this section.

4. Upsets

"Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation. An upset constitutes an affirmative defense to an action brought for non-compliance with such technology based permit limitation if the requirements of 40 CFR 122.41(n)(3) are met.

5. Removed Substances

This permit does not authorize discharge of solids, sludge, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters to waters of the United States unless specifically limited in Part 1.

Section C. Monitoring and Records

1. Representative Sampling

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. All samples shall be taken at the monitoring points specified in this permit and, unless otherwise specified, before the effluent joins or is diluted by any other wastestream, body of water, or substance. Monitoring points shall not be changed without notification to and the approval of the Permit Issuing Authority.

2. Flow Measurements

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to insure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated and maintained to insure that the accuracy of the measurements are consistent with the accepted capability of that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of less than ±10% from the true discharge rates throughout the range of expected discharge volumes. Guidance in selection, installation, calibration and operation of acceptable flow measurement devices can be obtained from the following references:

a. "A Guide of Methods and Standards for the Measurement of Water Flow", U.S. Department of Commerce, National Bureau of Standards, NBS Special Publication 421, May 1975, 97 pp. (Available from the U.S. Government Printing Office, Washington, DC 20402. Order by SD catalog No. C13.10:421.)

b. "Water Measurement Manual", U.S. Department of Interior, Bureau of Reclamation, Second Edition, Revised Reprint, 1974, 327 pp. (Available from the U.S. Government Printing Office, Washington, DC 20402. Order by catalog No. 127.19/2:W29/2, Stock No. S/N 24003–0027.)

c. "Flow Measurement in Open Channels and Closed Conduits", U.S. Department of Commerce, National Bureau of Standards, NBS Special Publication 484, October 1977, 982 pp. (Available in paper copy or microfiche from National Technical Information Service (NTIS), Springfield, VA 22151. Order by NTIS No. PB–273 535/5ST.)

d. "NPDES Compliance Flow Measurement Manual", U.S. Environmental Protection Agency, Office of Water Enforcement, Publication MCD–77, September 1981, 135 pp. (Available from the General Services Administration (8BRC), Centralized Mailing Lists Services, Building 41, Denver Federal Center, Denver, CO 80225.)

3. Monitoring Procedures

Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.

4. Penalties for Tampering

The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 2 years per violation, or by both.

5. Retention of Records

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by the Permit Issuing Authority at any time.

6. Record Contents

Records of monitoring information shall include:

a. The date, exact place, and time of sampling or measurements;

b. The individual(s) who performed the sampling or measurements;

c. The date(s) analyses were performed;

d. The individual(s) who performed the analyses;

e. The analytical techniques or methods used; and

f. The results of such analyses.

7. Inspection and Entry

The permittee shall allow the Permit Issuing Authority, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

c. Inspect at reasonable time any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

d. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

Section D. Reporting Requirements

1. Change in Discharge

The permittee shall give notice to the Permit Issuing Authority as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

a. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source; or

b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under Section D, Paragraph D–10(a).

2. Anticipated Noncompliance

The permittee shall give advance notice to the Permit Issuing Authority of any planned change in the permitted facility or activity which may result in noncompliance with permit requirements. Any maintenance of facilities, which might necessitate unavoidable interruption of operation and degradation of effluent quality, shall be scheduled during noncritical water quality periods and carried out in a manner approved by the Permit Issuing Authority.

3. Transfer of Ownership or Control

A permit may be automatically transferred to another party if:

a. The permittee notifies the Permit Issuing Authority of the proposed transfer at least 30 days in advance of the proposed transfer date;

b. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and

c. The Permit Issuing Authority does not notify the existing permittee of his or her intent to modify or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph b.

4. Monitoring Reports

See Part III of this permit.

5. Additional Monitoring by the Permittee

If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR 136 or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report (DMR). Such increased frequency shall also be indicated.

6. Averaging of Measurements

Calculations for limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Permit Issuing Authority in the permit.

7. Compliance Schedules

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date. Any reports of noncompliance shall include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirement.

8. Twenty-Four Hour Reporting

The permittee shall orally report any noncompliance which may endanger health or the environment, within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause, the period of noncompliance, including exact dates and times; and if the noncompliance has not been corrected, the anticipated time it is expected to continue, and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The Permit Issuing Authority may verbally waive the written report, on a case-by-case basis, when the oral report is made.

The following violations shall be included in the 24 hour report when they might endanger health or the environment:

a. An unanticipated bypass which exceeds any effluent limitation in the permit.

b. Any upset which exceeds any effluent limitation in the permit.

9. Other Noncompliance

The permittee shall report in narrative form all instances of noncompliance not previously reported under Section D, Paragraphs D–2, D–4, D–7, and D–8 at the time monitoring reports are submitted. The reports shall contain the information listed in Paragraph D–8.

10. Changes in Discharges of Toxic Substances

The permittee shall notify the Permit Issuing Authority as soon as it knows or has reason to believe:

a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic substance(s) (listed at 40 CFR 122, Appendix D, Table II and III) which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

(1) One hundred micrograms per liter (100 μg/l); or

(2) Two hundred micrograms per liter (200 μg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 μg/l) for 2, 4-dinitrophenol and for 2-methyl-4, 6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony.

b. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant (listed at 40 CFR 122, Appendix D. Table II and III) which is not limited in the permit, if that

discharge will exceed the highest of the following "notification levels":

(1) Five hundred micrograms per liter (500 μg/l); or

(2) One milligram per liter (1 mg/l) for antimony.

11. Signatory Requirements

All applications, reports, or information submitted to the Permit Issuing Authority shall be signed and certified.

a. All permit applications shall be signed as follows:

(1) For a corporation: by a responsible corporate officer. For the purpose of this Section, a responsible corporate officer means: (1) a president, secretary, treasurer or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy— or decision-making functions for the corporation, or (2) the manager of one or more manufacturing production or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

(3) For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official.

b. All reports required by the permit and other information requested by the Permit Issuing Authority shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(1) The authorization is made in writing by a person described above;

(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.); and

(3) The written authorization is submitted to the Permit Issuing Authority.

c. Certification. Any person signing a document under paragraphs (a) or (b) of this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under the direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

12. Availability of Reports

Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Permit Issuing Authority. As required by the Act, permit applications, permits and effluent data shall not be considered confidential.

13. Penalties for Falsification of Reports

The Clean Water Act provides that any person who knowingly makes any false statements, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 2 years per violation, or by both.

Section E. Definitions

1. Permit Issuing Authority

The Regional Administrator of EPA Region IV or his designee, unless at some time in the future the State receives the authority to administer the NPDES program and assumes jurisdiction over the permit; at which time, the Director of the State program receiving authorization becomes the issuing authority.

2. Act

"Act" means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act) Pub. L. 92–500, as amended by Pub. L. 95–217, Pub. L. 95–576 and Pub. L. 100–4, 33 U.S.C. 1251 et seq.

3. Concentration Measurements

a. The "average monthly concentration", is the sum of the concentrations of all daily discharges sampled and/or measured during a calendar month on which daily discharges are sampled and measured, divided by the number of daily discharges sampled and/or measured during such month (arithmetic mean of the daily concentration values). The daily concentration value is equal to the concentration of a composite sample or in the case of grab samples is the arithmetic mean (weighted by flow value) of all the samples collected during the calendar day.

b. The "maximum daily concentration" is the concentration of a pollutant discharge during a calendar day. It is identified as "Daily Maximum" under "Other Limits" in Part I of the permit and the highest such value recorded during the reporting period is reported under the "Maximum" column under "Quality" on the DMR.

4. Other Measurements

a. The effluent flow expressed as MGD is the 24 hour average flow averaged monthly. It is the arithmetic mean of the total daily flows recorded during the calendar month. Where monitoring requirements for flow are specified in Part I of the permit the flow rate values are reported in the "Average" column under "Quantity" on the DMR.

b. An "instantaneous flow measurement" is a measure of flow taken at the time of sampling, when both the sample and flow will be representative of the total discharge.

c. Where monitoring requirements for pH or dissolved oxygen are specified in Part I of the permit, the values are generally reported in the "Quality or Concentration" column on the DMR.

5. Types of Samples

a. Grab Sample: A "grab sample" is a single influent or effluent portion which is not a composite sample. The sample(s) shall be collected at the period(s) most representative of the total discharge.

6. Calendar Day

A calendar day is defined as the period from midnight of one day until midnight of the next day. However, for purposes of this permit, any consecutive 24-hour period that reasonably represents the calendar day may be used for sampling.

7. Hazardous Substance

A hazardous substance means any substance designated under 40 CFR Part 116 pursuant to Section 311 of the Clean Water Act.

8. Toxic Pollutant

A toxic pollutant is any pollutant listed as toxic under Section 307(a)(1) of the Clean Water Act.

Section F. Application Requirements

a. For expired individual NPDES permits, dischargers desiring coverage under NPDES General Permit Number FLGO40001 are required to submit a notice of intent (NOI) to be covered by the general permit to the Permit Issuing Authority. The NOI shall include: (1) The name and address of the operation, (2) the applicable individual NPDES number(s), (3) the identification of any new discharge location not contained in the expired permit, (4) evidence that the operation has been approved for Initial Remediation Actions (IRA), or has obtained a Site Rehabilitation Initiation Order and an approved Remedial Action Plan (RAP) from the FDER, in accordance with Florida Administrative Codes (FAC) 17–70.006, 17–70.008 and 17–70.010, respectively, (5) a map showing the facility and discharge location (in latitude and longitude), and (6) the name of the receiving water. Operators having several individual permits are encouraged to consolidate requests for coverage into one NOI for all individual permits. The previous submission of the proper forms in the renewal application does not relieve the permittee desiring coverage under the general permit of the requirement to file a NOI.

b. Dischargers having valid individual NPDES permits that desire coverage under the general permit are required to file a NOI to the Permit Issuing Authority within at least 30 days prior to expiration of their current permit(s). The notice shall contain the same information specified in paragraph (a) above. Permittees desiring to retain their individual permit are required to submit the appropriate application forms at least 180 days before expiration of their individual permit.

c. Dischargers who have not previously obtained a valid individual NPDES permit will be required to submit the same information specified in paragraph (a) above, except items (2) and (3). The application for coverage under the general permit must be made at least forty-five (45) days before the discharge is to commence.

d. Notification of coverage will be given by the Permit Issuing Authority by certified mail to the permittee.

e. Coverage by this general permit shall become effective on the date of notification of coverage by the Permit Issuing Authority.

f. Coverage by this general permit shall expire on July 16, 1994.

Section G. Additional General Permit Conditions

1. The Permit Issuing Authority may require any person authorized by this permit to apply for and obtain an individual NPDES permit when:

a. The discharge(s) is a significant contributor of pollution;

b. The discharger is not in compliance with the conditions of this permit;

c. A change has occurred in the availability of the demonstrated technology of practices for the control or abatement of pollutants applicable to the point sources;

d. Effluent limitation guidelines are promulgated for point sources covered by this permit;

e. A Water Quality Management Plan containing requirements applicable to such point source is approved; or

f. The point source(s) covered by this permit no longer:

(1) Involve the same or substantially similar types of operations;

(2) Discharge the same types of wastes;

(3) Require the same effluent limitations or operating conditions;

(4) Require the same or similar monitoring; and

(5) In the opinion of the Regional Administrator, are more appropriately controlled under an individual permit than under a general permit.

The Regional Administrator may require any operator authorized by this permit to apply for an indiviual NPDES permit only if the operator has been notified in writing that a permit application is required.

2. Any operator authorized by this permit may request to be excluded from the coverage of this general permit by applying for an individual permit. The operator shall submit an application together with the reasons supporting the request to the Regional Administrator.

3. When an individual NPDES permit is issued to an operator otherwise subject to this general permit, the applicability of this permit to the owner or operator is automatically terminated on the effective date of the individual permit.

4. A source excluded from coverage under this general permit solely because it already has an individual permit may request that its individual permit be revoked, and that it be covered by this general permit. Upon revocation of the individual permit, this general permit shall apply to the source.

5. A petroleum contamination recovery operation may be excluded from this general permit if it proposes discharges to receiving waters that are classified as "Special Protection, Outstanding Florida Waters" as set forth by FAC 17–3.043.

6. The permittee shall notify the Permit Issuing Authority within 30 days after the permanent termination of discharge from their facility. This letter shall include the necessary Site Rehabilitation Completion Order (SRCO) from Florida Bureau of Waste Cleanup which constitutes final action on the State level for completion of cleanup activities at the affected site. After review of the SRCO, EPA will inactivate coverage of the general NPDES permit for the facility.

Part III—Other Requirements

A. Reporting of Monitoring Results

Monitoring results obtained during the previous calendar quarter shall be summarized for each month (each quarter if monitoring frequency is quarterly) and must be reported on a Discharge Monitoring Report Form (EPA No. 3320–1), postmarked no later than the 28th day of the month following the completed calendar quarter. (For example data for January-March shall be submitted by April 28.) Duplicate signed copies of these, and all other reports required by Section D of Part II, Reporting Requirements, shall be submitted to the Permit Issuing Authority and the State at the following addresses:

Environmental Protection Agency, Region IV, Facilities Performance Branch, Water Management Division, 345 Courtland Street NE., Atlanta, GA 30365

Florida Dept. of Environmental Regulation, Local District Office Address

B. Reopener Clause

This permit shall be modified, or alternatively revoked and reissued, to comply with any applicable effluent standard or limitation issued or approved under Sections 301(b)(2) (C) and (D), 304(b)(2) and 307(a)(2) of the Clean Water Act, if the effluent standard of limitation so issued or approved:

1. Contains different conditions or is otherwise more stringent than any condition in the permit; or

2. Controls any pollutant not limited in the permit.

The permit as modified or reissued under this paragraph shall also contain any other requirements of the Act then applicable.

Part IV—Best Management Practices and Conditions

Section A. General Conditions

1. BMP Plan

Preparation of a Best Management Practices (BMP) Plan shall be prepared in conjunction with development of the Remedial Action Plan required by Florida Department of Environmental Regulation (See Part II.F.c.). The permittee shall maintain the BMP plan at the facility and shall make the plan available to the permit issuing authority upon request. The "NPDES Guidance Document" can be used as a reference which contains technical information on BMPs and the elements of the BMP program. The permittee shall develop and implement a BMP plan which prevents, or minimizes the potential for, the release of pollutants from ancillary activities, including material storage areas; plant site runnoff; in-plant transfer, process and material handling areas; loading and unloading operations, and sludge and waste disposal areas, to the waters of the United States through plant site runoff; spillage or leaks; sludge or waste disposal; or drainage from raw material storage. The term pollutants refers to any substance listed as toxic under Section 307(a)(1) of the Clean Water Act, oil, as defined in Section 311(a)(1) of the Act, and substance listed as hazardous under Section 311 of the Act. Copies of the "NPDES Guidance Document" may be obtained by submitting written requests to: Director, Waste Management Division, Region IV, Atlanta, GA 30365.

Part V—Biomonitoring Program

In accordance with Part 1 of this permit, the permittee shall initiate the series of tests described below within 30 days of coverage or commencement of discharge from outfall(s) 001.

1. If the effluent is discharged to a *freshwater stream*, the permittee shall conduct 48-hour static toxicity tests on two appropriate test species (EPA/600/4–85/013, Table 1). The test organisms used shall include one fish and one invertebrate test species (Recommend: A Daphnidae species and the fathead minnow (*Pimephales promelas*). If the effluent is discharged to a *saltwater stream*, the permittee shall conduct 48-hour static toxicity tests using the Mysid shrimp (Mysidopsis bahia) and the inland silverside (Menidia beryllina) or any other species approved by EPA. Tests shall be conducted once every month for a period of three months following the initiation of the tests and once every year thereafter for the duration of the permit using samples of 100% final effluent. Such tests will be conducted on one grab sample of 100% final effluent. Results of all tests conducted with any species shall be reported according to EPA/600/4–85/013, Section 13, Report Preparation and Data Utilization, and shall be submitted to EPA with the quarterly discharge monitoring report.

2. If lethality (less than 50% survival of tests organisms in 100% effluent) is demonstrated in either of the above test(s), another 48-hr static test using the same specie(s) and the same methodology shall be conducted within two weeks. If the additional test(s) indicates toxicity, coverage under the general permit may be revoked by the Permit Issuing Authority upon issuance of an individual permit.

3. All test organisms, procedures and quality assurance criteria used shall be in accordance with *Methods for Measuring the Acute Toxicity of Effluent to Freshwater and Marine Organisms*, EPA–600/4–85–013. A standard reference toxicant quality assurance test shall be conducted concurrently with each set of toxicity tests and its results submitted with the quarterly discharge monitoring report.

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July 17, 1989

Part V

Environmental Protection Agency

40 CFR Part 141

National Primary Drinking Water Regulations: Analytical Techniques; Coliform Bacteria; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 141

[FR 3555-8]

National Primary Drinking Water Regulations: Analytical Techniques; Coliform Bacteria

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action amends the National Primary Drinking Water Regulations (NPDWRs) promulgated pursuant to section 1412 of the Safe Drinking Water Act (SDWA) to specify an additional analytical method to enumerate total coliforms for the purpose of determining compliance with the current maximum contaminant levels (MCLs) for coliform bacteria in 40 CFR 141.14. Only approved analytical techniques may be used for determining compliance with MCLs. The two methods currently approved in 40 CFR 141.21 are: (1) The Multiple-Tube Fermentation (MTF) technique, and (2) the Membrane Filter (MF) technique. The third alternate procedure which EPA is approving today is the Minimal Medium ONPG–MUG test.

EPA requested comment on whether it should approve the Autoanalysis Colilert test (henceforth called the Minimal Medium ONPG–MUG test, or MMO–MUG test, a more specific generic name) for determining compliance with the current MCLs for total coliforms on May 6, 1988 (53 FR 16352). The Agency has determined that the proposed technique is substantially equivalent in both precision and accuracy to the techniques already approved.

EFFECTIVE DATE: The rule is effective 30 days from publication. In accordance with 40 CFR 23.7, this regulation shall be considered final Agency action for the purposes of judicial review at 1 p.m. Eastern Standard Time on July 31, 1989. The incorporation by reference of the publication listed in the regulation is approved by the Director of the Federal Register as of August 16, 1989.

ADDRESSES: The public comments and supporting documents cited in the reference section of this notice are available for review at EPA's Drinking Water Docket, 401 M Street SW., Washington, DC 20460. For access to Docket material, call (202) 382–3027 between 9 a.m. and 3:30 p.m. for an appointment.

FOR FURTHER INFORMATION CONTACT: The Safe Drinking Water Hotline, telephone (800) 426–4791 or (202) 382–5533 for callers in the Washington, DC area and Alaska. The Safe Drinking Water Hotline is open Monday through Friday, excluding Federal holidays, from 8:30 a.m. to 4:00 p.m. Eastern time.

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  A. Statutory Authority
  B. Regulatory Background
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I. Summary of Today's Action

Today's action makes available an additional analytical method for determining compliance with the current MCLs for total coliform bacteria in 40 CFR 141.14. This method is the MMO–MUG test. With the promulgation of this method, three analytical procedures for total coliform analysis are available: the Membrane Filter technique, the Multiple-Tube Fermentation technique, and the MMO–MUG test. Any of these tests may be used to analyze drinking water samples for the estimation or enumeration of coliform bacteria to determine compliance with the current MCLs for this group of organisms.

II. Statutory Authority and Regulatory Background

A. Statutory Authority

The SDWA requires EPA to promulgate NPDWRs which include MCLs or treatment techniques (section 1412). NPDWRs also contain "criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels, including quality control and testing procedures to ensure compliance with such levels" (section 1401(1)(D)). In addition, section 1445(a) of the Act authorizes the Administrator to require monitoring to assist in determining whether persons are in compliance with the Act. EPA's promulgation of analytical techniques is authorized under these sections of the Act. EPA has promulgated analytical techniques for all currently regulated drinking water contaminants; persons must use one of the approved analytical techniques for determining compliance with the MCLs (see 40 CFR 141.21–30).

B. Regulatory Background

On May 6, 1988, as part of the Notice of Availability on proposed changes to the NPDWR for total coliforms, EPA requested comment on whether it should approve the MMO–MUG test (called by its commercial name, the Autoanalysis Colilert System in that notice) as a third procedure to determine the presence or absence of total coliforms under the revised total coliform rule. Due to the significant number of individuals who expressed interest in using the MMO–MUG test as soon as possible (rather than waiting for the effective date of the revised coliform rule), and because of its simplicity and possible lower costs, EPA also requested comment on whether it should approve the five-tube MMO–MUG test to determine the mean density of total coliform bacteria in drinking water for determining compliance with the current MCLs for these organisms (53 FR 16348). This notice pertains only to testing for compliance with the current MCLs. Use of this test to determine compliance with the revised coliform rule, to be published shortly, will be addressed when EPA promulgates that rule.

The test described in the Notice of Availability was a five-t5be quantification method. The test was validated as a ten-tube test by an extensive field evaluation co-sponsored by EPA and the American Water Works Association Research Foundation, which explicitly followed the protocol of the EPA Environmental Monitoring Systems Laboratory (EMSL) for certification of alternative analytical methods (1). These data on the national field evaluation were recently published (2), and are also available in the docket for the proposed changes to the current coliform rule. Other recently published information describing the MMO–MUG test are cited in Section VI below (3,4). EMSL has determined that statistical analyses confirm that the five- and ten-tube test results are comparable. Based on the validation data and EMSL's evaluation, the Agency has concluded that this method is equivalent to currently approved methods in terms of precision and accuracy. Furthermore, the false positive rate, as determined by reaction in brilliant green lactose bile broth, is 13% for both the MMO–MUG test and the currently approved MTF test. The false positive rate for the currently approved MF technique is approximately 22%. Since it is a new method and consequently has not been tested with the whole range of drinking water available in the United States, EPA encourages laboratories to perform

parallel testing between the MMO–MUG test and other EPA-approved procedures for enumerating total coliform bacteria for at least several months to assess the effectiveness of the MMO–MUG test for the specific water type being analyzed and to assess the impact on numbers of positive tests of the techniques. To enable and enhance collection and evaluation of comparative data from the increasing number of tests available, EPA strongly recommends that laboratories identify which test(s) they use on the data form for each sample analyzed. It is important to note that EPA has not yet determined whether this test is fully satisfacto2y for assessing water other than drinking water.

The MMO–MUG system is based on the ability of total coliform bacteria to produce the enzyme beta-galactosidase which hydrolyzes o-nitrophenyl-beta-d-galactopyranoside (ONPG) present in the chemically defined medium to form a yellow color. The formulation of the test medium poorly supports the growth of non-coliform microorganisms; the target coliform microorganisms produce the yellow color within 24 hours. The test procedure consists of aseptically adding 10 ml of the water sample to each of five tubes containing a measured amount of MMO–MUG test medium, capping the tubes, mixing vigorously by inversion, incubating at 35–37 °C for 24 hours, and observing for a yellow color. If the color is so light a yellow that a definitive reading cannot be made, the tubes are re-incubated at 35–37 °C up to, but not more than, four additional hours. Deepening of the yellow color indicates the presence of total coliforms.

Total coliform bacteria are a heterogeneous group of organisms, the definition of which is based on their ability to produce acid and gas from lactose, although a number of strains may produce no gas. Taxonomists who work with this group of bacteria use a range of physiological and biochemical tests, but do not deal with absolutes, because a certain percentage of strains recovered from nature will vary from the established norm. Therefore, methodology based on different enzymatic reactions may occasionally detect different organisms, but, if in actual field studies the percentage of coliforms detected by a new method falls within acceptable limits of comparability with an established method, EPA believes the new test can also be deemed acceptable without challenging current definitions. This being so, EPA does not believe that a new definition for coliform bacteria is required.

An additional enzyme, beta-glucuronidase, is produced by *Escherichia coli* and forms a fluorescent substance when it hydro-4-methylumbelliferyl-beta-D-glucuronide (MUG) present in the MMO–MUG medium, allowing for detection of this baceterium (2). However, studies to evaluate the efficacy of the MMO–MUG test for detection of *E. coli* are still underway. Thus EPA's promulgation of the MMO–MUG test for estimating the mean density of total coliforms should not be construed as an EPA endorsement of the effectiveness of this test for detection of *E. coli* at this point.

Ingredients per liter for the MMO–MUG test medium (2,5) are listed below:

$(NH_2)_4SO_4$, 5g
$Mn(SO_4)_2$, 50mg
$ZnSO_4$, 50mg
$MgSO_4$, 100mg
NaCl, 10g
$CaCl_2$, 50mg
KH_2PO_4, 900mg
Na_2HPO_4, 6.2g
Na_2SO_3, 40mg
amphotericin B, 1mg
ortho-nitrophenyl-beta-D-galactopyranoside (ONPG), 500mg
4-methylumbelliferyl-beta-D-glucuronide (MUG), 75mg
Solanium, 500mg

This list of ingredients is given for information purposes only; as with other media, EPA does not encourage preparation of the MMO–MUG medium by individual users because of quality assurance problems. The MMO–MUG medium can be purchased commercially in a prepackaged form, or in bulk to be dispensed as needed. Laboratories making their own MMO–MUG medium should ascertain that it is prepared with rigid quality assurance measures to ensure that results are comparable to those obtained with the commercially available media.

The interim total coliform rule defines two maximum contaminant levels (MCLs)—a "single sample violation" and a monthly average. Both MCLs are defined according to the analytical procedure used. Under this final rule, when a laboratory uses the MMO–MUG test, the MCLs are identical to those prescribed in 40 CFR 141.14(b)(1) for the five-tube fermentation tube (MTF) method and 10-ml standard portions.

III. Comments and Responses

As noted earlier, in the May 6, 1988, notice, EPA requested comment on whether it should approve the Autoanalysis Colilert System (MMO–MUG test) as a five-tube quantification method for analyzing samples to determine compliance with the current total coliform bacteria MCLs and to determine compliance with the proposed revised total coliform MCL as a qualitative test. EPA received many comments addressing this issue, the great majority supporting EPA approval. In today's notice, the Agency will only summarize and respond to those comments specific to the use of the MMO–MUG test to determine compliance with the current total coliform bacteria MCLs. EPA will identify and respond to comments on the use of the MMO–MUG test to determine compliance with the revised coliform rule when it promulgates that rule. If a comment pertained to both rules, or if the Agency could not determine which rule the comment referred to, EPA has identified and responded to the comment in this notice, and will address it in the forthcoming revised rule, as well.

A. Favorable Comments

Fifteen commenters specifically endorsed use of the MMO–MUG test. The commenters found the procedure reliable, accurate, rapid, and easy to use. They liked the additional flexibility that another alternate method would provide, and pointed out the advantage of having a procedure available for detection of coliforms that would not be affected by the presence of large numbers of heterotrophic bacteria. Some thought that use of the procedure would save time in transport of samples and would reduce laboratory cost. One commenter not only stated that the MMO–MUG test should be approved as an additional method to determine MCL compliance, but also believed that it would be of assistance in identifying "trouble spots," i.e., as a quick, simple method for coliform detection in a distribution system heavily contaminated with heterotrophic bacteria.

B. Recommended Modifications

Six of the commenters who approved the new test had suggestions or recommended limitations concerning its use.

1. Limitations Suggested

One commenter was opposed to the use of the MMO–MUG test for analysis of compliance samples by uncertified laboratories, claiming it would result in under-reporting or erroneous reporting, and have a negative effect on small laboratories dependent upon water testing for their livelihood. If these laboratories were to close for lack of

funds, suppliers would need to spend more money for transportation of samples. This commenter recommended that only State personnel, or State-recommended personnel, be allowed to use the test. Another commenter questioned whether EPA intends to require laboratories to be certified for performance of the test.

Some commenters thought that the test should be available for smaller systems and for on-site testing. Another commenter, did not consider the test to be appropriate for use in analyzing non-disinfected water, because the method would provide no indication of the number of heterotrophic bacteria present.

Under 40 CFR 141.28, a public water system must use a laboratory approved by the State (a "certified laboratory") to analyze most regulated drinking water contaminants, including total coliforms. The State certification requirement should not negatively affect small laboratories that are already certified for total coliform analyses using the currently approved methods. EPA's regulations require that all compliance analyses be conducted by laboratories approved by the State, and it is not EPA's intention that unapproved laboratories or other analysts be permitted to run the MMO–MUG test. Because the MMO–MUG is so similar to the EPA-approved Multiple Tube Fermentation Technique, EPA is merely encouraging States to allow *certified* laboratories to use the MMO–MUG test without specific initial certification. EPA is planning to develop and publish specific certification criteria for the MMO–MUG test for future use in on-site evaluations of laboratories. For the purposes of today's rule, EPA still requires that all coliform analyses be conducted in laboratories approved by the State, but the Agency is not specifying specific certification criteria for the MMO–MUG test.

Regarding the use of this test for enumerating total coliforms in undisinfected drinking water because of its inability to signal the presence of high levels of heterotrophic bacteria, the test was not designed for that purpose; the test is simply designed to detect and enumerate coliforms. If enumeration of heterotrophic bacteria is desirable, standard analytical procedures are available.

2. Comments on Procedures for the MMO–MUG Test

One commenter supported the MMO–MUG test, but stated that the sample volume should be 100 ml, rather than 50 ml.

As described in the May 6, 1988, notice (53 FR 16352), EPA has reviewed data which demonstrate that the MMO–MUG procedure, when used as a five-tube test (with 10-ml sample portions in each tube), gives results that are comparable to those achieved when using the EPA-approved five-tube MTF procedure. Thus, for consistency with the EPA-approved MTF procedure, EPA is approving the use of the five-tube MMO–MUG test, which uses a total of 50 ml of water sample. As stated above, the Agency is in the process of revising the total coliform rule; one of the proposed provisions would require systems to use a 100-ml water sample, regardless of analytical method used. Thus, EPA will probably replace the requirement to use a 50-ml water sample for the MMO–MUG test, as approved in today's rule, with a requirement to use 100 ml (in a ten-tube test or a single bottle) beginning on the effective date of the revised rule, i.e., 18 months after promulgation.

3. Other Comments

Other commenters who supported use of the MMO–MUG test suggested that it be tentatively approved until it could be compared with other tests in a greater variety of situations, and then re-evaluated after four years. Another commenter supported use of the test, but thought that EPA should not refer to the test by its trade name (i.e., Autoanalysis Colilert System).

EPA believes that existing data support approval of the MMO–MUG test at this time; however, EPA agrees that comparison studies are useful. Thus, as mentioned above, the Agency encourages laboratories to conduct multi-month studies comparing the MMO–MUG test to previously approved EPA methods to insure that results are comparable for the specific water being tested before relying completely on the new test. Water suppliers should keep in mind that, although the MMO–MUG technique is equivalent to currently approved techniques, changes in the number of positive tests could affect compliance determinations. The Agency also agrees that the test approved today should be referred to by a generic name rather than a trade name. Accordingly, EPA now refers to this method as the MMO–MUG test.

C. Comments Opposed to the MMO–MUG Test

One commenter opposed the MMO–MUG test because the medium was expensive and only available from one source. A second commenter found the test cumbersome as currently packaged as well as expensive. A third did not like the test, believing that the test does not quantify coliforms, even though it was easy to use and gave rapid results. Still another commenter believed that the availability of the test to smaller facilities would create difficulty in tracking the results of laboratory tests.

The Agency has reviewed the costs associated with the MMO–MUG test and determined that it generally does not cost more than the current approved methods, and that, in fact, in some settings it may prove less expensive when time and labor costs are considered. Commenters provided no data which demonstrate that this conclusion is invalid. Of course, laboratories using the existing approved methods to evaluate samples are free to continue using them if they find them less costly or otherwise preferable.

EPA also has reviewed the problem of MMO–MUG medium availability. The producer of this medium has assured the medium's developer and EPA of its availability, dependent upon demand (6, 7, 8, 9). Although the medium currently can be obtained only from a single source, there are precedents for approval of media containing an ingredient available from a single source (6). The ingredients for MMO–MUG medium are all readily available commercially with the single exception of the dispersing agent, Solanium. The producer lists this ingredient as available on its current price list (7) and has stated its intention to fulfill public need (8, 9). In addition, the public listing of ingredients makes it more likely that other manufacturers will produce the same product or slightly modified versions of the product, so that equivalent media would no longer be available from only one source.

EPA does not believe the test, as currently packaged, is more cumbersome to use than other approved tests. In fact, EPA believes that the test may be significantly less cumbersome. The five-tube test approved today is designed to estimate the coliforms present in a sample by the Most Probable Number procedure. Therefore, the MMO–MUG test is a suitable method for estimating total coliform bacteria in water samples to determine compliance with the current MCLs for total coliform bacteria.

The requirement to use a certified laboratory for performance of the MMO–MUG test should prevent any increase in difficulty of tracking test results since such laboratories are accustomed to recordkeeping required for compliance purposes.

IV. Regulation Assessment Requirements

A. Executive Order 12291

Executive Order 12291 requires EPA to judge whether a regulation is "major" and, if so, to prepare a regulatory impact analysis. EPA has determined that this regulation will not have an economic effect of $100 million or more, cause a significant increase in cost or prices, or cause any of the averse effects described in the Executive Order, and, therefore, is not a major rule. This regulation simply specifies an additional analytical technique which can be used by laboratories to enumerate coliform bacteria. Laboratories may use the new method or continue using one of the previously approved methods. Therefore, there will not be any adverse economic impacts. This rule may, in fact, reduce costs because it approves a method that is simpler than existing approved methods.

This notice was submitted to OMB for its review under the Executive Order.

B. Regulatory Flexibility Act

This amendment is consistent with the objectives of the Regulatory Flexibility Act (5 U.S.C. 602 et seq.) because it will not have a significant economic impact on a substantial number of small entities. This rule gives laboratories, including small laboratories, the latitude to use an alternate method for total coliform analysis, if they wish. As noted earlier, this method costs no more to perform than methods already approved and may, in fact, cost less.

C. Paperwork Reduction Act

This rule contains no requests for information and, therefore, is not covered by the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

V. Effective Date

This rule is issued under SDWA sections 1401, 1412, and 1445. Although section 1412(b) provides that the National Primary Drinking Water Regulations (as defined in section 1401) take effect 18 months after their promulgation, under section 1445 there is no such limitation for monitoring, reporting, and recordkeeping regulations which may be used to assist in determining compliance. To allow the monitoring methods to be used 30 days after promulgation, EPA is promulgating these regulations under section 1445. Effective 18 months after promulgation, the analytical methods will also be deemed to be promulgated under sections 1401 and 1412.

VI. References and Public Docket

The following items are included in the public docket together with other correspondence and information. The public docket is available for review in Washington, DC, at the address listed at the beginning of this notice.

- Technical reviews of the MMO–MUG test.
- Memorandum recommending approval of the MMO–MUG test (Colilert system) from the Director, Environmental Monitoring Systems Laboratory in Cincinnati to the Director, Office of Drinking Water.
- Description of the proposed analytical technique and performance data.
- Public comments.

List of Subjects in 40 CFR Part 141

National Primary Drinking Water Regulations; Total coliforms; Incorporation by reference.

William K. Reilly,

Administrator.

Dated: July 10, 1989.

References

(1) Covert, T.C. 1985. USEPA's Method Equivalency Program for Drinking Water Samples. USEPA, Cincinnati.

(2) Edberg, S.C., Allen, M.J., Smith, D.B., and the National Collaborative Study. 1988. National Field Evaluation of a Defined Substrate Method for the Simultaneous Enumeration of Total Coliforms and *Escherichia coli* from Drinking Water: Comparison with the Standard Multiple Tube Fermentation Method. Appl. Environ. Microbiol. 54:1595–1601.

(3) Edberg, S.C., Allen, M.J., and Smith, D.B. 1988. Rapid, Specific, Defined Substrate Technology for the Simultaneous Detection of Total Coliforms and *Escherichia coli*. Toxicity Assessment: An International Journal 3:565–580.

(4) Edberg, S.C., Ludwig, F., and Smith, D.B. 1989. Rapid, Simultaneous Detection and Enumeration of Total Coliforms and *Escherichia coli* by the Colilert System: A Technology Transfer. Final Report, American Water Works Association Research Foundation, in press.

(5) Edberg, S.C., Allen, M.J., Smith, D.B., and the National Collaborative Study. 1988. ERRATUM. Appl. Environ. Microbiol. 54:3197.

(6) Letter, 10/28/88. Stephen C. Edberg, Yale University, Department of Laboratory Medicine, to Joseph Cotruvo, Office of Drinking Water, U.S. Environmental Protection Agency.

(7) Price List, Drinking Water Testing. Colilert Components and Peripherals. Solanium, Catalogue Numbers RC 306 and RC 307. Access Analytical Systems, Bradford, CT.

(8) Letter, 1/13/87. Sandra Stratman, Access Analytical Systems, Bradford, CT, to Robert Bordner, U.S. Environmental Protection Agency, Cincinnati, OH.

(9) Letter, 10/6/88. Sandra Stratman, Access Analytical Systems, Bradford, CT, to Alfred DuFour, U.S. Environmental Protection Agency, Cincinnati, OH.

For the reasons set out in the preamble, Part 141 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 141—NATIONAL PRIMARY DRINKING WATER REGULATIONS

1. The authority citation for Part 141 continues to read as follows:

Authority: 42 U.S.C. 300g–1, 300g–3, 300g–6, 300j–4, and 300j–9.

2. Section 141.14 is amended by adding a new paragraph (b)(3) to read as follows:

§ 141.14 Maximum microbiological contaminant levels.

* * * * *

(b) * * *

(3) When the Minimal Medium ONPG–MUG test described in § 141.21(a) of this part is used, coliform bacteria shall not be present at levels exceeding those specified in paragraph (b)(1) (i)–(iii) of this section.

* * * * *

3. Section 141.21 is amended by adding the following text to the end of paragraph (a):

§ 141.21 Microbiological contaminant sampling and analytical requirements.

(a) * * * Total coliform analyses may also be conducted by the Minimal Media ONPG–MUG (MMO–MUG) test described in Edberg, et al. (1988) except that 10 ml of water sample must be added to each of the five tubes. Analyses must be conducted in accordance with the analytical recommendations set forth in "National Field Evaluation of a Defined Substrate Method for the Simultaneous Enumeration of Total Coliforms and *Escherichia coli* from Drinking Water: Comparison with the Standard Multiple Tube Fermentation Method," Stephen C. Edberg, Martin J. Allen, Darwell B.

Smith, and the National Collaborative Study, Applied and Environmental Microbiology, 54:1595–1601, June 1988 (amended under Erratum, Applied and Environmental Microbiology, 54:3197, December 1988). This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from the American Water Works Association Research Foundation, 6666 West Quincy Avenue, Denver, CO 80235 (telephone 303–794–7711). Copies may be inspected at EPA's Drinking Water Docket, 401 M Street, SW., Washington, DC 20460, or at the Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, DC.

* * * * *

[FR Doc. 89–16691 Filed 7–14–89; 8:45 am]
BILLING CODE 6560-50-M

federal register

Monday
July 17, 1989

Part VI

Department of the Interior

National Park Service

36 CFR Part 13
Alaska Region; Notice of Public Hearings

Part VI

Department of the Interior

DEPARTMENT OF THE INTERIOR

36 CFR Part 13

Alaska Region

AGENCY: National Park Service, Interior.

ACTION: Notice of public hearings.

SUMMARY: In the **Federal Register** of Friday, June 9, 1989, Vol. 54, No. 110, pages 24852, 24853, and 24854, the National Park Service proposed a Federal regulation that will prohibit the hunting of wolves in national preserves in Alaska on the same day in which a hunter is airborne was published. The public hearings will provide the opportunity to receive oral and written comments on the proposed regulation. The public hearing dates follow in **SUPPLEMENTARY INFORMATION.**

DATES: See **SUPPLEMENTARY INFORMATION.**

ADDRESSES: See **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Lou Waller, 2525 Gambell St., Anchorage, AK 99503–2892, phone (907) 257–2646.

SUPPLEMENTARY INFORMATION:

Date	Time	Location
1. 07/18	7 p.m	National Park Service Regional Office, 2525 Gambell St., Anchorage, Room 300.
2. 07/19	7 p.m	King Salmon, NPS Office.
3. 07/19	7 p.m	Wasilla City Council Chamber, Heaning Ave.
4. 07/20	7 p.m	Chignik Community Hall.
5. 07/20	7 p.m	McGrath, Captain Snow Bldg. Assembly Rm.
6. 07/21	7 p.m	Fairbanks North Star Public Library, Cowls St.
7. 07/24	7 p.m	Glennallen School.
8. 07/24	7 p.m	Eagle Public Library.
9. 07/25	7 p.m	Kenai City Council Chambers.
10. 07/26	7 p.m	Bettles, National Park Service Office.
11. 07/26	7 p.m	Iliamna FAA Community Service Bldg.
12. 07/27	8pm	Yakutat High School.
13. 07/28	7 p.m	Kotzebue, National Park Service Visitor Center.
14. 07/28	8pm	Juneau, Centennial Hall.
15. 07/31	7 p.m	Nome Northwest Campus College.
16. 08/03	7 p.m	Washington, DC, George Mason University, Professional Center, Arlington Campus, 3401 North Fairfax Dr.

David B. Ames,

Acting Regional Director, Alaska Region.

[FR Doc. 89–16875 Filed 7–14–89 12:27 pm]

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[5] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[6] No amendments to this volume were promulgated during the period July 1 1986 to June 30, 1988. The CFR volume issued as of July 1, 1986, should be retained.

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