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Friday
August 25, 1989

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

WHO: The Office of the Federal Register.

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

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
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4. An introduction to the finding aids of the FR/CFR system.

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

ATLANTA, GA

WHEN: September 20; at 9:00 a.m.
WHERE: Room 808, 75 Spring Street, SW.
Richard B. Russell Federal Building
Atlanta, GA
RESERVATIONS: Call the Federal Information Center
404–331–6895

WASHINGTON, DC

WHEN: September 25; at 9:00 a.m.
WHERE: Office of the Federal Register
First Floor Conference Room
1100 L Street NW., Washington, DC
RESERVATIONS: 202–523–5240

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Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

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Presidential Documents

Title 3—

The President

Presidential Determination No. 89–17 of July 8, 1989

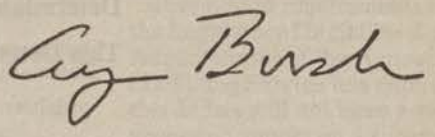
Determination Pursuant to Section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as Amended

Memorandum for Secretary of State

Pursuant to Section 2(c)(1) of the Migration and Refugee Assistance Act of 1962 (the "Act), as amended, 22 U.S.C. 2601 (c) (1), I hereby determine that it is important to the national interest to meet unexpected urgent needs for assistance of Afghan refugees and displaced persons. I further determine, pursuant to Section 2 (c) (1) of the Act, that up to $23 million shall be made available to meet these needs from the United States Emergency Refugee and Migration Assistance Fund in accordance with the pertinent provisions in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (P.L. 100–461).

You are authorized and directed to inform the appropriate committees of the Congress of this Determination and the obligation of funds under this authority.

This Determination shall be published in the Federal Register.



THE WHITE HOUSE,
Washington, July 8, 1989.

[FR Doc. 89-20240
Filed 8-23-89; 3:16 pm]
Billing code 3195-01-M

Presidential Documents

Presidential Determination No. 89–19 of July 20, 1989

Determination Pursuant to Section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as Amended

Memorandum for the Secretary of State

Pursuant to Section (2)(c)(1) of the Migration and Refugee Assistance Act of 1962, as amended, 22 U.S.C. 2601(c)(1), in order to meet unexpected urgent refugee and migration needs around the world, I hereby determine that it is important to the national interest that $6 million be made available from the Emergency Refugee and Migration Assistance Fund (Emergency Fund) to meet unexpected urgent needs of African, Indochinese, and Palestinian refugees, victims of conflict and displaced persons. Of this $6 million, $2 million will be contributed to the International Committee of the Red Cross (ICRC) for assistance to the victims of the conflict in Lebanon; $3 million will be contributed to the United Nations High Commissioner for Refugees (UNHCR) to assist refugees in Africa and Southeast Asia; and $1 million will be contributed to the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) to support emergency assistance programs in the Occupied Territories.

You are directed to inform the appropriate committees of the Congress of this Determination and the obligation of funds under this authority.

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

George Bush

THE WHITE HOUSE,
Washington, July 20, 1989.

[FR Doc. 89–20241
Filed 8–23–89; 3:17 pm]
Billing code 3195–01–M

Rules and Regulations

Federal Register
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DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

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

SUMMARY: This rule amends the delegations of authority from the Secretary of Agriculture to the Inspector General to include providing physical protection for the Deputy Secretary as part of the Inspector General's responsibility for the personal security of the Secretary. This amendment also adds a delegation designating the Inspector General as the Departmental liaison official with the General Accounting Office (GAO) for all GAO audit related matters.

This amendment is needed to assure that the delegations properly reflect the responsibilities inherent in a security program to protect top level Department officials, and to more clearly define the responsibilities for coordination with GAO to avoid possible overlap or conflict between agencies in carrying out assigned responsibilities.

EFFECTIVE DATE: August 25, 1989.

FOR FURTHER INFORMATION CONTACT: Paula Hayes, Assistant Inspector General for Policy Development and Resources Management, Office of Inspector General, USDA, Washington, DC 20250 (202–447–6979).

SUPPLEMENTARY INFORMATION: This amendment expands the delegation of authority for Secretarial security to include the other individuals covered by 18 U.S.C. 351 which pertains, in part, to violent crimes against the head of a Cabinet department and the second ranking official in such department.

This rule is a rule of agency procedure and practice related to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register.**

Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order No. 12291.

Finally, this action is not a rule as defined by the Regulatory Flexibility Act and, thus, is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

For the reasons set out in the preamble, Title 7, Subtitle A, Part 2, Subpart D of the Code of Federal Regulations, is amended as set forth below.

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

1. The authority citation for 7 CFR part 2 continues to read as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, except as otherwise noted.

2. Section 2.33 is amended by revising paragraph (b) and adding a new paragraph (c) to read as follows:

§ 2.33 Delegations of Authority to the Inspector General.

* * * * *

(b) Provide for the personal security of the Secretary and the Deputy Secretary.

(c) Serve as liaison official for the Department for all audits of USDA performed by the General Accounting Office.

* * * * *

Dated: August 16, 1989.

Clayton Yeutter,

Secretary of Agriculture.

[FR Doc. 89–20097 Filed 8–24–89; 8:45 am]
BILLING CODE 3410–23–M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 680]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 680 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 300,000 cartons during the period August 27 through September 2, 1989. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 680 (7 CFR 910.980) is effective for the period August 27 through September 2, 1989.

FOR FURTHER INFORMATION CONTACT: Beatriz Rodriguez, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 475–3861.

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

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

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

There are approximately 85 handlers of lemons grown in California and Arizona subject to regulation under the lemon marketing order and approximately 2500 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than

$3,500,000. The majority of handlers and producers of California-Arizona lemons may be classified as small entities.

This regulation is issued under Marketing Order No. 910, as amended (7 CFR part 910), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act (the "Act," 7 U.S.C. 601–674), as amended. This action is based upon the recommendation and information submitted by the Lemon Administrative Committee (Committee) and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the California-Arizona lemon marketing policy for 1989–90. The Committee met publicly on August 22, 1989, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and unanimously recommended a quantity of lemons deemed advisable to be handled during the specified week. The Committee reports that overall demand for lemons is good.

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

List of Subjects in 7 CFR Part 910

Arizona, California, Lemons, Marketing agreements and orders.

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

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

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

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

2. Section 910.980 is added to read as follows:

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

§ 910.980 Lemon Regulation 680.

The quantity of lemons grown in California and Arizona which may be handled during the period August 27, 1989, through September 2, 1989, is established at 300,000 cartons.

Dated: August 23, 1989.

Eric M. Forman,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 89–20218 Filed 8–24–89; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 967

[FV–89–061FR]

Expenses and Assessment Rate for Celery Grown in Florida; Committee Address Change

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final Rule.

SUMMARY: This final rule authorizes expenditures and establishes an assessment rate under Marketing Order No. 967 for the 1989–90 fiscal year established under the celery marketing order. An annual budget of expenses is prepared by the Florida Celery Committee (Committee), the agency responsible for local administration of the celery marketing order, and submitted to the U.S. Department of Agriculture (Department) for approval. Authorization of this budget will allow the Committee to incur expenses that are reasonable and necessary to administer this program. Funds to administer this program are derived from assessments on handlers.

In addition, this final rule will revise the administrative rules and regulations under the celery marketing order to reflect the Committee's new mailing address.

EFFECTIVE DATES: August 1, 1989, through July 31, 1990, for the expenses and assessment rate (§ 967.325). August 25, 1989, for the address change (§ 967.141).

FOR FURTHER INFORMATION CONTACT: Beatriz Rodriguez, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456; telephone: (202) 475–3861.

SUPPLEMENTARY INFORMATION: This final rule is effective under Marketing Agreement and Order No. 967 (7 CFR part 967), both as amended, regulating the handling of celery grown in Florida. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

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

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

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

There are approximately seven handlers of celery grown in Florida who are subject to regulation under the celery marketing order, and approximately 13 producers of celery in the production area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having average gross annual revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of celery handlers and producers may be classified as small entities.

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

The assessment rate recommended by the Committee is derived by dividing anticipated expenses by expected shipments of the commodity. Because that rate is applied to actual shipments,

it must be established at a rate which will produce sufficient income to pay the Committee's expected expenses. The recommended budget and rate of assessment are usually acted upon by the Committee before a season starts, and expenses are incurred on a continuous basis. Therefore, the budget and assessment rate approvals must be expedited so that the Committee will have funds to pay its expenses.

The Committee met on May 24, 1989, and unanimously recommended 1989–90 fiscal year expenditures of $131,500, ($127,000 from income and $4,500 from the reserve) and an assessment rate of $0.02 per 60-pound crate of celery shipped. In comparison, 1988–89 fiscal year budgeted expenditures were $126,000, and the assessment rate was $0.02 per 60-pound crate.

Major expenditure categories in the 1989–90 budget include $60,000 for administration, $54,500 for promotion, merchandising, and public relations, $8,800 for travel, and $5,000 for research. Assessment income for 1989–90 is estimated at $120,000, based on a crop of 6,000,000 crates of celery. An additional $7,000 is expected to be received from interest. Additional reserve funds may be used to meet any deficit in assessment income.

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

This action adds a new § 967.325 and is based on Committee recommendations and other information. A proposed rule was published in the July 24, 1989, issue of the **Federal Register** (54 FR 30754). Comments on the proposed rule were invited from interested persons until August 3, 1989. No comments were received.

In addition, at its May 24, 1989, meeting the Committee unanimously recommended revising § 967.141(a) in the rules and regulations under the celery marketing order to reflect the Committee's new mailing address. Therefore, the post office box number will be changed from 20067 to 140067 in § 967.141(a).

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

This rule should be expedited because the Committee needs to have sufficient funds to pay its expenses, which are incurred on a continuous basis. In addition, handlers are aware of this action which was recommended by the Committee at public meetings. Further, the address change is administrative in nature and as such has no regulatory effect. Therefore, it is found that good cause exists for not postponing the effective date of these actions until 30 days after publication in the **Federal Register** (5 U.S.C. 553).

List of Subjects in 7 CFR Part 967

Celery, Florida, Marketing agreements and orders.

For the reasons set forth in the preamble, 7 CFR part 967 is amended as follows:

PART 967—CELERY GROWN IN FLORIDA

1. The authority citation for 7 CFR part 967 continues to read as follows:

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

2. New § 967.325 is added to read as follows:

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

§ 967.325 Expenses and assessment rate.

Expenses of $131,500, by the Florida Celery Committee are authorized, and an assessment rate $0.02 per crate of celery is established for the 1989–90 fiscal year ending July 31, 1990. Unexpended funds from the 1989–90 fiscal year may be carried over as a reserve.

3. Section 967.141(a) is amended by revising paragraph (a) to read as follows:

Note: This section will appear in the Code of Federal Regulations.

§ 967.141 Nomination procedures.

(a) Names of candidates together with evidence of qualification for public membership on the Florida Celery Committee shall be submitted to the Committee at its business office, 4401 East Colonial Drive, or P.O. Box 140067, Orlando, Fla. 32814, no later than April 15.

* * * * *

Dated: August 21, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–20042 Filed 8–24–89; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 987

[Docket No. FV–89–069FR]

Expenses and Assessment Rate for Marketing Order Covering Domestic Dates Produced or Packed in Riverside County, California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes an assessment rate under Market Order 987 for the 1989–90 crop year established for that order. This action is needed for the California Date Administrative Committee (committee) to incur operating expenses during the 1989–90 crop year and to collect funds during that year to pay those expenses. This will facilitate program operations. Funds to adminsiter this program are derived from assessments on handlers.

EFFECTIVE DATES: October 1, 1989 through September 30, 1990.

FOR FURTHER INFORMATION CONTACT: Patrick Packnett, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456, telephone (202) 475–3862.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Marketing Order No. 987 (7 CFR part 987) regulating the handling of dates produced or packed in Riverside County, California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

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

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

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

Thus, both statutes have small entity orientation and compatibility.

There are approximately 25 handlers of California dates regulated under this marketing order each season, and approximately 135 date producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of the handlers and producers of California dates may be classified as small entities.

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

The assessment rate recommended by the committee was derived by dividing anticipated expenses by expected shipments of dates (in hundredweight). Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the committee's expected expenses.

The committee met on June 8, 1989, and unanimously recommended 1989–90 crop year expenditures of $361,480 and an assessment rate of $1.30 per hundredweight of assessable dates shipped under M.O. 987. In comparison, 1988–89 crop year budgeted expenditures were $394,500 and the assessment rate was $1.30 per hundredweight.

The major expenditure item this year is $325,000 for continuation of the committee's market promotion program. The industry is faced with a serious oversupply of product dates, and the committee considers this program necessary to stimulate sales. The rest of the anticipated expenditures are for program administration and are budgeted at about last year's amounts with the exception of $5,400 budgeted for liability insurance for the committee's officers and management.

Income for the 1989–90 season is expected to total $363,550. Such income consists of $362,050 in assessment revenue based on shipments of 27,850,000 pounds of dates and $1,500 in interest income.

The committee also unanimously recommended that any unexpended funds or excess assessments from the 1988–89 crop year be placed in its reserves. The committee's reserves are well within authorized limits.

Notice of this action was published in the July 12, 1989, issue of the Federal Register (54 FR 29342). The comment period ended August 11, 1989. No comments were received.

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

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

List of Subjects in 7 CFR Part 987

California, Dates, Marketing agreements and orders.

For the reasons set forth in the preamble, 7 CFR part 987 is amended as follows:

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA

1. The authority citation for 7 CFR part 987 continues to read as follows:

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

2. A new § 987.334 is added to read as follows:

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

§ 987.334 Expenses and assessment rate.

Expenses of $361,480 by the California Date Administrative Committee are authorized, and an assessment rate of $1.30 per hundredweight of assessable dates is established for the crop year ending September 30, 1990. Unexpended funds from the 1988–89 crop year may be carried over as a reserve.

Dated: August 21, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–20043 Filed 8–24–89; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 89–ANM–06]

Control Zone, Miles City, MT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Miles City, Montana Control Zone. The amendment is necessary to provide continuously accurate information to the aviation public. A temporary reduction in personnel staffing at Miles City has resulted in reduced weather observations which would otherwise be available 24 hours a day. Consequently, the effective hours of the Control Zone must be amended on a periodic basis.

EFFECTIVE DATE: 0901 u.t.c., September 25, 1989.

FOR FURTHER INFORMATION CONTACT: Ted Melland, ANM–536, Federal Aviation Administration, Docket No. 89–ANM–01, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168, Telephone: (206) 431–2536.

SUPPLEMENTARY INFORMATION:

History

On April 19, 1989, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend the Miles City, Montana Control Zone (54 FR 15777).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. The Montana State Aeronautics Division objected on the basis that weather services should be available 24 hours a day. The FAA concurs; however, reorganization of FAA and National Weather Service facilities is focused on providing services where most needed until automated weather observation equipment can be installed at relatively low activity locations. No other comments were received. Section 71.171 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 will provide a means whereby pilots will have access to continuously updated hours of control zone operation. Subsequent changes will be published for pilot reference by Notice to Airmen (NOTAM) and in the Airport/Facility Directory.

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, positive or negative, 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.

Adoption of the Amendment

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

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

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

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

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Miles City, Montana Control Zone [Amended]

Add "The Control Zone shall be effective during the specified dates and times established in advance by a Notice To Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory."

Issued in Seattle, Washington, on August 3, 1989.

Temple H. Johnson, Jr.,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 89–20057 Filed 8–24–89; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 89–ANM–2]

Salt Lake City Transition Area, Salt Lake City, UT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Salt Lake City, Utah, 1,200 feet transition Area. Additional controlled airspace is necessary to provide low altitude holding outside of Salt Lake City Approach Control's airspace.

EFFECTIVE DATE: 0901 u.t.c., September 21, 1989.

FOR FURTHER INFORMATION CONTACT: Bob Brown, ANM–535, Federal Aviation Administration, Docket No. 89–ANM–2, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168, Telephone: (206) 431–2536.

SUPPLEMENTARY INFORMATION:

History

On May 10, 1989, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend the 1,200 foot Transition Area for Salt Lake City, Utah, (54 FR 20145). The action proposed to provide additional controlled airspace for low altitude holding outside of Salt Lake City Approach Control's existing airspace.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. The proposed amendatory language contained a typographical error which is corrected herein. On the next-to-the-last line in the proposed amendment (54 FR 20146), reference is made to "the east edge of * * * R–6406 * * *" The final rule has been corrected to refer to "the east edge of * * * R–6406B * * *" This minor correction does not change the scope of the proposal, and the rule is otherwise adopted as proposed. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 13, 1989.

The Rule

This amendment is part 71 of the Federal Aviation Regulation will provide additional controlled airspace for low altitude holding outside of Salt Lake City Approach Control's existing airspace. The airspace is intended to segregate aircraft operating in visual flight rules conditions from other aircraft operating in instrument flight rules conditions. The area will be depicted on appropriate Aeronautical Charts, thereby enabling pilots to circumnavigate the area or otherwise comply with instrument flight rules procedures.

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, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

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

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

1. The authority citation of part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1510; E.O. 10854; 49 U.S.C. 106(g) (Revised Public Law 97–449, January 19, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. 71.181 is amended as follows:

Salt Lake City, Utah [Amended]

On the seventh line after "to the point of beginning" remove the words "that airspace extending upward from 1,200 feet above the surface bounded on the north Lat. 41°00'00" N., on the east by Long. 111°25'30" W., on the south by lat. 39°56'30" N., on the west by the east

edge of R–6402A, R–6402B, and R–6406B and Long. 113°00'00" W.", and replace with the following:

The airspace extending upward from 1,200 feet above the surface bounded on the north be Latitude 41°00'00" N., on the east by Longitude 111°25'30" W., on the south by Latitude 39°56'30" N., to Longitude 111°55'00" W., thence south to latitude 39°48'00" N., and on the west by the east edge of R–6402A, R–6402B and R–6406B and longitude 113°00'00" W.

Issued in Seattle, Washington, on July 27, 1989.

Temple H. Johnson, Jr.,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 89–20058 Filed 8–24–89; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 95

[Docket No. 25992; Amdt. No. 352]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

DATES: Effective: September 21, 1989.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Manager, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) prescribes new, amended, suspended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and are free of frequency interference. The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are unnecessary, impracticable, and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

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. For the same reason, the FAA certifies that this amendment 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 95

Aircraft, Airspace.

Issued in Washington, DC on August 15, 1989.

Robert L. Goodrich,

Director of Flight Standards.

Adoption of the Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows.

PART 95—[AMENDED]

1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354 and 1510; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.49(b)(2).

2. Part 95 is amended to read as follows:

BILLING CODE 4910–13–M

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES & CHANGEOVER POINTS

AMENDMENT 352 EFFECTIVE DATE, SEPTEMBER 21, 1989

FROM	TO	MEA

§95.6013 VOR FEDERAL AIRWAY 13

IS AMENDED TO READ IN PART

HUMBLE, TX VORTAC	CLEEP, TX FIX	2300

IS AMENDED TO DELETE

LAREDO, TX VORTAC *2000 - MOCA	MC ALLEN, TX VOR/DME	*5000

§95.6074 VOR FEDERAL AIRWAY 74

IS AMENDED TO READ IN PART

GREENVILLE, MS VOR/DME *1800 - MOCA	JACKSON, MS VORTAC	*2500

§95.6078 VOR FEDERAL AIRWAY 78

IS AMENDED TO READ IN PART

HURON, SD VORTAC VIA S ALTER.	WATERTOWN, SD VORTAC VIA S ALTER.	3700

§95.6095 VOR FEDERAL AIRWAY 95

IS AMENDED TO READ IN PART

LAZON, CO FIX	*POWES, CO FIX	
	N BND	15000
	S BND	16100
*14100 - MCA POWES FIX, S BND		
POWES, CO FIX	*BLUE MESA, CO VORTAC	12500
*12600 - MCA BLUE MESA VORTAC, S BND		
*12900 - MCA BLUE MESA VORTAC, NE BND		
BLUE MESA, CO VORTAC	BALOO, CO FIX	
	NE BND	16300
	SW BND	12800
BALOO, CO FIX	BALIF, CO FIX	
	SW BND	15000
	NE BND	16300
BALIF, CO FIX	TREES, CO FIX	16300
TREES, CO FIX	*CHILT, CO FIX	
	SW BND	16000
	NE BND	13600
*12800 - MCA CHILT FIX, SW BND		

§95.6162 VOR FEDERAL AIRWAY 162

IS AMENDED TO DELETE

CLARKSBURG, WV VOR/DME	EMMIT, WV FIX	4000
EMMIT, WV FIX	DERIN, WV FIX	6000

§95.6187 VOR FEDERAL AIRWAY 187

IS AMENDED TO READ IN PART

RIZAL, CO FIX	MANCA, CO FIX	10900

§95.6210 VOR FEDERAL AIRWAY 210

IS AMENDED TO READ IN PART

RESER, NM FIX	CAPUL, CO FIX	15000

§95.6245 VOR FEDERAL AIRWAY 245

IS AMENDED TO READ IN PART

NATCHEZ, MS VOR/DME *3400 - MRA	*AYMAN, MS FIX	3000
AYMAN, MS FIX	JACKSON, MS VORTAC	3000

§95.6306 VOR FEDERAL AIRWAY 306

IS AMENDED TO READ IN PART

GOMER, TX FIX	CLEEP, TX FIX	5000

§95.6417 VOR FEDERAL AIRWAY 417

IS AMENDED TO READ IN PART

JACKSON, MS VORTAC *3300 - MRA **1800 - MOCA	*FANEN, MS FIX	**3000

§95.6421 VOR FEDERAL AIRWAY 421

IS AMENDED TO READ IN PART

LAZON, CO FIX	*POWES, CO FIX	
	S BND	16100
	N BND	15000
*14100 - MCA POWES FIX, S BND		
POWES, CO FIX	*BLUE MESA, CO VORTAC	12500
*12600 - MCA BLUE MESA VORTAC, S BND		
*12900 - MCA BLUE MESA VORTAC, N BND		
BLUE MESA, CO VORTAC	WENDT, CO FIX	
	N BND	16300
	S BND	13000
WENDT, CO FIX *14600 - MOCA	CAZUU, CO FIX	*16300
SKIER, CO FIX *14900 - MOCA	RED TABLE, CO VOR/DME	*16300

§95.6495 VOR FEDERAL AIRWAY 495

IS AMENDED TO READ IN PART

U.S. CANADIAN BORDER	BELLINGHAM, WA VORTAC	3000

FROM	TO	MEA

§95.6539 VOR FEDERAL AIRWAY 539
IS AMENDED TO READ IN PART

GOODY, FL FIX	FORT MYERS, FL VORTAC	2000

§95.6408 HAWAII VOR FEDERAL AIRWAY 8
IS AMENDED TO READ IN PART

HONOLULU, HI VORTAC *5000 - MRA	*ALANA, HI FIX	3000

FROM	TO	MEA

§95.6416 HAWAII VOR FEDERAL AIRWAY 16
IS AMENDED TO READ IN PART

SOUTH KAUAI, HI VORTAC	MORKE, HI FIX	
	NW BND	5000
	SE BND	3000

FROM	TO	MEA	MAA
§95.7080 JET ROUTE NO. 80			
	IS AMENDED TO READ IN PART		
BELLAIRE, OH VORTAC	VINSE, PA FIX	18000	45000
VINSE, PA FIX	KIPPI, PA FIX	26000	45000
§95.7110 JET ROUTE NO. 110			
	IS AMENDED TO READ IN PART		
BELLAIRE, OH VORTAC	VINSE, PA FIX	18000	45000
VINSE, PA FIX	KIPPI, PA FIX	26000	45000
§95.7149 JET ROUTE NO. 149			
	IS AMENDED TO READ IN PART		
ARMEL, VA VORTAC	GEFFS, WV FIX	31000	45000
§95.7230 JET ROUTE NO. 230			
	IS AMENDED TO READ IN PART		
BELLAIRE, OH VORTAC	VINSE, PA FIX	18000	45000
VINSE, PA FIX	BOGGE, PA FIX	26000	45000
BOGGE, PA FIX	ROBBINSVILLE, NJ VORTAC	18000	45000

§95.8003 VOR FEDERAL AIRWAYS CHANGEOVER POINTS

AIRWAY SEGMENT		CHANGEOVER POINTS	
FROM	TO	DISTANCE	FROM
V-495			
IS AMENDED BY ADDING			
VICTORIA, CANADA VOR/DME	BELLINGHAM, WA VORTAC	28	VICTORIA

§95.8005 JET ROUTES CHANGEOVER POINTS

AIRWAY SEGMENT		CHANGEOVER POINTS	
FROM	TO	DISTANCE	FROM
	J-80		
	IS AMENDED BY ADDING		
BELLAIRE, OH VORTAC	EAST TEXAS, PA VORTAC	132	BELLAIRE
	J-110		
	IS AMENDED BY ADDING		
BELLAIRE, OH VORTAC	COYLE, NJ VORTAC	132	BELLAIRE
	J-230		
	IS AMENDED BY ADDING		
BELLAIRE, OH VORTAC	ROBBINSVILLE, NJ VORTAC	132	BELLAIRE

[FR Doc. 89-20059 Filed 8-24-89; 8:45 am]
BILLING CODE 4910-13-C

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 515

Cuban Assets Control Regulations

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This rule revises the Cuban Assets Control Regulations, 31 CFR part 515 (the "Regulations"), by establishing restrictions on the amount of currency that travelers to Cuba may carry with them for transactions subject to the Regulations.

EFFECTIVE DATE: August 25, 1989.

FOR FURTHER INFORMATION: William B. Hoffman, Chief Counsel (telephone: 202/376-0408), or Steven I. Pinter, Chief of Licensing (telephone: 202/376-0236), Office of Foreign Assets Control, Department of the Treasury, 1331 G Street NW., Washington, DC 20220.

SUPPLEMENTARY INFORMATION: This rule places a $100 per day limit on transactions ordinarily incident to travel within Cuba, currently authorized in § 515.560(c)(2).

In addition, § 515.569 is added to the Regulations which specifies the amount of currency that a person authorized to engage in transactions related to Cuban travel may carry for transactions in Cuba which are subject to the Regulations. Persons traveling under the general licenses contained in § 515.560 (a) and (b) may carry $100 per day for authorized travel-related expenses and $100 for the purchase of merchandise in Cuba intended for importation into the United States as accompanied baggage. Carrying funds for living expenses in Cuba and for the purchase of merchandise there is not authorized for persons traveling to Cuba as fully sponsored or hosted visitors.

Any person traveling to Cuba may also carry family remittances for the support or emigration of close relatives of the traveler and members of his household to the extent authorized by § 515.563 of the Regulations (for support, $500 per household in any three-month period; for emigration from Cuba, a one-time payment of $500 per recipient). This provision does not authorize any person traveling to Cuba to carry family remittances on behalf of another person.

Persons wishing to carry additional currency for transactions in Cuba subject to the Regulations or wishing to carry family remittances to Cuba on behalf of another person must obtain a specific license from the Office of Foreign Assets Control.

Because the Regulations involve a foreign affairs function, Executive Order 12291 and the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required under the Administrative Procedure Act or any other law, the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are also inapplicable.

List of Subjects in 31 CFR Part 515

Cuba, Currency, Travel and transportation expenses.

PART 515—[AMENDED]

1. The "Authority" citation for part 515 continues to read as follows:

Authority: 50 U.S.C. App. 5, as amended; 22 U.S.C. 2370(a); Proc. 3447, 27 FR 1085, 3 CFR 1959–1963 Comp. p. 157; E.O. 9193, 7 FR 5205, 3 CFR 1938–1943 Cum. Supp. p. 1174; E.O. 9989, 13 FR 4891, 3 CFR 1943–1948 Comp. p. 748.

§ 515.560 [Amended]

2. Paragraph (c)(2) of § 515.560 is revised to read as follows:

* * * * *

(c) * * *

(2) All transactions ordinarily incident to travel within Cuba, including payment of living expenses and the acquisition in Cuba of goods for personal consumption there, provided the total for such expenses does not exceed $100 per day unless otherwise specifically licensed pursuant to the procedures contained in § 515.801.

3. Section 515.569 is added to read as follows:

§ 515.569 Currency carried by travelers to Cuba.

(a) Persons authorized to engage in transactions related to Cuban travel pursuant to § 515.560 (a) or (b) may carry currency for living expenses in Cuba and the purchase in Cuba of goods for personal consumption there in an amount not to exceed $100 per day. In addition, each such person may carry an additional $100 for the purchase of merchandise in Cuba intended for importation as accompanied baggage pursuant to § 515.560(c)(3).

(b) Persons authorized to engage in transactions related to fully sponsored or hosted travel to Cuba pursuant to § 515.560(j) may not carry currency to pay for living expenses or the purchase of goods in Cuba except as specifically licensed pursuant to, or exempted from the application of, this part.

(c) Persons authorized to engage in transactions related to Cuban travel pursuant to § 515.560 (a), (b), or (j) may also carry family remittances for the support and/or emigration of close relatives of the traveler who reside in Cuba, at the times and in the amounts authorized by § 515.563. No such remittances may be carried by a traveler on behalf of remitters who are not members of the traveler's household, as defined in § 515.563(c).

(d) Persons traveling to Cuba may carry currency for transactions in Cuba subject to this part in amounts greater than those authorized by this section only pursuant to a specific license issued pursuant to § 515.801.

(e) For purposes of this section, the term "currency" used means money, cash, drafts, notes, travelers checks, negotiable instruments, or scrip, having a specified or readily determinable face value or worth, but does not include gold or other precious metals in any form.

Dated: July 31, 1989.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Salvatore R. Martoche,

Assistant Secretary (Enforcement).

[FR Doc. 89-20239 Filed 8-23-89; 4:15 pm]

BILLING CODE 4810-25-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KY-044; FRL-3633-4]

Approval and Promulgation of Implementation Plans for Kentucky; Redistribution of Allowable Sulfur Dioxide Emissions at TVA's Paradise Steam Plant

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today approves a redistribution of allowable sulfur dioxide emissions at the Paradise Steam Plant of the Tennessee Valley Authority (TVA). This redistribution was submitted to EPA as a State Implementation Plan (SIP) revision by the Kentucky Natural Resources and Environmental Protection Cabinet on June 29, 1987. The revised limits are contained in permit 0-87-012 issued by Kentucky on June 29, 1987. The revision allows unit-specific sulfur dioxide emission limits of 1.2 pounds per million

BTU heat input (lb/mmBTU) on Units 1 and 2 and 5.4 lb/mmBTU on Unit 3.

Overall, these limits are equivalent to the 3.1 lb/mmBTU emission limit specified for each unit in the current SIP. Dispersion modeling shows that the revision will not jeopardize the attainment and maintenance of the National Ambient Air Quality Standards. This SIP revision was evaluated under the full criteria of an ordinary SIP revision, and not under the streamlined criteria allowed when a SIP revision qualifies as a "bubble" under EPA's Emissions Trading Policy Statement. This revision to 401 KAR 61:015, section 3 was proposed on May 15, 1989 (54 FR 20863).

EFFECTIVE DATE: This action will become effective September 25, 1989.

ADDRESSES: Copies of the State submittal and other relevant documents are available for public inspection during normal business hours at the following locations:

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

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

Kentucky Natural Resources and Environmental Protection Cabinet, Department of Environmental Protection, 18 Reilly Road, Frankfort Office Park, Frankfort, Kentucky 40601.

FOR FURTHER INFORMATION CONTACT: Richard A. Schutt, U.S. Environmental Protection Agency, Region IV, Air Programs Branch at the above listed address or at (404) 347–2864 or FTS 257–2864.

SUPPLEMENTARY INFORMATION: The Paradise Steam Plant is a three-unit coal-fired facility operated by the Tennessee Valley Authority (TVA) and located in Muhlenberg County, Kentucky. Units 1 and 2 have an electric generating capacity of 704 megawatts (MW) each and are served by 600-foot (183-meter) stacks. Unit 3, with a generating capacity of 1150 MW, is served by an 800-foot (244-meter) stack. Since they were constructed prior to December 31, 1970, all three stacks were grandfathered from the stack height regulations.

Muhlenberg County is currently classified in 40 CFR part 81 as nonattainment for the secondary National Ambient Air Quality Standards (NAAQS) for sulfur dioxide. On October 31, 1980 (45 FR 72153), EPA approved Kentucky's most recent SIP submittal for Muhlenberg County under part D of the Clean Air Act. This SIP revision requires each unit at the Paradise Plant to meet an emission limit of 3.1 lb./mmBTU. A federally enforceable consent decree in 1979 had early established limits of 0.9 lb./mmBTU for Units 1 and 2 and 5.7 lb./mmBTU for Unit 3, which are equivalent to the 3.1 lb./mmBTU emission limit specified for each unit in the part D SIP. In 1983, the TVA constructed a coal-washing plant and installed scrubbers on Units 1 and 2 to meet these emission limits. Monitoring data for Muhlenberg County showed no exceedances of the NAAQS for 1984–1986.

Based on its experience in operating the sulfur dioxide control system at Paradise, the TVA requested a redistribution of the allowable sulfur dioxide emission rates for the three units. The revised emission rates are 1.2 lb./mmBTU for Units 1 and 2 and 5.4 lb./mmBTU for Unit 3. Although the scrubbers on Units 1 and 2 are capable of meeting a standard of 0.9 lb./mmBTU, they can only do so reliably if these units burn coal with a sulfur content equivalent to 5 lb. SO_2/mmBTU or less. The revised unit-specific emission limits will result in substantial cost savings because they would enable TVA to fine-tune the washing process and produce a coal that conforms more closely to pollution control requirements. On a plantwide basis, the revised emission limits are equivalent to the 3.1 lb./mmBTU emission limit specified for each unit in the current SIP for Paradise.

An evaluation estimating ambient sulfur dioxide concentrations resulting from the revised emission limits and assessing the attainment of ambient sulfur dioxide air quality standards for the Paradise Steam Plant has been completed. The modeling techniques used in the initial demonstration supporting this SO_2 redistribution are, for the most part, based on modeling guidance in place at the time that the analysis was performed, i.e., the EPA "Guideline on Air Quality Models (1978)." Following the submittal of the modeling analysis to the Regional Office (March 1987), revisions were required. The models used in the revision followed the guidance in place at that time (51 FR 32176, September 9, 1986). Since that time, revisions to modeling guidance have been promulgated by EPA (53 FR 592, January 6, 1988). Because the modeling analysis was substantially complete prior to publication of the revised guidance, EPA accepts the analysis. The grandfathering of the modeling analysis is also based on a July 9, 1986, memorandum from EPA Region IV to EPA's Office of Air Quality Planning and Standards listing sources, including TVA Paradise, which should be grandfathered under the then current EPA modeling guidance. This evaluation includes an inventory of sources within 50 km of Paradise and estimates of ambient sulfur dioxide concentrations using screening techniques and coarse receptor grids to identify extreme concentrations. Fine-grid analyses and estimates of ambient background concentrations are also included. The modeling analysis was based on block averaging. For further information on this evaluation, the reader may consult a Technical Support Document which contains a more detailed discussion on the model input, the annual-average screening analysis, the short-term analysis, and the background concentrations utilized to estimate the ambient sulfur dioxide concentrations resulting from the revised emission limits. This document is available at the EPA address given above.

After a public hearing held on March 23, 1987, the Kentucky Natural Resources and Environmental Protection Cabinet adopted this redistribution pursuant to the provisions of Regulation 401 KAR 61:015, section 3. The emission limits are specified in permit number 0–87–012 issued by Kentucky on June 29, 1987. Kentucky Regulation 401 KAR 50:015, Documents incorporated by reference, incorporates 40 CFR part 60, Method 6 entitled "Determination of sulfur dioxide emissions from stationary sources". This method is listed under 401 KAR 50:015 section 1(c)(1)(l), and is the method required for sulfur dioxide compliance determinations for Paradise Units 1–3. The revisions to 401 KAR 61:015, section 3 was submitted by the Kentucky Natural Resources and Environmental Protection Cabinet on June 29, 1987. EPA proposed approval on May 15, 1989 (54 FR 20863). No comments were received during the public comment period.

Final Action

EPA is today finalizing a redistribution of allowable sulfur dioxide emissions at Tennessee Valley Authority's (TVA's) Paradise Steam Plant. This redistribution allows unit-specific sulfur dioxide emission limits of 1.2 lb./mmBTU on Units 1 and 2 and 5.4 lb./mmBTU on Unit 3. These limits are equivalent to the 3.1 lb./mmBTU emission limit specified for each unit in the current SIP for Paradise. Modeling has demonstrated that the ambient air quality standards are protected when the plant is operated at the revised emission limits. The State authority for this revision is provided in Regulation 401 KAR 61:015, section 3.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years.

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

Under section 307(b) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 24, 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, Intergovernmental relations, Sulfur oxides.

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

Dated: August 14, 1989.

Lee A. DeHihns III,

Acting Regional Administrator.

Part 52 of chapter I, title 40, of the Code of Federal Regulation, is amended as follows:

Subpart S—Kentucky

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.920 is amended by adding paragraph (c)(49) to read as follows:

§ 52.920 Identification of plan.

* * * * *

(c) * * *

(49) A revision to the Kentucky SIP for Tennessee Valley Authority Paradise Steam Plant pursuant to the procedures specified in Kentucky regulation 401 KAR 61:015, section 3 was submitted on June 29, 1987, by the Kentucky Natural Resources and Environmental Protection Cabinet. The revised SO_2 limits are contained in Permit Number 0–87–012, issued on June 29, 1987.

(i) Incorporation by reference.

(A) Permit Number 0–87–012, issued by the Kentucky Natural Resources and Protection Cabinet on June 29, 1987.

(ii) Other material.

(A) Letter of June 27, 1987 from the Kentucky Natural Resources and Environmental Protection Cabinet.

* * * * *

[FR Doc. 89–20110 Filed 8–24–89; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 148

[FRL–3635–4]

Underground Injection Control Program; Hazardous Waste Disposal Injection Restrictions, Additional Effective Dates; First Third Wastes; Correction

AGENCY: Environmental Protection Agency.

ACTION: Final rule; correction.

SUMMARY: EPA is correcting an error in the final rule establishing effective dates prohibiting the underground injection of selected hazardous wastes. This action is mandated by section 3004(g) of the Resource Conservation and Recovery Act (RCRA). These rules were effective on June 7, 1989, and published in the Federal Register on June 14, 1989 (54 FR 25416 *et seq.*).

FOR FURTHER INFORMATION CONTACT: Bruce Kobelski, Office of Drinking Water (WH–550), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382–5508.

EFFECTIVE DATE: June 7, 1989.

SUPPLEMENTARY INFORMATION: On June 14, 1989, the Agency published rules establishing effective dates prohibiting the land disposal by injection of certain wastes covered by section 3004(g) of RCRA. (These rules were signed effective on June 7, 1989.)

At that time the Agency banned the underground injection of K101 and K102 wastes, consistent with the policy of banning the future underground injection of wastes that are not currently being disposed of in this manner.

Pursuant to sections 3004 (g) and (m), however, such a ban cannot take place without the establishment of treatment standards for the waste in question. Treatment standards have been established only for the wastewater and low arsenic (less than 1% total arsenic) nonwastewater subcategories of the K101 and K102 waste groups (see 53 FR 31170 *et seq.*). The Agency should have banned only these subcategories from underground injection, leaving the high arsenic (greater than or equal to 1% total arsenic) nonwastewater subcategories of K101 and K102 under the effect of the "soft hammer" provisions of section 3004(g)(6)(A).

The Agency is today issuing a technical amendment to § 148.14(a) to clarify that the wastewater and low arsenic nonwastewater subcategories of K101 and K102 are banned from underground injection on June 7, 1989. Treatment standards and effective dates for the high arsenic nonwastewater subcategories of K101 and K102 will be established at a later date.

List of Subjects in 40 CFR Part 148

Administrative practice and procedure, Confidential business information, Environmental protection, Hazardous materials, Hazardous materials transportation, Hazardous waste, Intergovernmental relations, Reporting and recordkeeping requirements, Waste treatment and disposal, Water supply, Water pollution control.

Dated: August 17, 1989.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

The following correction is made in FRL–3556–8, Underground Injection Control Program: Hazardous Waste Disposal Injection Restrictions, Additional Effective Dates; First Third Wastes; Final Rule, published in the Federal Register on June 14, 1989 (54 FR 25416 *et seq.*) and amended on June 23, 1989 (54 FR 26594 *et seq.*).

PART 148—[AMENDED]

1. The authority citation for part 148 continues to read as follows:

Authority: Sec. 3004, Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*

2. Section 148.14(a) is revised to read as follows:

§ 148.14 Waste specific prohibitions—first third wastes.

(a) Effective June 7, 1989, the wastes specified in 40 CFR 261.31 as EPA Hazardous Waste numbers F006 (nonwastewaters) and the wastes specified in 40 CFR 261.32 as EPA Hazardous Waste numbers K001, K015 (wastewaters), K016 (at concentrations greater than or equal to 1%), K018, K019, K020, K021 (nonwastewaters generated by the process described in the waste listing description and disposed after August 17, 1988, and not generated in the course of treating wastewater forms of these wastes), K022

(nonwastewaters), K024, K030, K036 (nonwastewaters generated by the process described in the waste listing description and disposed after August 17, 1988, and not generated in the course of treating wastewater forms of these wastes), K037, K044, K045, nonexplosive K046 (nonwastewaters), K047, K048, K060 (nonwastewaters generated by the process described in the waste listing description and disposed after August 17, 1988, and not generated in the course of treating wastewater forms of these wastes), K061 (nonwastewaters), noncalcium sulfate K069 (nonwastewaters generated by the process described in the waste listing description and disposed after August 17, 1988, and not generated in the course of treating wastewater forms of these wastes), K086 solvent washes, K087, K099, K101 (all wastewaters and less than 1% total arsenic nonwastewaters), K102 (all wastewaters and less than 1% total arsenic nonwastewaters), and K103 are prohibited from underground injection.

* * * * *

[FR Doc. 89-20101 Filed 8-24-89; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 403

[BERC-483-IFC]

RIN 0938-AE32

Medicare Program; Demonstration Project to Develop a Uniform Cost Reporting System for Hospitals

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Interim final rule with comment period.

SUMMARY: This interim final rule with comment period implements the provisions of section 4007(c) of the Omnibus Budget Reconciliation Act of 1987, as amended by section 411(b)(6)(C) of the Medicare Catastrophic Coverage Act of 1988, which require that the Secretary conduct a demonstration project to develop a uniform cost reporting system for hospitals under the Medicare program. Under this rule, all hospitals in the States of California and Colorado are required to participate in this demonstration project. For the duration of the demonstration, those hospitals are required to submit the cost report currently required under Medicare regulations and additional worksheets specifically developed for the demonstration in a uniform, electronic format.

DATES: *Effective Date:* This final rule is effective for cost reporting periods beginning on or after July 1, 1989 and before July 1, 1991

Comment Date: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5:00 p.m. on October 23, 1989.

ADDRESS: Mail comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BERC-483-IFC, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to one of the following addresses:

Room 309-G, Hubert H. Humphrey Building, 200 Independence Ave. SW., Washington, DC.

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

Due to staffing and resource limitations, we cannot accept facsimile (FAX) copies of comments. If comments concern information collection or recordkeepng requirements, please address a copy of comments to: Office of Management and Budget, Office of Information and Regulatory Affairs, Room 3206, New Executive Office Building, Washington, DC 20503, Attention: Allison Herron.

In commenting, please refer to file code BERC-483-IFC. Comments received timely will be available for public inspection as they are received, generally beginning approximately three weeks after publication of a document, in Room 309-G of the Department's offices at 200 Independence Ave. SW., Washington, DC, on Monday though Friday of each week from 8:30 a.m. to 5:00 p.m. (phone: 202-245-7890).

FOR FURTHER INFORMATION, CONTACT: David Goldberg, (301) 966-4512.

SUPPLEMENTARY INFORMATION:

I. Background

Under Medicare, hospitals are paid for inpatient hospital services they furnish to beneficiaries under Part A (Hospital Insurance). Currently, most hospitals are paid for their inpatient hospital services under the prospective payment system in accordance with section 1886(d) of the Social Security Act (the Act) and 42 CFR part 412. Under this system, Medicare payment is made at a predetermined, specific rate for each hospital discharge based on the information contained on actual bills submitted.

Those hospitals and hospital units that are excluded from the prospective payment system generally are paid based on the reasonable cost of services furnished to beneficiaries. The inpatient operating costs of these hospitals and hospital units are subject to the rate-of-increase limits, in accordance with section 1886(b) of the Act and 42 CFR 413.40.

Sections 1815(a) and 1833(e) of the Act provide that no payments will be made to a hospital unless its has furnished the information requested by the Secretary needed to determine the amount of payments due the hospital under the Medicare program. In general, hospitals submit this information through cost reports that cover a 12-month period of time. Even though most prospective payment hospitals are paid on the basis of actual bills submitted, these hospitals continue to receive payment for certain costs, such as capital-related costs, on a reasonable cost basis and are required to submit cost reports. Section 1886(f)(1)(A) of the Act, as amended by section 411(b)(6)(B) of the Medicare Catastrophic Coverage Act of 1988 (Pub. L. 100-360), which was enacted on July 1, 1988, provides that the Secretary will maintain a system for reporting costs of hospitals paid under the prospective payment system.

Regulations at § 413.20(a) require that hospitals "maintain sufficient financial records and statistical data for proper determination of costs * * * ." In addition, hospitals must use standardized definitions and follow accounting, statistical, and reporting practices that are widely accepted in the hospital and related fields. Under the provisions of §§ 413.20(b) and 413.24(f), hospitals are required to submit cost reports annually, with the reporting period based on the hospital's accounting year (generally a consecutive 12-month period). Section 413.20(d) requires that hosptials furnish to their fiscal intermediary the information necessary to ensure proper payment by Medicare. The hospital must allow the fiscal intermediary to examine the records and documents maintained by the hospital in order to ascertain the validity of the data submitted by the hospital.

II. Summary of New Legislation

On December 22, 1987, the Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100-203) was enacted. Section 4007 of Public Law 100-203, which was subsequently amended by section 411(b)(6) of Public Law 100-360, sets forth several provisions concerning the reporting of hospital information under

the Medicare program. Section 4007(a) of Public Law 100–203 requires the Secretary to develop and put into effect by June 1, 1989, a data base of the operating costs of inpatient hospital services for all hospitals receiving payment under Medicare. Section 4007(b) of Public Law 100–203 provides that, for cost reporting periods beginning on or after October 1, 1989, the Secretary will place into effect a standardized electronic cost reporting format for hospitals under Medicare. This provision now appears as section 1886(f)(1) (A) and (B) of the Act.

Section 4007(c)(1) of Public Law 100–203 requires the Secretary to provide for a demonstration project to develop and determine the costs and benefits of establishing a uniform system of cost reporting for hospitals participating in the Medicare program. Under the authority of this statutory provision, the Secretary will require hospitals in at least two States to participate in the demonstration. Section 4007(c)(2) of Public Law 100–203, as amended by section 411(b)(6)(C) of Public Law 100–360, specifies that these hospitals must report the following information to the Secretary:

- Hospital discharges (classified by class of primary payer).
- Patient days (classified by class of primary payer).
- Licensed beds, staffed beds, and occupancy.
- Inpatient charges and revenues (classified by class of primary payer).
- Outpatient charges and revenues (classified by class of primary payer).
- Inpatient and outpatient hospital expenses (by cost center classified for operating and capital).
- Reasonable costs.
- Other income.
- Bad debt and charity care.
- Capital acquisitions.
- Capital assets.

Section 4007(c)(3) of Public Law 100–203 provides that the Secretary will develop the system so as to facilitate the submittal of the information in the report in and electronic form and to be compatible with the needs of the Medicare prospective payment system. Section 4007(c)(5)(A) of Public Law 100–203, as amended by section 411(b)(6)(C)(viii) of Public Law 100–360, authorizes the Secretary to establish a definition of the term "bad debt and charity care" for the purpose of the demonstration project. Section 4007(c)(5)(B) of Public Law 100–203, as amended by section 411(b)(6)(C)(ix) of Public Law 100–360, provides that the term "class", with respect to payers, means at least the Medicare program, State Medicaid programs, other third party payers, and other persons (including self-paying individuals). As amended by section 411(b)(6)(C)(vi) of Public Law 100–360, section 4007(c)(2) of Public Law 100–203 also specifies that the Secretary will develop a definition of "outpatient visit" for purposes of reporting hospital information.

III. Provisions of this Interim Final Rule

A. General

This interim final rule implements section 4007(c) of Public Law 100–203, which requires the Secretary to provide for a demonstration project to develop and determine the costs and benefits of establishing a uniform cost reporting system to be used by Medicare participating hospitals. The system will be used to report balance sheet and other information specified in the legislation. The Conference Report that accompanied Public Law 100–203 indicates that we are expected to develop a reporting format to collect additional information on hospital costs, revenues, and charges within one year of enactment of Public Law 100–203. (See H.R. Rep. No. 495, 100th Cong., 1st Sess. 538 (1987).) The report further specifies that the reporting format will be similar to the reporting formats used in the statewide reporting systems in California and New York. In addition, the Secretary is expected to implement the new cost reporting format to collect data in the States selected for the demonstration for the remaining years of the project. Subsequent meetings with the Congressional staff led to an agreement that implementation of this project would be delayed 6 months.

B. Selection of the States to Participate in the Demonstration

Section 4007(c)(1) of Public Law 100–203 provides that the Secretary must select at least two States in which all of the hospitals must participate in the demonstration. Because of the relatively short time period we have to implement the demonstration, we have decided that it is more feasible to limit the demonstration to two States. As required by the law, one of the States selected must currently maintain a uniform system of hospital reporting. The Conference Report states that "The conferees intend that the Secretary will select the State of California to meet this requirement. The Secretary is also required to select the second demonstration State from among those States which do not presently operate such a system." (H.R. Rep. No. 495, 100th Cong., 1st Sess. 538 (1987).)

While section 4007(c) of Public Law 100–203 does not specifically require the Secretary to select California as one of the States whose hospitals participate in the demonstration, the Conference Report makes it clear that Congress intended that California be chosen. Thus, we have selected California to take part in the demonstration as representative of the States that maintain a uniform reporting system.

Besides California, eight States (that is, New York, New Jersey, Massachusetts, Maryland, Washington, Florida, Connecticut, and Arizona) maintain a system of uniform hospital reporting. Since it is the intent of the conferees that the other State chosen should not have a uniform reporting system, those eight States are not eligible to take part in the demonstration unless more than two States are selected.

In order to select the other State that will participate in the demonstration (that is, the State that does not have a uniform reporting system), we obtained from HCFA's Hospital Cost Report Information System (HCRIS) a list of the number of hospitals in each State as follows;

- Number of hospitals by type (that is, short-term, long-term, psychiatric, rehabilitation, and other).
- Number of urban and rural hospitals.
- Number of hospitals serving a disproportionate share of low-income patients and their percentage of the total hospitals in the State.
- Number of teaching hospitals expressed as a percentage of the total hospitals in the State.
- Number of hospitals by type of control (that is, voluntary, nonprofit, proprietary, and governmental).
- Number of hospitals by bed size category (for example, 0–99 beds, 100–199 beds).

The individual State statistics were compared to similar data for the United States as a whole. Based on these comparisons, and other considerations such as geographic location and the total number of hospitals that would be involved, we narrowed our selection to four States: Ohio, Illinois, Virginia, and Colorado. We believe that the cross section of hospitals in these four States is fairly representative of the cross section of hospitals in the country as a whole.

Accordingly, we met with representatives of the State hospital associations of these four States. Based upon our discussions, we selected Colorado to be the second State to participate in the demonstration. Besides being fairly representative of the rest of the country, Colorado has a

significant number of small rural hospitals, which are the hospitals upon which we believe the introduction of electronic cost report submission may have the greatest impact.

Under section 4007(c) of Pubic Law 100–203, the reporting system developed under the demonstration is to facilitate the submittal of information in an electronic form. In addition, under section 4007(b) of Public Law 100–203, effective with cost reporting periods beginning on or after October 1, 1989, electronic reporting is mandatory for hospitals in all States except in those instances where the Secretary determines implementation would result in financial hardship. Therefore, the inclusion in the early stage of the development of the system of a State with many small rural hospitals is important to help resolve those hospitals' problems with electronic processing. For these reasons, Colorado has been selected for the demonstration project as the representative of the State that does not have a uniform reporting system for its hospitals.

C. Implementation of the Demonstration

This demonstration is intended to accomplish the following objectives:

- More timely collection of cost report data.
- Collection of more uniform data.
- The reporting and collecting of additional data.

The demonstration will begin with cost reporting periods beginning on or after July 1, 1989. It will encompass two full consecutive cost reporting period cycles. Hospitals in the two States participating in this demonstration are required to file annually the current form, Hospital and Hospital Health Care Complex Cost Report (HCFA 2552–89), and additional worksheets developed specifically for the demonstration project. At least one interim report will be required under the demonstration. This interim report will be for the first six-month period in which the hospital participates in the demonstration project. The purpose of the interim report is twofold. First, it will be used to evaluate the accuracy of the data source hospitals use to collect the additional data. Second, it will be used to test the electronic submission process. The need for subsequent interim reports will be evaluated once the demonstration has been implemented.

The cost report developed for purposes of the demonstration is an expanded version of the current form HCFA 2552–89. Additional worksheets will be developed to allow for the collection of additional data elements. For example, the statistics will be expanded to collect patient days and discharges by classes of primary payer such as Maternal and Child Health (title V of the Act). Medicare (title XVIII of the Act), Medicaid (title XIX of the Act), other third party payers, and other persons (including self-paying individuals).

With respect to electronic reporting, the reports must be submitted in a standardized electronic format. The hospitals' electronic programs must be able to produce a standardized output file that can be used in any intermediary's automated system.

The specifications for this system are currently being developed. We have convened a workgroup comprising representatives of the health care industry, Medicare fiscal intermediaries, the State of California, Colorado and California State hospital associations, the Prospective Payment Assessment Commission, and HCFA. The workgroup will finalize the specific methodology that will be used in the design of the demonstration cost report.

We anticipate that through the data collected during the demonstration we will be able to determine definitions for bad debt and charity care and outpatient visits.

As previously indicated, all hospitals in the States of California and Colorado are required to participate in the demonstration project. The HCFA intermediaries will work with hospitals to develop the capability to submit the additional data that are required and to submit the cost reports electronically. However, if a hospital refuses to submit the data or refuses to submit the cost reports electronically, Medicare payments to that hospital may be suspended under the provisions of sections 1815(a) and 1833(e) of the Act. As explained above, sections 1815(a) and 1833(e) of the Act provide that no Medicare payments will be made to a hospital unless it has furnished the information requested by the Secretary needed to determine the amount of payments due the hospital under the Medicare program. Regulations at § 405.371(d) provide for suspension of Medicare payments to a hospital by the intermediary if the hospital has failed to submit information requested by the intermediary that is needed to determine the amount due the hospital under Medicare. The general procedures that are followed when Medicare payment to a hospital is suspended for failure to submit information that is needed by the intermediary to determine Medicare payment (that is, when a hospital fails to furnish a cost report or furnishes an incomplete cost report or fails to furnish other needed information) are located in section 2231 of the Intermediary Manual (HCFA Pub. 13). These procedures includes timeframes for "demand letters" to hospitals, which in addition to reminding hospitals to file timely and complete cost reports, explain possible adjustments to Medicare payments of a hospital and the right to request a 30-day extension of the due date. HCFA or the fiscal intermediary will suspend payments only after exhausting all reasonable attempts to obtain the requested information.

Hospitals participating in the demonstration project and fiscal intermediaries may obtain help including advice in completing the cost reporting forms and worksheets by calling toll free 1–800–525–5274.

As explained above, section 4007(c)(1) of Public Law 100–203 requires the Secretary to provide for this demonstration project, which will be used to develop and determine the costs and benefits of establishing a uniform system of cost reporting for hospitals. In addition, section 4007(c)(3) of Public Law 100–203 requires the Secretary to develop the uniform system of cost reporting for hospitals so as to facilitate the submittal of the information in the cost report in an electronic form and to be compatible with the needs of the Medicare prospective payment system. We believe that the requirements in section 4007(c)(1) and (c)(3) of Public Law 100–203 (that the Secretary provide for this demonstration project that will be used to develop a uniform system of cost reporting which will facilitate electronic reporting) taken together with sections 1815(a) and 1833(e) of the Act (which provide that no Medicare payments will be made to a hospital unless it has furnished the information requested by the Secretary needed to determine the amount of payments due the hospital under the Medicare program) provide us with the authority to suspend payments to a hospital in this demonstration project that does not submit its information in an electronic form.

IV. Regulatory Impact Analysis

A. Executive Order 12291

Executive Order 12291 (E.O. 12291) requires us to prepare and publish a regulatory impact analysis for any final rule such as this that meets one of the E.O. criteria for a "major rule"; that is, that would be likely to result in—

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers, individual industries,

Federal, State, or local government agencies, or geographic regions; or

• Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This final rule is not a major rule under E.O. 12291 criteria, and a regulatory impact analysis is not required.

B. Regulatory Flexibility Act

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a final rule such as this will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, all hospitals are treated as small entities.

Section 1102(b) of the Social Security Act requires the Secretary to prepare a regulatory impact analysis if a notice may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital with fewer than 50 beds located outside of a Metropolitan Statistical Area (MSA).

As discussed in detail above, section 4007(c)(1) of Public Law 100–203, as amended by section 411(b)(6)(C) of Public Law 100–360, requires that we undertake a demonstration project that will develop and assess the costs and benefits of establishing a uniform system of cost reporting for hospitals participating in the Medicare program. We estimate that it will affect approximately 634 hospitals: 542 in California and 92 in Colorado (Hospital Statistics, 1987 Edition).

We believe that certain benefits will accrue to the Medicare hospitals, State Medicaid agencies, and private insurance companies in California and Colorado as a result of participating in this demonstration project. Among them will be an improvement in the quality and management of information in relation to cost reports, and an ability to more easily adapt to the reporting format that will be instituted as an outcome of the demonstration project.

Section 4007(c)(6) of Public Law 100–203 (42 USC 1395ww note) indicates that the Secretary must set aside at least a total of $3,000,000 for fiscal years 1988, 1989, and 1990 from existing research funds or from operation funds to develop the format of the demonstration project and for data collection and analysis, but total funds must not exceed $15,000,000. Under the demonstration, costs will be incurred by HCFA, the fiscal intermediaries, and hospitals. HCFA will incur costs for the development and operation of two types of software. One software package is needed to permit intermediaries to receive and process cost reports under the new standard electronic reporting format. The second software package will enable hospitals to submit cost report input data electronically to their intermediaries. The intermediaries will directly incur the cost to collect and process cost report data to be forwarded to HCFA, and validate hospitals' reporting processes of the new data under the demonstration.

The statute does not explicitly require HCFA to pay hospitals for their costs incurred under the demonstration project. However, hospitals participating in the demonstration project will be required to perform several broad functions. These hospitals will need to submit their cost reports electronically; collect and report the additional data specified in the legislation; and submit at least one interim cost report. We recognize that in the performance of these functions hospitals will incur additional costs. However, we also recognize that all hospitals will not incur these additional costs to the same extent. For example, some hospitals may already be collecting part or all of the additional information required by the statute but which is not included in the current Medicare cost report. Also, implementation of the electronic format for cost reports will not have the same financial impact on all hospitals.

We plan to make specific payments to hospitals for the incremental costs that are reasonable in amount and can be directly identified as having been incurred solely because of the demonstration project; that is, costs incurred for the collection, reporting, and electronic submission of the additional data. These payments should represent the cost of collecting the additional data, reporting the additional data, and the electronic submission of the additional data only. For hospitals paid based on reasonable cost (that is, hospitals not subject to the prospective payment system), the payment of the incremental costs incurred because of the demonstration project is justified on the basis of section 1861(v)(1)(A) of the Act, which states in part:

> The reasonable cost of any services shall be the cost actually incurred, excluding therefrom any part of incurred cost found to be unnecessary in the efficient delivery of needed health services, and shall be determined in accordance with the regulations establishing the method or methods to be used, and the items to be included, in determining such costs for various types or classes of institutions, agencies and services; * * * Such regulations may provide for determination of the costs of services on a per diem, per unit, per capita, or other basis, may provide for using different methods in different circumstances. * * *

We believe that this departure from the usual Medicare reasonable cost payment rules is appropriate as the incremental costs would not have been incurred but for the hospitals' participation in this demonstration.

For hospitals paid under the prospective payment system, payment of these incremental costs is appropriate as these costs are not covered by the standard prospective payment rate. We therefore intend to pay prospective payment hospitals for the incremental costs of participating in this demonstration under the authority of section 1886(d)(5)(iii) of the Act, which states "The Secretary shall provide by regulation for such other exceptions and adjustments to such payment amounts under this subsection as the Secretary deems appropriate. * * *"

In addition, as noted above, section 1886(f)(1) of the Act was recently amended by section 411(b)(6)(B) of Public Law 100–360 to continue the requirement that prospective payment hospitals must submit Medicare cost reports. The cost report for the hospitals participating in the demonstration consists of the current HCFA–2552–89 and the additional demonstration worksheets. The incremental costs will be reported on the Medicare cost report and paid on a reasonable cost basis, that is, as a pass-through cost.

At this time, we are unable to estimate the costs that will be incurred by each hospital participating in this demonstration. We plan to ascertain, to the extent possible, the incremental costs that hospitals incur during the course of this project. Hospitals will be expected to have supporting documentation available to support their claims. However, payments may not necessarily equal the hospital's total incremental costs incurred since those costs are substantially part of administrative and general costs. Therefore, we do not guarantee that hospitals will be paid for all of the incremental costs incurred for the collection, reporting, and electronic submission of the additional data.

We do not anticipate paying hospitals for the cost of electronically submitting their annual Medicare cost report. Since almost all hospitals will be required by

section 4007(b) of Public Law 100–203 to submit cost reports electronically effective with cost reporting periods beginning on or after October 1, 1989, we believe it would be inappropriate to make specific payments for these costs to hospitals in the demonstration when all other hospitals will not be similarly compensated. For prospective payment hospitals, these costs are covered by the standard prospective payment rate and for all other hospitals they are included in the reasonable costs reported. Therefore, Medicare's proportionate inpatient share is included in the diagnostic related group (DRG) payment for prospective payment hospitals and for all other hospitals in the reasonable cost unit of payment. For all hospitals, Medicare's proportionate outpatient share is paid based on cost.

V. Other Required Information

A. Waiver of Prior Public Comment Period and 30-Day Delay in Effective Date

We ordinarily publish a proposed notice of rulemaking in the **Federal Register** for substantive rules and provide a period for public comment. Also, we normally publish rules of this kind 30 days before the effective date. However, we may waive these procedures if we find good cause that notice and comment and a delayed effective date are impractical, unnecessary, or contrary to the public interest. When we do so, we incorporate our findings in the notice to be issued.

Section 4039(g) of Public Law 100–203 provides that we may issue regulations to implement the amendments made by subtitle A of title IV of Public Law 100–203 on an interim or other basis as may be necessary. The Conference Report that accompanied Public Law 100–203 indicates that HCFA should develop the reporting format authorized under section 4007(c) within one year of enactment. (See H.R. Rep. No. 495, 100th Cong., 1st Sess. 538 (1987).) Notwithstanding the 6-month delay mentioned earlier, it is clear that undergoing a proposed rulemaking process for this final rule with comment period and providing a 30-day delay in effective date would be impractical and, in terms of notifying affected parties of the provisions of the legislation as soon as possible, would not be in the public interest. Therefore, we find good cause to waive publication of a proposed notice and the 30-day delay in effective date and to issue an interim final rule. Nevertheless, we are providing a 60-day comment period as indicated at the beginning of this interim final rule.

Because of the large number of items of correspondence we normally receive on a rule, we are not able to acknowledge or respond to them individually. However, we will consider all comments that we receive by the date and time specified in the **"DATE"** section of this preamble and, if we decide that changes are necessary as a result of our consideration of timely comments, we will issue a final rule and respond to the comments in the preamble of that rule.

B. Paperwork Reduction Act

Section of 403.408 of this final rule contains information collection requirements that are subject to the Office of Management and Budget (OMB) review under the Paperwork Reduction Act of 1980. As required by section 3504(h) of the Paperwork Reduction Act of 1980, we have submitted a copy of this interim final rule to OMB for its review of these information collection requirements. This section of the "Uniform Cost Reporting System for Hospitals" rule sets forth the information submission requirements for the cost reports of hospitals under this demonstration project. Public reporting burden for this collection of information is estimated to be 150 hours per response. A notice will be published in the **Federal Register** after approval is obtained.

During the course of the demonstration, we will be measuring the burden associated with the additional information submitted by hospitals participating in the demonstration. We will adjust the burden hours as needed at the completion of the first year of the demonstration. Organizations and individuals desiring to submit comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should direct them to the OMB official whose name appears in the **"ADDRESS"** section of this preamble.

C. List of Subjects in 42 CFR Part 403

Health insurance, Intergovernmental relations, Medicare, Reporting and recordkeeping requirements.

42 CFR part 403 is amended as set forth below.

PART 403—SPECIAL PROGRAMS AND PROJECTS

A new subpart D is added to read as follows:

Subpart D—Demonstration Project to Develop a Uniform Hospital Cost Reporting System

Sec.
403.400 Basis and scope.
403.402 Definition.
403.406 Selection of States to participate in the demonstration.
403.408 Requirements for hospitals in States participating in the demonstration.
403.410 Payments to hospitals participating in the demonstration.

Subpart D—Demonstration Project to Develop a Uniform Hospital Cost Reporting System

Authority: Sections 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1345hh) and section 4007(c) of Public Law 100–203, as amended (42 U.S.C. 1395ww note).

§ 403.400 Basis and scope.

(a) *Basis.* This subpart implements the provisions of section 4007(c) of Public Law 100–203 by establishing a demonstration project to develop a uniform cost reporting system for hospitals under Medicare.

(b) *Scope of subpart.* This subpart sets forth the requirements that those hospitals participating in demonstration project must meet.

§ 403.402 Definition.

For purposes of this subpart, *"class"*, with respect to payers, means the Medicare program, the State Medicaid programs, Maternal and Child Health programs (title V of the Act), other third-party payers, and all other payers, which includes self-paying individuals.

§ 403.406 Selection of States to participate in the demonstration.

(a) *General rule.* At least two States must participate in the demonstration, and the following requirements must be met:

(1) At least one State must currently maintain a uniform system of hospital reporting.

(2) At least one State must not currently maintain a system of uniform hospital reporting.

(b) *Selection of States.* The following two States are selected to participate in the demonstration project:

(1) California, as the State that maintains a uniform system of hospital cost reporting.

(2) Colorado, as the State that does not maintain a uniform system of hospital cost reporting.

§ 403.408 Requirements for hospitals in States participating in the demonstration.

(a) *General.* For cost reporting periods beginning on or after July 1, 1989 and

before July 1, 1991, all hospitals in California and Colorado must submit the cost report required under §§ 413.20 and 413.24 of this chapter and the data specified in (b) below.

(b) *Cost reporting requirements for the demonstration.* Hospitals are required to submit a demonstration project cost report that includes the following information:

(1) Hospital discharges (classified by class of primary payer).

(2) Patient days (Classified by class of primary payer).

(3) Licensed beds, staffed beds, and occupancy.

(4) Inpatient charges and revenues (classified by class of primary payer).

(5) Outpatient charges and revenues (classified by class of primary payer).

(6) Inpatient and outpatient hospital expenses (by cost center classified for operating and capital).

(7) Reasonable costs.

(8) Other income.

(9) Bad debt and charity care.

(10) Capital acquisitions.

(11) Capital assets.

(c) *Due date for demonstration project cost report.* Due dates for demonstration cost reports are established by HCFA through instructions but are no more often than the due dates specified in § 413.24(f) of this chapter for hospital cost reports.

(d) *Interim reporting.* Hospitals participating in the demonstration project are required to submit an interim report covering the first six months in which the hospital participates in the demonstration project. Hospitals are required to submit additional interim reports requested by HCFA on the due dates established by HCFA.

(e) *Reporting format.* Demonstration project cost reports must be submitted in an electronic format. The hospital's electronic programs must be capable of producing an output file compatible with their respective intermediary's automated systems.

§ 403.410 Payments to hospitals participating in the demonstration.

(a) *General.* Hospitals participating in the demonstration project are paid on a reasonable cost basis for 100 percent of the incremental costs (as defined in paragraph (b) of this section) incurred as a result of that participation. To prevent duplicate payments, payments made to a hospital under the provisions of this section are subtracted from the hospital's total allowable costs subject to cost finding and apportionment.

(b) *Incremental costs.* Incremental costs are those costs that are reasonable and can be identified directly as having been incurred solely because of participation in the demonstration project. They do not represent any of the same costs that are incurred by other hospitals not participating in the demonstration project or costs that would have otherwise been incurred by hospitals participating in the demonstration. These costs include those attributable to the collection, reporting, and electronic submission of the additional data specified in § 403.408(b). Incremental costs do not include those costs incurred because of the requirement in section 4007(b) of Public Law 100–203 for the electronic submission of annual cost reports.

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance)

Dated: December 13, 1988.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved: May 30, 1989.

Louis W. Sullivan,

Secretary.

[FR Doc. 89–20091 Filed 8–24–89; 8:45 am]

BILLING CODE 4120–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 88–178; RM–6118, 6439]

Radio Broadcasting Services; Kremmling and Widefield, CO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Ths document substitutes Channel 292C2 for Channel 292A at Kremmling, Colorado, and modifies the license for Station KRKY–FM accordingly, in response to a petition filed by Grand Lake Broadcasting, Inc. Coordinates used for Channel 292C2 at Kremmling are 40–04–58 and 106–22–39, with a site restriction of 2.3 kilometers (1.4 miles) northeast of the community to prevent a short-spacing to Channel 291A at Basalt, Colorado. This document also substitutes Channel 292C2 for Channel 292A at Widefield, Colorado, and modifies the license for Station KKLI–FM accordingly, at the request of Tippie Communications, Inc. (COLO). Coordinates used for Channel 292C2 at Widefield are 38–44–47 and 104–51–37. See 53 FR 17084, May 13, 1988. With this action, the proceeding is terminated.

EFFECTIVE DATE: October 2, 1989.

FOR FURTHER INFORMATION CONTACT: Michael Ruger, Mass Media Bureau (202) 632–6302.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 88–178, adopted July 31, 1989, and released August 18, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Brach (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended for Colorado as follows: under Kremmling, delete Channel 292A and add Channel 292C2; and under Widefield, delete Channel 292A and add Channel 292C2.

Federal Communications Commission.

Karl Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–20019 Filed 8–24–89; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 88–221; RM–6177]

Radio Broadcasting Services; Fort Valley and Wrightsville, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document at the request of Fox Valley Broadcasting Corporation, *See*, 53 FR 22544, June 6, 1988, substitutes Channel 292C2 for Channel 292A at Fort Valley, Georgia, modifies its license for Station WQBK(FM) to specify operation on the higher powered channel, substitutes Channel 298A for Channel 292A at Wrightsville, Georgia, and modifies the license of Wrightsville Broadcasting Co., for Station WIML(FM) to specify the new channel. Channel 292C2 can be allotted to Fort Valley in compliance with the minimum distance separation requirements of the rules, provided that petitioner relocates his transmitter site 8 kilometers (5 miles) east of Fort Valley. The coordinates for

this allotment are North Latitude 32–33–12 and West Longitude 83–47–59. Channel 298A can be allotted to Wrightsville in compliance with minimum distance separation requirements at Station WIML(FM)'s present site. The coordinates for this allotment are North Latitude 32–42–24 and West Longitude 82–43–08. With this action, this proceeding is terminated.

EFFECTIVE DATE: October 2, 1989.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 88–221, adopted August 1, 1989, and released August 18, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. § 73.202(b), the Table of FM Allotments is amended by revising the entry for Fort Valley, Georgia, by removing 292A and adding Channel 292C2, and by revising the entry for Wrightsville, Georgia, by removing Channel 292A and adding Channel 298A.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–20020 Filed 8–24–89; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 87–591; RM–5845, 5935, 5992]

Radio Broadcasting Services; Scottsboro, AL, et al.

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 251A to Signal Mountain, Tennessee, as that community's first local FM service, in response to a petition filed by SonCom, Inc. This document also dismisses petitions for rulemaking filed by Kea Radio, Inc., licensee of Station WKEA(FM), Channel 252A, Scottsboro, Alabama, seeking the substitution of Channel 251C2 for Channel 252A and modification of its license to specify operation on the higher powered channel, and RA–AD of Trenton, Inc., seeking the allotment of Channel 251A to Trenton, Georgia. Coordinates used for Channel 251A at Signal Mountain are 35–05–33 and 85–22–07. *See* 53 FR 1386, January 19, 1988. With this action, this proceeding is terminated.

EFFECTIVE DATE: October 2, 1989. The window period for filing applications on Channel 251A at Signal Mountain, Tennessee, will open on October 3, 1989, and close on November 2, 1989.

FOR FURTHER INFORMATION CONTACT: Michael Ruger, Mass Media Bureau, (202) 632–6302.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 87–591, adopted July 31, 1989, and released August 18, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended by adding Signal Mountain, Channel 251A, under Tennessee.

Federal Communications Commission,

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–20021 Filed 8–24–89; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 88–375; FCC 89–232]

FM Broadcast Service; Amendment of Part 73 of the Rules To Provide for Additional FM Station Class (Class C3) and To Increase Maximum Transmitting Power for Class A FM Stations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission amends its rules to increase the maximum permitted effective radiated power for Class A FM broadcast stations from 3000 to 6000 watts, and revises the minimum distance separation requirements applicable to Class A stations in order to maintain protection for the service of FM stations of all classes. For existing Class A stations, the Commission will implement the power increase on a selective basis, rather than as a blanket increase. Existing stations at locations that do not meet one or more of the revised requirements are "grandfathered." That is, modifications and relocations of such stations will be allowed under the previous power limit and distance separation requirements. The purpose of this action, which will allow the majority of existing Class A FM broadcast stations to operate with increased power, is to enable Class A stations to provide better service to their listeners.

EFFECTIVE DATE: October 2, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: James E. McNally, Jr., Mass Media Bureau, (202) 632–9660.

SUPPLEMENTARY INFORMATION: Public reporting burden for this collection of information is estimated to vary from 20 hours to 1039 hours per response with an average of 97 hours and 4 minutes 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 the burden, to the Federal Communications Commission, Office of the Managing Director, Washington, DC 20554, and to the Office of Management and Budget, Paperwork Reduction Project (3060–0029), Washington, DC 20503.

Following is a summary of Commission's Second *Report and Order* in MM Docket No. 88-375, adopted July 13, 1989 and released August 18, 1989. The full text of this action is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this action may also be purchased from the Commission's copy contractors, International Transcription Services, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of the Second Report and Order

1. On July 20, 1988, the Commission adopted a *Notice of Proposed Rule Making ("Notice")* (53 FR 38743, October 3, 1988) proposing rule amendments that would potentially permit improvements in the facilities of the majority of Class A FM broadcast stations in the United States. Specifically, the Commission proposed the creation of a new intermediate class of FM broadcast stations in Zone II, and a general increase in the maximum permitted transmitting power for Class A FM broadcast stations from 3000 to 6000 watts.

2. In response to the *Notice*, the Commission received 98 formal comments, 16 reply comments, and several hundred informal letters and inquiries. The proposal to create a new intermediate FM station classification (Class C3) received virtually unanimous support from commenting parties. On March 30, 1989, the Commission adopted a *First Report and Order* (54 FR 16363, April 24, 1989; corrected 54 FR 19374, May 5, 1989), amending 47 CFR Part 73 to provide for the new Class C3 FM broadcast station class.

3. The commenters also generally support the proposal to increase the maximum permitted transmitting power for Class A FM broadcast stations. Most of the commenters agreed with the Commission's assessment of the benefits of increased power for Class A FM stations. Additionally, the vast majority of comments submitted by licensees of Class A stations related specific coverage problems experienced by their particular stations which they believe the proposed power increase would help to solve. These problems generally fall into the categories of terrain shielding and obstruction shadowing, temperature inversions and other propagation vagaries, building penetration difficulty, and signal domination by larger class FM stations.

4. In the *Notice*, the Commission proposed to increase the maximum permitted ERP for Class A FM broadcast stations from 3000 to 6000 watts, while leaving the reference antenna height above average terrain at 100 meters (328 feet). Also, the Commission outlined two possible methods (termed "METHOD 1" and "METHOD 2") for implementing the Class A power increase, the requested further public comment addressing the advantages and drawbacks of each method. Under METHOD 1, the Commission would raise the maximum ERP limit for all Class A FM stations while retaining the existing minimum co-channel and adjacent channel spacings. Grandfathered shortspaced stations would be allowed to increase ERP subject to the provisions of 47 CFR 73.213.

5. METHOD 2 would permit the increase in power for only those Class A stations able to meet appropriate new separation distances. Service gains would not be as great as with METHOD 1, but adverse effects on existing stations would be minimized. METHOD 2 would create two categories of Class A FM stations—those allowed to increase power to 6000 watts, and those remaining limited to 3000 watts. Grandfathered short-spaced stations would fall into the latter category; however, some of these stations might be able to increase power if mutual agreements could be reached with all involved stations, and if it were shown that such an increase would serve the public interest.

6. In general, comments of most Class A FM broadcast station licensees favor a "blanket" power increase; that is, they request that the Commission allow all Class A stations to increase power without regard to the individual situations of the stations. Accordingly, between the two methods proposed, most Class A licensees prefer METHOD 1, which is closer to the blanket upgrade approach. These licensees oppose a selective upgrade approach, such as METHOD 2, based on increased distance separation requirements. Some of the reasons cited by these commenters in support of the blanket upgrade are:

(a) The blanket approach would allow all Class A stations to increase power, whereas the selective approach would exclude many Class A stations, particularly in the urban northeast, where the competitive imbalance is most severe.

(b) The blanket approach would be relatively simple to administer, whereas the selective approach would involve additional paperwork and delay associated with a case-by-case implementation.

(c) Under the blanket approach, all Class A stations would be on an equal footing, whereas under the selective approach, there would be two categories of Class A station, 3000 watt and 6000 watt.

(d) Under the blanket approach, all Class A stations could increase power at their current locations, whereas under the selective approach, costly relocations could be necessary in order for some Class A stations to increase power.

7. On the other hand, comments filed by many broadcast organizations, consulting engineering firms, and most licensees of Class B FM stations strongly oppose any form of blanket power increase for Class A stations. These commenters favor increased power for Class A stations, but only where no interference would result. Thus they believe that any Class A power increase must be administered on a selective basis, and favor METHOD 2. The principal reasons given by these commenters for their opposition to a blanket Class A power increase are:

(a) A blanket power increase for Class A stations would cause unacceptable interference to the current service of Class B and B1 stations, whereas a selective power increase would protect this service.

(b) A blanket power increase would cause overall degradation of the FM service.

(c) A blanket power increase would destroy the technical integrity of the minimum distance separation requirements.

8. The Commission stated in the *Notice* that regardless of which method for implementing a Class A power increase were to be selected, it would be preferable to minimize the administrative burdens on licensees and FCC staff. While noting that it generally proceeds upon individual applications in upgrading FM facilities, the Commission expressed concern that employment of a strictly case-by-case approach would result in excessive processing delays, even for problem-free applications.

9. Thus, the Commission proposed to employ procedures combining elements of both the blanket approach and the case-by-case approach. Specifically, it was proposed to allow Class A stations that can effect the power increase by simple technical means to do so without individual prior approval. In such cases, the station licensee would be required only to file FCC Form 302, together with a supplemental exhibit within ten days after the power increase is made. In all other cases, the Class A station licensee would be required to file FCC Form 301 and obtain prior approval for the power increase.

10. *Class A power limit raised to 6000 watts.* The record clearly shows that a substantial number of the persons most familiar with the day to day operation of Class A stations firmly believe that the current 3000 watt power level is inadequate for these stations to be technically and economically competitive in the current radio marketplace environment, and that the proposed increase to 6000 watts would make a significant improvement in the ability of these stations to serve the public. In consideration of this evidence, the Commission is amending 47 CFR 73.211 to raise the maximum effective radiated power limit for Class A FM broadcast stations from 3000 to 6000 watts. The current reference antenna HAAT of 100 meters for Class A stations other than those located in Puerto Rico and the Virgin Islands is retained. Equivalent combinations of lower ERP and higher antenna HAAT, such as 4000 watts with 125 meters, will be permitted under the new limit (see 47 CFR 73.211(b)(2)).

11. *Increased minimum power requirement for Class B1 and C3.* The minimum power requirement for each FM station class (47 CFR 73.211) generally corresponds to the maximum power limit for the next lower station class. This helps to avoid ambiguity in station classification. In view of the increase in the maximum power limit for Class A, the Commission is also raising the minimum power requirement for Class B1 and C3 stations accordingly. Currently Class B1 and C3 stations must operate with an ERP greater than 3000 watts. In this order, 47 CFR 73.211 is revised to require that Class B1 and C3 stations must operate with an ERP greater than 6000 watts. The Commission did not propose the reclassification of existing Class B1 authorizations in the *Notice*, therefore, no reclassification procedures for them are being established at this time.

12. *Selective implementation method chosen.* After careful review of the record, in particular the engineering statements and other comments that support or oppose, on technical grounds, each of the proposed methods, the Commission concludes that the Class A power increase should be implemented on a selective basis, rather than as a blanket increase. The Commission further concludes that the minimum distance separation requirements applicable to Class A stations should be adjusted to account for the increase in transmitting power. The rules adopted are thus similar to proposed METHOD 2, however, they also incorporate some aspects of proposed METHOD 1. For example, increased power operation by existing grandfathered short-spaced stations will be permitted, subject to 47 CFR 73.213. In addition, amended 47 CFR 73.1619 will allow the licensees of fully-spaced Class A stations that can effect the power increase by simple technical means to do so prior to filing an application.

13. *New minimum distance separation requirements for Class A stations.* The purpose of minimum distance separation requirements for FM stations is to allow FM assignments to be made without excessive delay on an administratively convenient "go — no go" basis. FM stations are entitled only to such coverage protection as the separation requirements provide. Consequently, if the maximum power limit for Class A stations is to be raised and involuntary loss of currently protected service area is to be prevented, it follows that the distance separation requirements applicable to Class A stations must be increased. The Commission is adopting new requirements that will maintain present protection.

14. *Grandfathered short-spaced stations.* The Commission has decided to grandfather all existing stations that do not meet the new distance separation requirements. A new category of grandfathered short-spaced stations under 47 CFR 73.213, comprising these stations, will be created. For stations in this new category, the Commission will allow (1) Class A stations broadcasting with no more than the current maximum facilities (3000 watts ERP and an antenna HAAT of 100 meters, or equivalent lower ERP and higher HAAT) and newly short-spaced stations of all other classes, and (2) Class A stations operating with more than 3000 watts ERP, but with no greater interference potential than a station operating at the current maximum facilities to be modified or relocated provide that the appropriate separation requirements are met. The first provision preserves the freedom to modify or relocate, under the terms of the current rules, the newly-grandfathered Class A stations that do not increase power above the current limit and the stations of other classes that become short-spaced to Class A stations as a result of the Commission's revision of 47 CFR 73.207 in this order. The second provision allows licensees of newly-grandfathered Class A stations using an antenna HAAT less than 100 meters the option to increase power above 3000 watts. Although a power increase under these circumstances will not expand service area beyond that of a 3000 watt, 100 meter Class A station, it may still prove to be of some value in overcoming the building penetration and temperature inversion interference problems frequently cited by commenters.

15. The Commission will also consider applications by newly created short-spaced Class A stations, on a case-by-case basis, in the following limited circumstances. In the case of Class A stations which are newly short-spaced to each other and which seek mutual increases in facilities, the Commission will allow such increases in power provided that all Class A stations seeking the increase first obtain the consent of any other stations who may be affected by the change, and that the increase is otherwise consistent with the public interest. Unilateral increases will be permitted if a station has obtained the consent of all other stations which may be affected, and the increase is consistent with the public interest. The Commission notes that agreement among stations which may be affected is a necessary but not sufficient condition to granting a power increase. As between Class A and other facilities, the Commission will examine each request to insure that no fully spaced or less short spaced site is available.

16. *IF distance separation requirements.* Because IF interference may potentially affect all of the FM stations in an area, in addition to the two IF-related stations, the Commission will not allow agreements for short-spaced IF related stations. To increase power beyond the current 3000 watt, 100 meter maximum facilities, a Class A station's antenna site must meet the modified IF distance separation requirements of 47 CFR 73.207.

17. *Public radio service.* The Commission believes that any adverse effect of the Class A power increase on public radio service operating in the upper portion of the reserved spectrum will be minimal. For second and third adjacent channel stations the distance separation requirements are increased only for the Class A to Class A and Class A to Class C1 relations. The other second and third adjacent requirements are unchanged. The IF distance separation requirements are increased slightly (by 1 to 2 km typically), but some of these requirements were recently reduced and the two changes offset each other to some extent. Moreover, there are very few IF-related station pairs anyway. Consequently, the only significant increases affecting the upper portion of the reserved band are in the first adjacent minimum distance separation requirements. Also, for those stations that are affected, the commercial Class A station is limited to

the current 3000 watt, 100 meter maximum facilities or other facilities with no greater interference potential, unless consent is obtained from all affected stations, including the NCE-FM station(s). Therefore, the Commission concludes that this action will not have significant adverse impact upon public radio service, and that no special restrictions or requirements in connection with the power increase for Class A stations operating on Channels 221, 222 and 223 are necessary.

18. *Administrative procedures.* To allow as many Class A stations as possible to upgrade without unnecessary delay and expense, the Commission is adopting administrative procedures similar to those proposed in the *Notice*. Specifically, in November of this year, the Commission will publish a list of licensed Class A stations at sites that appear to meet all of the appropriate minimum distance separation requirements.[1] Of the stations on this list [2], those for which the power increase can be implemented by replacing a non-directional antenna with a higher gain non-directional antenna, changing the transmitter output power [3], changing the type or length of the transmission line, and/or installing or removing certain components in the transmission line, may begin operation with increased ERP on or after December 1, 1989, but prior to the filing of an application for such operation. In such cases, licensees will be required to file FCC Form 302, together with a supplemental exhibit addressing environmental matters within 10 days after the power increase is made.[4] This automatic authority does not extend to stations for which an increase in facilities would expose workers or the general public to levels of rf radiation in excess of the "Radio Frequency Protection Guides" recommended in "American National Standard Safety Levels with respect to Human Exposure to Radio Frequency Electromagnetic Fields, 300 kHz to 100 GHz," (ANSI C95. 1–1982) by the Institute of Electrical and Electronics Engineers, Inc., 345 East 47th Street, New York, New York 10017. Such stations may not operate with increased facilities until measures are taken to prevent workers and the general public from being exposed to the excess levels of rf radiation or unless they first receive authorization from the Commission.

19. In all other respects, the rules adopted herein will become effective on October 2, 1989. Applications and petitions filed prior to October 2, 1989 must comply with, and will be processed in accordance with, the current rules. Applications on FCC Form 301 to increase Class A station power pursuant to the rules adopted herein (for stations that will be newly grandfathered, or for some other reason will be unable to utilize the FCC Form 302 procedure described above) may be filed on or after October 2, 1989. Because some Class A stations not meeting the new distance separation requirements may nevertheless be able to increase power by utilizing the contour protection provisions of 47 CFR 73.215, such stations will be exempt from the temporary 5 mile (8 kilometer) limit on short-spaced locations under this rule.

Final Regulatory Flexibility Analysis

I. Need and Purpose of this Action

The Commission is increasing the maximum permitted power for Class A FM broadcast stations. The principal purpose of this action is to provide additional opportunities for improvement of the facilities of existing Class A FM broadcast stations. The need for such improvement was outlined in the *Notice* and confirmed by the majority of the commenting parties. Existing Class A stations will be allowed to increase to the new power limit on a selective basis.

II. Summary of Issues Raised by the Public Comments in Response to the Initial Regulatory Flexibility Analysis

No commenters addressed the Initial Regulatory Flexibility Analysis.

III. Significant Alternatives Considered and Rejected

The Commission considered the alternative of allowing existing Class A stations, other than grandfathered short-spaced stations, to increase power on an across-the-board basis, rather than a selective basis. However, the Commission determined that to do so could reduce the expected coverage areas of certain other classes of FM broadcast stations, and that to impose such a reduction would not be in the public interest.

20. The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and has been found to impose a modified information collection requirement on the public. Implementation of any modified requirement will be subject to approval by the Office of Management and Budget as prescribed by the Act.

21. *It is ordered,* pursuant to authority contained in Sections 4 and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154 and 303, and effective October 2, 1989, That part 73 of the Commission's Rules, 47 CFR part 73, is amended as set forth below, and That authority to order Class A station licensees found to have improperly increased power to return to licensed parameters is delegated to the Chief, Mass Media Bureau.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

List of Subjects in 47 CFR Part 73

Radio broadcasting, FM broadcast stations, Class A.

For the reasons set forth in the preamble, 47 CFR Part 73 is amended as follows:

PART 73—[AMENDED]

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

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

2. 47 CFR 73.207 is amended by revising the numbers of the first seven rows of Table A in paragraph (b)(1), by revising the introductory texts of paragraphs (b)(2) and (b)(3), and by revising the numbers in the first row of the table in paragraph (c), to read as follows:

§ 73.207 Minimum distance separation between stations.

* * * * *

(b) * * *

(1) Domestic allotments and assignments must be separated from each other by not less than the distances in Table A which follows:

[1] It may be necessary to exclude Canadian and Mexican border area Class A stations from the initial list and to publish subsequent lists for those stations when international coordination procedures are complete.

[2] Because the appearance of a particular station does not constitute a modification of license, the Commission may correct the list of stations by adding or deleting stations included or excluded by administrative error without affording subject stations the opportunity for hearing.

[3] This includes replacement of the transmitter with one capable of higher power output.

[4] If an FCC Form 302 or supplement reveals any discrepancy from the licensed parameters of record (*e.g.*, geographical coordinates, antenna heights), the Commission delegates authority to the Chief, Mass Media Bureau, to order that the Class A station be returned to its licensed parameters, and to require the station licensee to file other forms or informational showings as necessary.

TABLE A.—MINIMUM DISTANCE SEPARATION REQUIREMENTS IN KILOMETERS (MILES)

Relation	Co-channel	200 kHz	400/600 kHz	10.6/10.8 MHz
A to A	115 (71)	72 (45)	31 (19)	10 (6)
A to B1	143 (89)	96 (60)	48 (30)	12 (7)
A to B	178 (111)	113 (70)	69 (43)	15 (9)
A to C3	142 (88)	89 (55)	42 (26)	12 (7)
A to C2	166 (103)	106 (66)	55 (34)	15 (9)
A to C1	200 (124)	133 (83)	75 (47)	22 (14)
A to C	226 (140)	165 (103)	95 (59)	29 (18)

* * * * *

(1) Under the Canada-United States FM Broadcasting Agreement, domestic U.S. allotments and assignments within 320 kilometers (199 miles) of the common border must be separated from Canadian allotments and assignments by not less than the distances given in Table B, which follows. When applying Table B, U.S. Class C2 allotments and assignments are considered to be Class B; also, U.S. Class C3 allotments and assignments and U.S. Class A assignments operating with more than 3 kW ERP and 100 meters antenna HAAT (or equivalent lower ERP and higher antenna HAAT based on a class contour distance of 24 km) are considered to be Class B1.

* * * * *

(3) Under the Mexico-United States FM Broadcasting Agreement, domestic U.S. allotments and assignments within 320 kilometers (199 miles) of the common border must be separated from Mexican allotments and assignments by not less than the distances given in Table C, which follows. When applying Table C, U.S. Class C2, C3 and B1 allotments and assignments are considered to be Class B; U.S. Class C1 allotments and assignments are considered to be Class C; also, U.S. Class A assignments operating with more than 3 kW ERP and 100 meters antenna HAAT average terrain (or equivalent lower ERP and higher antenna HAAT based on a class contour distance of 24 km) are considered to be Class B.

* * * * *

(c) The distances listed below apply only to allotments and assignments on Channel 253 (98.5 MHz). The Commission will not accept petitions to amend the Table of Allotments, applications for new stations, or applications to change the channel or location of existing assignments where the following minimum distances (between transmitter sites, in kilometers) from any TV Channel 6 allotment or assignment are not met:

MINIMUM DISTANCE SEPARATION FROM TV CHANNEL 6 (82–88 MHz)

FM class	TV zone I	TV zones II and III
A	17	22

* * * * *

3. 47 CFR 73.210 is amended by revising paragraphs (b)(1), (b)(2)(i) and (b)(3)(i) to read as follows:

§ 73.210 Station classes.

* * * * *

(b) * * *

(1) Determine the reference distance of the station using the procedure in paragraph (b)(1)(i) of § 73.211. If this distance is less than or equal to 28 km, the station is Class A; otherwise,

(2) * * *

(i) If this distance is greater than 28 km and less than or equal to 39 km, the station is Class B1.

* * * * *

(3) * * *

(i) If this distance is greater than 28 km and less than or equal to 39 km, the station is Class C3.

* * * * *

4. 47 CFR 73.211 is amended by revising paragraphs (a)(1)(ii) and (a)(1)(iv), by republishing the introductory text of paragraph (b)(1) and by revising the numbers in the first row of the table in the introductory text of paragraph (b)(1), by revising paragraph (b)(1)(ii), and by revising the first row in the table in paragraph (b)(3) to read as follows:

§ 73.211 Power and antenna height requirements.

(a) * * *

(1) * * *

(ii) The ERP for Class B1 stations must exceed 6 kW.

* * * * *

(iv) The ERP for Class C3 stations must exceed 6 kW.

* * * * *

(b) *Maximum limits.* (1) Except for stations located in Puerto Rico or the Virgin Islands, the maximum ERP in any direction, reference HAAT, and distance to the class contour for each FM station class are listed below:

Station class	Maximum ERP	Reference HAAT in meters (ft)	Class contour distance in kilometers
A	6kW (7.8 dBk)	100 (328)	28

* * * * *

(ii) If a station's ERP is equal to the maximum for its class, its antenna HAAT must not exceed the reference HAAT, regardless of the reference distance. For example, a Class A station operating with 6 kW ERP may have an antenna HAAT of 100 meters, but not 101 meters, even though the reference distance is 28 km in both cases.

* * * * *

(3) For stations located in Puerto Rico or the Virgin Islands, the maximum ERP in any direction, reference HAAT, and distance to the class contour for each FM station class are listed below:

Station class	Maximum ERP	Reference HAAT in meters (ft)	Class contour distance in kilometers
A	6kW (7.8 dBk)	240 (787)	42

* * * * *

5. 47 CFR 73.213 is amended by adding a new paragraph (c) to read as follows:

§ 73.213 Grandfathered short-spaced stations.

* * * * *

(c) Stations at locations authorized by grant of applications filed prior to October 2, 1989 that became short-spaced as a result of the revision of § 73.207 in the *Second Report and Order* in MM Docket No. 88–375 may be modified or relocated in accordance with paragraph (c)(1) or (c)(2) of this section. New stations on channel allotments made by order granting petitions to amend the Table of FM

Allotments which were filed prior to October 2, 1989, may be authorized in accordance with paragraph (c)(1) or (c)(2) of this section. No other stations will be authorized pursuant to these paragraphs.

(1) *Applications for authorization under requirements equivalent to those of prior rules.* Each application for authority to operate a Class A station with no more than 3000 watts ERP and 100 meters antenna HAAT (or equivalent lower ERP and higher antenna HAAT based on a class contour distance of 24 km) must specify a transmitter site that meets the minimum distance separation requirements in this paragraph. Each application for authority to operate a Class A station with more than 3000 watts ERP (up to a maximum of 5800 watts), but with an antenna HAAT lower than 100 meters such that the distance to the predicted 0.05 mV/m (34 dBμV/m) F(50,10) field strength contour does not exceed 98 km must specify a transmitter site that meets the minimum distance separation requirements in this paragraph. Each application for authority to operate an FM station of any class other than Class A must specify a transmitter site that meets the minimum distance separation requirements in this paragraph with respect to Class A stations operating pursuant to this paragraph or paragraph (c)(2) of this section, and that meets the minimum distance separation requirements of § 73.207 with respect to all other stations.

MINIMUM DISTANCE SEPARATION REQUIREMENTS IN KILOMETERS (MILES)

Relation	Co-channel	200 kHz	400/600 kHz	10.6/10.8 MHz
A to A	105 (65)	64 (40)	27 (17)	8 (5)
A to B1	138 (86)	88 (55)	48 (30)	11 (6)
A to B	163 (101)	105 (65)	69 (43)	14 (9)
A to C3	138 (86)	84 (52)	42 (26)	11 (6)
A to C2	163 (101)	105 (65)	55 (34)	14 (9)
A to C1	196 (122)	129 (80)	74 (46)	21 (13)
A to C	222 (138)	161 (100)	94 (58)	28 (17)

(2) *Applications for authorization of Class A facilities greater than 3000 watts ERP and 100 meters HAAT.* Each application to operate a Class A station with an ERP and HAAT such that the reference distance would exceed 24 kilometers must contain an exhibit demonstrating the consent of the licensee of each co-channel, first, second or third adjacent channel station (for which the requirements of § 73.207 are not met) to a grant of that application. Each such application must specify a transmitter site that meets the applicable IF-related channel distance separation requirements of § 73.207. Applications that specify a transmitter site which is short-spaced to an FM station other than another Class A station which is seeking a mutual increase in facilities may be granted only if no alternative fully-spaced site or less short-spaced site is available. Licensees of Class A stations seeking mutual increases in facilities need not show that a fully spaced site or less short spaced site is available. Applications submitted pursuant to the provisions of this paragraph may be granted only if such action is consistent with the public interest.

§ 73.215 [Amended]

6. 47 CFR 73.215 is amended by removing the NOTE that follows paragraph (b)(2)(ii).

7. 47 CFR 73.610 is amended by revising the introductory text of paragraph (f) and the first row of numbers in the table in paragraph (f) as follows:

§ 73.610 Minimum distance separations between stations.

* * * * *

(f) The distances listed below apply only to allotments and assignments on Channel 6 (82–88 MHz). The Commission will not accept petitions to amend the Table of Allotments, applications for new stations, or applications to change the channel or location of existing assignments where the following minimum distances (between transmitter sites, in kilometers) from any FM Channel 253 allotment or assignment are not met:

MINIMUM DISTANCE SEPARATION FROM FM CHANNEL 253 (98.5 MHz)

FM class	TV zone I	TV zones II & III
A	17	22

* * * * *

8. 47 CFR 73.1690 is amended by revising paragraph (b)(2) and adding a new paragraph (c)(4) and a NOTE following that new paragraph, to read as follows:

§ 73.1690 Modification of transmission systems.

* * * * *

(b) * * *

(2) Change in the operating power from that specified on the station authorization, except as provided in paragraph (c)(4) of this section.

* * * * *

(c) * * *

(4) On or after December 1, 1989, increase in the effective radiated power of eligible Class A FM stations pursuant to MM Docket 88–375, when such increase is effected by:

(i) Replacement of a non-directional antenna with another non-directional antenna having higher gain, provided that the height above ground of the center of radiation is within ±2 meters of that specified in the station authorization; and/or

(ii) Increase in the power input to the antenna, as a result of adjustment of the transmitter output power, change in the type or length of the transmission line, and/or installation of filters or diplexers.

Note: Class A stations eligible for a power increase pursuant to paragraph (c)(4) are those which appear on a list issued by the Commission in November 1989.

* * * * *

[FR Doc. 89–20060 Filed 8–24–89; 8:45 am]
BILLING CODE 6712–01–M

47 CFR Part 74

[MM Docket 86–112, FCC 89–276]

Satellite and Terrestrial Microwave Feeds to Noncommercial Educational FM Translators

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The action taken herein amends the Commission's rules regarding applications for

noncommercial FM translators assigned to reserved channels (channels 200–220), owned and operated by their primary stations and proposing to use alternate signal delivery. Certain applicants may be required to make a special showing that an alternative noncommerical FM frequency remains available. The rule modified herein strikes a balance between the public interest embodied in ensuring the development and expansion of local public radio service and increasing noncommerical FM service to unserved and underserved areas.

EFFECTIVE DATE: October 2, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Scott Roberts, Mass Media Bureau, (202) 632–6302.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order in MM Docket No. 86–112, adopted August 4, 1989, and released August 18, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 239), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street Northwest, Suite 140, Washington, DC 20037.

Summary of the Memorandum Opinion and Order

1. On October 31, 1985, the Moody Bible Institute petitioned the Commission to permit noncommercial educational FM (NCE–FM) translators to rebroadcast signals delivered via satellite and terrestrial microwave facilities. Moody further proposed that such signal delivery be limited to NCE–FM translators on reserved channels (200–220) and owned and operated by the primary station to be rebroadcast. The Commission initiated a rule making proceeding in response to the Moody petition, culminating in a Report and Order deleting the requirement that NCE–FM translators assigned to reserved channels and owned and operated by their primary stations receive signals from their primary stations, or another translator, directly over-the-air. The revised rules permit use of signal delivery means that include, but are not limited to, satellite and terrestrial microwave facilities.

2. As a consequence of that action, the Commission received petitions for reconsideration. Petitioners uniformly opposed the rule change adopted in the Report and Order, arguing that the new rule undermines the concept of localism, increases interference problems, and thwarts the growth of fullpower FM service to the public. In general, petitioners asked that the Commission vacate or substantially modify the alternative signal delivery rule.

3. Subsequent to the reconsideration period, several of these petitioners submittted a Joint Proposal intended to resolve the issues raised in the docket. The Joint Proposal proposes to allow use of alternative signal delivery to NCE–FM translators which are owned and operated by the licensee of the primary station to be rebroadcast if these translators comply with a series of conditions that are designed, according to these parties, to assure continued interference-free radio service in the NCE–FM band and to allow expansion of service through the use of NCE–FM translators.

4. Upon consideration of the commenters' concerns on this issue expressed in the Joint Proposal, the Commission concluded that the rules adopted in the Report and Order, permitting unrestricted use of alternative signal delivery for licensee owned and operated NCE–FM translators, should be amended to incorporate certain provisions of the Joint Proposal. Thus, the amended rules provide that an applicant for an NCE–FM translator seeking authorization to use alternative signal delivery will have to make a showing that at least one alternative NCE–FM frequency that provides comparable signal coverage to the same area encompassed by the applicant's proposed 1 mV/m contour remains available. Applicants will be required to make such a showing during a transitional period that will extend until October 1, 1992. Applicants need not make such a showing if the proposed NCE–FM translator is within 80 kilometers of the 1 mV/m contour of the primary station to be rebroadcast or is greater than 160 kilometers from any NCE–FM radio station.

5. In justifying its decision, the Commission stated that the limitations imposed on unrestricted alternative signal delivery authority will have minimal effect in most cases. While NCE–FM translator applicants proposing to locate more than 80 kilometers outside of the 1 mv/m contour of the primary station, or within 160 kilometers from any NCE–FM radio station must establish the availability of at least one other frequency for an additional translator, the Commission does not anticipate that in most rural areas this requirement will be difficult to show or represent a significant constraint. This is because there are likely to be many unused frequencies in such areas. It is only in densely populated urban areas that it may be relatively difficult to demonstrate that there would be an additional channel available for another translator. However, in urban areas there is also likely to already exist a number of full-service noncommercial and commercial stations. Hence, in such areas the benefits from authorizing a translator to rebroadcast the signal of a distant FM station should be less than in rural areas, because listeners are likely to already be exposed to a variety of local FM stations.

6. The rules adopted herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose new or modified requirements or burdens on the public. Implementation of these new or modified requirements will be subject to approval by the Office of Management and Budget as prescribed by the Act.

7. The Secretary shall cause a copy of this Memorandum Opinion and Order to be sent to the Chief Counsel for Advocacy of the Small Business Administration.

8. Accordingly, *it is ordered*, That under the authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended, part 74 of the Commission's rules and regulations is amended as set forth below effective October 2, 1989. *It is further ordered*, That the Petitions for Reconsideration filed by the Association of Maximum Service Telecasters, Inc.; the National Association of Broadcasters; Salem Broadcasting Services; and, a joint petition for reconsideration filed by National Public Radio, the National Federation of Community Broadcasters, the Intercollegiate Broadcasting Systems, Inc., the Office of Communication of the United Church of Christ, and the People For the American Way are granted to the extent adopted herein and denied in all other aspects. Finally, the petition for rule making filed by the Association of Maximum Service Telecasters is denied.

9. *It is furthered ordered*, That this proceeding is terminated.

List of Subjects in 47 CFR Part 74

FM broadcast translator stations, FM broadcast booster stations.

Part 74 of title 47 of the Code of Federal Regulations is amended as follows:

PART 74—[AMENDED]

1. The authority citation for part 74 continues to read as follows:

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

2. Section 74.1231 is amended by revising paragraph (b) to read as follows:

§ 74.1231 Purpose and permissible service.

* * * * *

(b) Except as provided in paragraphs (f) and (g) of this section, an FM translator may be used only for the purpose of retransmitting the signals of an FM broadcast station or another FM translator station which have been received directly through space, converted, and suitably amplified. However, a noncommercial educational FM translator operating on a reserved channel (Channels 200–220) and owned and operated by the licensee of the primary noncommercial educational FM station it rebroadcasts may use alternative signal delivery means including, but not limited to, satellite and microwave facilities, if the applicant complies with either paragraph (b)(1) or (2) of this section:

(1) The applicant demonstrates that:

(i) The transmitter site of the proposed FM translator station is within 80 kilometers from the predicted 1 mV/m contour of the primary station to be rebroadcast; or,

(ii) The transmitter site of the proposed FM translator station is more than 160 kilometers from the transmitter site of any authorized full service noncommercial educational FM station; or,

(iii) The application is mutually exclusive with an application containing the showing as required by § 74.1231(b)(2)(i) or (ii); or,

(iv) The application is filed after October 1, 1992.

(2) If the transmitter site of the proposed FM translator station is more than 80 kilometers from the predicted 1 mV/m contour of the primary station to be rebroadcast or is within 160 kilometers of the transmitter site of any authorized full service noncommercial educational FM station the applicant must show that:

(i) An alternative frequency can be used at the same site as the proposed FM translator's transmitter location and can provide signal coverage to the same area encompassed by the applicant's proposed 1 mV/m contour; or,

(ii) An alternative frequency can be used at a different site and can provide signal coverage to the same area encompassed by the applicant's proposed 1 mV/m contour.

* * * * *

Federal Communications Commission,

Donna R. Searcy,

Secretary.

[FR Doc. 89–20061 Filed 8–24–89; 8:45 am]

BILLING CODE 6712–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1003, 1011, 1181, 1182, 1183, 1186, 1187, and 1188

[Ex Parte No. MC–179]

Purchase, Merger, and Control of Motor Passenger and Water Carriers

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The Commission is adopting final regulations, as set forth below, governing: (1) Applications under 49 U.S.C. 11343–11344 to purchase, merge, or acquire control of motor passenger and water carriers; and (2) requests for temporary authority under 49 U.S.C. 11349 during the pendency of: (a) Applications to transfer operating rights of motor and water carriers under 49 U.S.C. 10926; and (b) applications and petitions for exemption to purchase, merge, or acquire control of motor and water carriers under 49 U.S.C. 11343–11344. Application Forms OP–F–44 and OP–F–45, now used for motor passenger finance transactions, are discontinued, and temporary authority Form OP–F–46 is revised. More general application requirements keyed to the applicable statutory burden of proof have been adopted in lieu of Forms OP–F–44 and OP–F–45, and safety fitness has been incorporated as an issue in passenger finance applications. To assist applicants in determining whether their finance applications are within the jurisdictional scope of 49 U.S.C. 11343, the rules for identifying applicable gross operating revenues have been consolidated in a new Part 1168. Temporary authority procedures have been consolidated in a new part 1187. Additionally, we have codified authority for rendering initial decisions in motor passenger and water carrier finance proceedings under 49 U.S.C. 11343–11344 to the Motor Carrier Board. The final rules in the above areas are the same as those proposed, with only minor modifications.

Finally, we have codified in parts 1181, 1182, and 1186 (which cumulatively cover all motor finance transactions) the longstanding requirement that the party to whom motor carrier operating rights are being transferred certify that it is not domiciled in Mexico nor owned or controlled by persons of Mexico. The proposed rules were published on March 24, 1989 at 54 FR 12252.

EFFECTIVE DATE: September 24, 1989.

FOR FURTHER INFORMATION CONTACT:
Richard B. Felder, (202) 275–7691
or
James L. Brown, (202) 275–7898.
[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. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services at (202) 275–1721.]

Environmental and Energy Considerations

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Regulatory Flexibility Analysis

We affirm our prior certification. The rules we are adopting will have an indirect and positive but not significant impact on a substantial number of small entities. With one minor exception concerning the certification of safety ratings by motor passenger applicants, the rules will not impose additional reporting, recordkeeping, or compliance requirements on applicants. Conversely, the total information requirements for all applicants have been reduced appreciably, and the revised rules will not duplicate, overlap, or conflict with any existing Federal rule.

Paperwork Reduction Analysis

We estimate that an average of 25 burden hours per response are required to complete the collection of information involved with the proposed revised temporary authority form OP–F–46. This represents no change from the estimate applicable to the current form, inasmuch as we propose no significant changes to that form. However, whereas OMB's current approval is based on an estimate of 300 responses per year, only 175 such responses were collected during the 1988 fiscal year. In view of program changes already reflected in *Transfer Rules, supra*, we estimate a further dramatic reduction in the number of temporary

authority applications filed in connection with small carrier transfers since such transactions now may be consummated 10 days after filing the application. Therefore, we now estimate that only 125 annual responses will be collected, thus reducing the total estimated annual reporting hours to 3,125.

It is estimated that an average of 60 burden hours per response are required to complete the collection of information involved with finance applications submitted in lieu of current forms OP–F–44 and OP–F–45, proposed to be discontinued. The present OMB approval of form OP–F–44 estimates 14 annual responses, with an average reporting burden of 80 hours per response; the approval of form OP–F–45 estimates 11 annual responses with an average reporting burden of 120 hours per response. We estimate that the total number of annual responses in these areas will remain unchanged at 25, which tends to be confirmed by the statistic that a total of 20 such applications were filed during the 1988 fiscal year. However, our proposed simplification and streamlining of these matters through elimination of the forms and the needlessly detailed data they require would, we estimate, reduce the average burden per response to only 60 hours. Accordingly, the total estimated annual reporting hours would be reduced to 1,500.

These estimates include time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments concerning the accuracy of this burden estimate or suggestions for reducing this burden should be directed to the section of Administrative Services, Interstate Commerce Commission, and to the Office of Management and Budget, Paperwork Reduction Project (OMB No. 3120–0079), Washington, DC 20503.

List of Subjects

49 CFR Part 1003

Brokers, Freight forwarders, Insurance, Maritime carriers, Motor carriers, Securities, Surety bonds.

49 CFR Part 1011

Administrative practice and procedure, Authority delegations (Government agencies), Organization and function (Government agencies).

49 CFR Part 1181

Administrative practice and procedure, Brokers, Freight forwarders, Maritime carriers, Motor carriers.

49 CFR Part 1182

Administrative practice and procedure, Motor carriers, Maritime carriers.

49 CFR Part 1183

Administrative practice and procedure, Motor carriers.

49 CFR Part 1186

Administrative practice and procedure, Freight forwarders, Motor carriers.

49 CFR Part 1187

Administrative practice and procedure, Motor carriers, Maritime carriers.

49 CFR Part 1188

Administrative practice and procedure, Motor carriers.

Authority: 5 U.S.C. 551 and 553; 31 U.S.C. 9701; and 49 U.S.C. 10301, 10302, 10304, 10305, 10321, 10922, 10926, 10322, 11321, 11343, 11344, 11345a, and 11349.

Decided: August 16, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioner André, Lamboley, and Phillips.

Noreta R. McGee,

Secretary.

For the reasons set forth in the preamble, title 49, chapter X of the Code of Federal Regulations is amended as follows:

PART 1003—LIST OF FORMS

1. The authority citation for part 1003 continues to read as follows:

Authority: 5 U.S.C. 551(a), 5 U.S.C. 553(1)(c) and 49 U.S.C. 10321.

2. The Forms OP–F–44 and OP–F–45 are removed from § 1003.2.

3. The entry for OP–F–46 in § 1003.2 is revised to read as follows:

§ 1003.2 Motor and water carrier, broker, and household goods freight forwarder forms.

* * * * *

OP–F–46

Application for approval, under 49 U.S.C. 11349, of the temporary operation of motor carrier or water carrier properties.

Cross Reference: 49 CFR part 1187.

* * * * *

PART 1011—COMMISSION ORGANIZATION; DELEGATIONS OF

4. The authority citation for part 1011 continues to read as follows:

Authority: 49 U.S.C. 10301, 10302, 10304, 10305, and 10321; 31 U.S.C. 9701; and 5 U.S.C. 553.

5. Section 1011.6(i)(2) is revised to read as follows:

§ 1011.6 Employee boards.

* * * * *

(i) * * *

(2) Motor passenger carrier (except applications by carrier with less than satisfactory safety ratings from DOT), water carrier finance applications under 49 U.S.C. 11343–11344, and small carrier transfer applications under 49 U.S.C. 10926.

* * * * *

PART 1181—TRANSFERS OF OPERATING RIGHTS UNDER 49 U.S.C. 10926

6. The authority citation for part 1181 continues to read as follows:

Authority: 49 U.S.C. 10321 and 10926; 5 U.S.C. 553.

7. In § 1181.2(b)(1), a new paragraph (ix) is added to read as follows:

§ 1181.2 Applications.

* * * * *

(b) * * *

(1) * * *

(ix) If motor carrier operating rights are being transferred, certification by the transferee that it is not domiciled in Mexico nor owned or controlled by persons of that country.

* * * * *

8. Part 1182 is revised to read as follows:

PART 1182—PURCHASE, MERGER, AND CONTROL OF MOTOR PASSENGER CARRIERS AND WATER CARRIERS

* * * * *

Subpart A—Applications

Sec.

Subpart B—Protests

Subpart C—General Requirements

Authority: 5 U.S.C. 559 and 49 U.S.C. 10321, 11321, 11341, 11343, 11344, and 11345a.

Subpart A—Applications

§ 1182.1 Applications covered by these rules.

These rules govern applications for authority under 49 U.S.C. 11343–11344 to consolidate, merge, purchase, or lease operating rights and properties of a motor carrier of passengers or a water carrier, or to acquire control of one or more motor carriers of passengers or water carriers through ownership of stock or otherwise.

§ 1182.2 Starting the application process.

There is no application form for these proceedings. Applicants for authority under 49 U.S.C. 11343–11344 to consolidate, merge, purchase, or lease operating rights and properties of a motor carrier of passengers or a water carrier, or to acquire control of one or more motor carriers of passengers or water carriers, through ownership of stock, or otherwise, shall file a pleading containing the information described in 49 CFR 1182.3. *See* 49 CFR 1002.2(f)(21) for filing fees.

§ 1182.3 Content of applications.

(a) The application must contain the following information:

(1) Full name, address, and signature of each of the parties to the transaction.

(2) Copies or descriptions of the pertinent operating authorities of the parties.

(3) A description of the proposed transaction.

(4) Identification of any ICC-regulated carriers affiliated with the parties, a brief description of their operations, and a summary of the intercorporate structure of the corporate family from top to bottom.

(5) If applicants are motor carriers, a jurisdictional statement that the aggregate gross operating revenues from interstate operations conducted by them and their motor carrier affiliates, if any, exceeded $2 million for a period of 12 consecutive months, ending not more than six months preceding the date of the parties' agreement covering the transaction. *See* 49 CFR part 1188.

(6) A statement indicating whether the transaction will or will not significantly affect the quality of the human environment and the conservation of energy resources.

(7) Information to demonstrate that the proposed transaction is consistent with the national transportation policy and the public interest, including particularly:

(i) The effect of the proposed transaction on competition within the involved transportation markets;

(ii) The effect of the proposed transaction on accommodating significant transportation needs; and

(iii) If the proceeding involves a motor passenger or rail carrier, the effect of the proposed transaction on the adequacy of transportation to the public; the effect on the public interest of including, or failing to include, other carriers in the area invovled in the proposed transaction (if applicable); the total fixed charges that result from the proposed transaction; and the interest of carrier employees affected by the proposed transaction. *See* 49 U.S.C. 111344(b)(2).

(8) Certification of the U.S. Department of Transportation safety fitness rating of each motor passenger carrier involved in the transaction, whether that carrier is a party to the transaction or is affiliated with a party to the transaction.

(9) If motor passenger carriers are involved in the transaction, certification by the party acquiring any operating rights through the transaction that it has sufficient insurance coverage under 49 U.S.C. 10927 for the service it intends to provide.

(10) If water carriers are involved in the transaction, information to show that the acquiring party is fit, willing, and able properly to perform the service authorized by the certificate or permit involved and to conform to the applicable statutory and administrative requirements.

(11) If motor passenger carriers are involved in a purchase of assets or merger transaction, certification by the party acquiring any operating rights through the transaction that it is not domiciled in Mexico nor owned or controlled by persons of that country.

(b) The application shall contain applicants' entire case unless: (1) The Commission finds, on its own motion or that of a party to the proceeding, that additional evidentiary submissions are required to resolve the issues in a particular case; or (2) the application contains an impediment. (*See* 49 CFR 1182.12.)

(c) Any statements submitted on behalf of an applicant supporting the transaction shall be verified. Pleadings consisting strictly of legal argument, however, need not be verified.

(d) If an application or supplemental pleading contains false or misleading information, the granted application is void *ab initio*.

§ 1182.4 Directly related applications.

(a) Directly related applications shall be filed along with the proposed acquisition transaction in a single submission. Such applications are those filed under other provisions of title 49, subtitle IV, U.S. Code, "Transportation," that either directly affect or are directly affected by the application filed under 49 U.S.C. 11343–11344. Typically, they include requests to obtain new operating authority, or to modify or convert existing operating authority. Whenever an application is filed under these rules and a directly related application also is filed, each application shall make reference to the other.

(b) Whenever possible, the Commission will decide directly related applications in a consolidated proceeding. In such cases, the statutory time frames governing the lead proceeding under 49 U.S.C. 11343–11344 will be applied.

§ 1182.5 Filing the application.

(a) Each application shall be filed with the Commission as provided at 49 CFR 1182.15. In addition, one copy shall be delivered to the Commission's Regional Office for the region in which each party's headquarters is located. Upon written request of a State, one copy shall be delivered, by first-class mail.

(b) In their application, the parties shall certify that they have delivered copies of the application as provided in paragraph (a) of this section.

§ 1182.6 Commission review of the application.

(a) All applications will be reviewed for correctness and completeness. Minor errors will be corrected with notification to the applicants. Incomplete applications may be rejected.

(b) A summary of the application will be published in the *ICC Register* to give notice to the public. The summary for an application involving motor carriers also will be published in the **Federal Register**. It will be published in the form of a tentative grant of authority. (*See also* 49 CFR 1182.12, regarding applications published with impediments.)

(c) If the published notice does not properly describe the authority sought, applicants shall inform the Commission within 10 days after the publication date.

Subpart B—Protests

§ 1182.7 Protests.

(a) Protests to an application shall be filed (received at the Commission)

within 45 days after the date the application is published.

(b) Failure to file a timely protest waives further participation in the proceeding. If no one opposes the application, the published tentative grant of authority will automatically become effective at the close of the comment period.

§ 1182.8 Notice.

A copy of the application will be available for inspection at the Commission's offices in Washington, DC, or at the Regional Office for each applicant's domicile. Interested persons may request a copy of the application by writing to the Commission-designated contract agent (as identified in the *ICC Register*), Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, and including a check or money order for $10 made payable to such contract agent; or, by contacting the contract agent at (202) 289–4357/4359 [TDD for hearing impaired (202) 275–1721] and arranging billing acceptable to the agent.

§ 1182.9 Contents of a protest.

(a) Protests shall be verified.

(b) The protest shall contain all information upon which the protestant plans to rely, including the grounds for the protest and the protestant's interest in the proceeding.

(c) A protest may include a request that the Commission allow:

(1) Additional evidentiary submissions from the parties to a proceeding; or

(2) Further procedural steps to develop the evidentiary record (*e.g.*, discovery).

The request must demonstrate that this procedure is necessary to resolve the specific issues giving rise to the request. If the Commission finds, whether on its own motion or that of a party, that the record requires supplementation, a decision will be issued indicating the additional information required and the time frames within such information must be submitted.

§ 1182.10 Filing a protest.

(a) The protest is to be sent to the Commission with the docket number of the proceeding conspicuously placed on the top of the first page of the protest.

(b) A copy of the protest shall be served on applicant's representative(s).

§ 1182.11 Withdrawing a protest.

A protestant wishing to withdraw from a proceeding shall concurrently inform the Commission and the applicants in writing.

Subpart C—General Requirements

§ 1182.12 Amendments.

(a) After notice of an application is published, applicants may not amend their proposal unless specifically required to do so by the Commission because of an "impediment" in the application (*e.g.*, a jurisdictional problem, unresolved fitness issue, or question concerning possible unlawful control). Any such impediment will be indicated in the published notice.

(b) If an impediment is noted, applicants file a pleading suggesting a "cure" to the impediment and/or containing legal argument, within 20 days after the date the notice is published. Applicants must subsequently serve any protestant(s) with a copy of their pleading. Failure to comply with these provisions may result in dismissal of the application.

(c) Protestants wishing to file a reply to the applicants' pleading must do so within 20 days after the date applicants' pleading is filed.

(d) If replies to applicants' pleading are filed, applicants may file a rebuttal within 15 days after the date the replies were due. This optional pleading will be in addition to any evidence previously submitted by applicants in the application or the reply to protests.

§ 1182.13 Replies.

(a) If the application is opposed, applicants may file a reply to the protest(s). This reply statement is due at the Commission within 60 days after the date of publication of the application.

(b) The reply statement may not contain new evidence. It shall only rebut or further explain matters previously raised.

(c) The reply statement shall be verified unless it consists strictly of legal argument. A copy of the reply statement shall be served on protestants.

§ 1182.14 Withdrawing an application.

If applicants wish to withdraw an application, they shall jointly request dismissal in writing as provided at 49 CFR 1182.15.

§ 1182.15 Copies.

An original and one copy of all applications filed under this part and all other pleadings and material relating to such applications must be filed with the Commission in Washington, DC, and, if mailed, addressed to "Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423."

§ 1182.16 Certificate of service.

(a) Where the rules require service of a pleading on another party, that pleading shall be mailed or delivered by hand concurrently with its service on the Commission.

(b) The pleading shall contain a statement (certificate of service) that the pleading has been mailed or hand delivered in accordance with paragraph (a) of this section.

(c) All motions and replies shall be served on all parties.

§ 1182.17 Verification of statements.

(a) All applications and related pleadings (except motions to strike, replies thereto, and other pleadings that consist only of legal argument) must be verified by the person offering the statement.

(b) The manner of verification must be as follows:

I, _____, verify
(name and title of witness)
under penalty of perjury, under the laws of the United States of America, that all information supplied in connection with this application is true and correct. Further, I certify that I am qualified and authorized to file this application or pleading. I know that willful misstatements or omissions of material facts constitute Federal criminal violations punishable under 18 U.S.C. 1001 by imprisonment up to five years and fines up to $10,000 for each offense. Additionally, these misstatements are punishable as perjury under 18 U.S.C. 1621, which provides for fines up to $2,000 or imprisonment up to five years for each offense.

_____
(Signature and Date)

§ 1182.18 Statutory findings.

The following findings are made for applications to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor passenger carriers or water carriers under 49 U.S.C. 11343–11344:

We find, with the exception of those applications involving impediments (*e.g.*, jurisdictional problems, unresolved fitness questions, or questions involving possible unlawful control) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11321, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated. This finding shall not be deemed to exist where the application is opposed. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

PART 1183—CONTROL OR CONSOLIDATION OF MOTOR CARRIERS OF PASSENGERS OR THEIR PROPERTIES [REMOVED]

9. Part 1183 is removed.

PART 1186—EXEMPTION OF CERTAIN TRANSACTIONS UNDER 49 U.S.C. 11343

10. The authority citation for part 1186 continues to read as follows:

Authority: 49 U.S.C. 10321 and 11343(e) and 5 U.S.C. 553.

11. In § 1186.2, a new paragraph (e) is added to read as follows:

§ 1186.2 Notice of exemption.

* * * * *

(e) In purchase of assets or merger transactions, certification by the party acquiring any motor carrier operating rights through the transaction that it is not domiciled in Mexico nor owned or controlled by persons of that country.

12. Section 1186.4 is revised to read as follows:

§ 1186.4 Temporary authority.

Parties may simultaneously request temporary authority during the pendency of the exemption proceeding by submitting Form OP–F–46 in accordance with the regulations at 49 CFR part 1187.

13. Part 1187 is added to read as follows:

PART 1187—TEMPORARY AUTHORITY IN MOTOR AND WATER CARRIER FINANCE PROCEEDINGS

Sec.

Authority: 5 U.S.C. 559 and 49 U.S.C. 10321, 10926, 11341, 11343, 11344, and 11349.

§ 1187.1 Applications governed by these rules.

These rules govern the handling of applications filed for temporary authority to operate motor property carrier, motor passenger carrier, and water carrier properties sought to be acquired in separately filed applications or petitions for exemption under:

(a) 49 U.S.C. 11343–11344 (for authority to consolidate, purchase, merge, or lease operating rights and properties of, or to acquire control of, motor property carriers, motor passenger carriers, and water carriers); or

(b) 49 U.S.C. 10926 (for the transfer of certificates and permits of motor property carriers, motor passenger carriers, and water carriers).

§ 1187.2 Procedure used generally.

Since the basis for filing applications for temporary authority under these rules is to prevent destruction of or injury to motor carrier or water carrier properties sought to be acquired under 49 U.S.C. 11343–11344 or 10926, these rules are designed to permit the Commission to decide expeditiously temporary authority applications. The Commission has no obligation to give public notice of applications filed under these rules for temporary authority. Cases are decided without hearing or other formal proceeding. However, the rules do permit the Commission, when feasible, to publish notice of temporary authority applications, and such applications may be opposed.

§ 1187.3 Applications.

(a) *Starting the application process.* Persons seeking temporary authority under this section shall complete application form OP–F–46. (*See* 49 CFR part 1003 and § 1002.2(f)(24) regarding forms and filing fees.) An application for temporary authority may only be filed concurrently with or after the filing of a related application or petition for exemption under 49 U.S.C. 11343–11344 or 10926.

(b) *Information to be submitted by applicants.* The application form constitutes applicants' entire case and shall contain all of the information on which applicants intend to rely.

(c) *Where the application is sent.* The original and one copy of the application shall be sent to the Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423, along with the application fee. In addition, one copy of the application shall be sent by applicants to each of the persons and State officials specified on the application form. When an application for temporary authority is filed after the filing and publication of notice of the related acquisition transaction (under 49 U.S.C. 11343–11344 or 10926), applicants also shall serve a copy of the temporary authority application on all parties of record in the related transaction as of the date of the filing.

§ 1187.4 Commission action.

(a) Where an application for temporary authority is filed concurrently with the related acquisition application or petition for exemption, notice of filing of the temporary authority application will appear in the published notice of the corresponding permanent application or petition.

(b) The temporary authority application (and protests, if any) will be submitted to an appropriate decisional body for disposition as soon as possible after filing. These rules do not provide for any specific time period for the filing of opposition to concurrently filed temporary authority applications. A temporary authority request may be acted upon before the publication of the related permanent application or petition for exemption.

§ 1187.5 Protests.

(a) *Who can oppose an application.* A protest to an application for temporary authority filed under these rules may be filed only by persons who oppose or intend to oppose the related permanent application or petition for exemption filed under 49 U.S.C. 11343–11344 or 10926.

(b) *Contents of a protest.* A protest to an application for temporary authority shall be in writing. The protest shall state the protestant's interest in the proceeding and the specific grounds on which protestant relies in opposing the temporary authority application. The protest also shall indicate that a copy has been served on applicants' representative(s).

(c) *To whom the protest is sent.* The original and one copy of the protest shall be sent to the Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423. A copy of the protest shall be served on applicants' representative(s).

14. Part 1188 is added to read as follows:

PART 1188—GROSS OPERATING REVENUES OF CARRIERS INVOLVED IN FINANCE PROCEEDINGS

Sec.

Authority: 5 U.S.C. 559 and 49 U.S.C. 10321, 11341, 11343, 11344, and 11345a.

§ 1188.1 Computation of gross operating revenues of carriers involved in unifications.

In proceedings involving consolidation, merger, or acquisition of control of motor carriers under 49 U.S.C. 11343, the aggregate gross operating revenues of carriers attributable to transportation from the use of their respective operating rights subject to subchapter II of chapter 105 of the Act shall be deemed to have exceeded $2 million for the period of 12 consecutive months ending not more than six months preceding the date of the agreement of the parties covering the transaction, within the meaning of 49 U.S.C. 11343(d)(1), unless otherwise shown, under each of the following circumstances:

(a) At the end of the preceding calendar year the carriers involved in the transaction filed reports with the Commission, as required by 49 U.S.C. 11145, showing annual gross operating revenues from motor carrier operations totaling more than $2 million, and none of the carriers has sold or otherwise disposed of any portion of its operating rights subsequent to the end of the preceding calendar year;

(b) A carrier involved in the transaction filed a quarterly report or reports for subsequent quarters, and a reasonable estimate of its annual gross operating revenues and the reported annual gross operating revenues of the other carriers involved in the transaction for the preceding calendar year aggregates more than $2 million; or

(c) A reasonable estimate of: (1) The annual gross operating revenues of any carrier which sold or otherwise disposed of any portion of its operating rights or which began new operations or extended existing operations subsequent to the end of the preceding calendar year; and (2) the reported annual gross operating revenues of the other carriers involved in the transaction for the preceding calendar year aggregates more than $2 million.

§ 1188.2 Deduction of revenues from sources other than regulated transportation.

(a) In determining whether a proposed transaction is subject to the provisions of 49 U.S.C. 11343, applicant motor carriers and their affilitate motor carriers must select the same 12-month period and indicate the 12-month period selected, as provided in § 1188.1, and must disclose the gross revenues received by each such carrier during the critical period selected and the revenues derived from sources other than transportation subject to subchapter II of chapter 105 of the Act. Such latter revenues may be deducted from the gross revenues for the purpose of determining jurisdiction.

(b) Applicants shall show the amounts which they claim should be deducted, the sources from which the revenues were derived, and the circumstances under which transportation performed is claimed not to have been subject to subchapter II of chapter 105 of the Act, in transfer proceedings under 49 CFR part 1181 or in support of a motion for dismissal of proceedings under 49 CFR part 1182 or 1186.

(c) Applicants shall not be required to show that the revenues computed under § 1188.1 were dervived from transportation subject to subchapter II of chapter 105 of the Act.

[FR Doc. 89-20094 Filed 8-24-89; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 54, No. 164
Friday, August 25, 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

Agricultural Marketing Service

7 CFR Part 918

[Docket No. AO-162-A6; AMS-FV-88-039]

Fresh Peaches Grown in Georgia; Secretary's Decision and Referendum Order on Proposed Further Amendment of Marketing Agreement and Order No. 918

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule and referendum order.

SUMMARY: This decision recommends further amendment of Marketing Agreement and Marketing Order No. 918 (7 CFR part 918), covering Georgia peaches, and directs a referendum to be conducted to determine if the growers of Georgia peaches favor the various amendment proposals. If approved, these proposals would amend the provisions of the marketing agreement and order to: (1) Limit the terms of office of Industry Committee (committee) members to six consecutive one-year terms; (2) change committee voting procedures on size regulation recommendations by requiring at least one affirmative member vote from each of the three growing districts; (3) authorize container and pack regulations and container marking regulations; (4) add authority for positive lot identification procedures for inspected peaches; (5) authorize production research and marketing research and development projects; (6) require a referendum at least every six years to determine if growers are in favor of continuing the marketing order; (7) add provisions protecting the confidentiality of information provided by handlers; (8) add provisions specifying that the Secretary and the Committee may verify the correctness of reports filed by handlers and compliance with recordkeeping requirements; and, (9) make any necessary conforming changes. The amendment proposals are designed to improve the administration, operations, and functioning of the marketing order.

DATES: The referendum shall be conducted during the period September 1 through 22, 1989. The representative period for the purposes of the referendum herein ordered is August 15, 1988, through August 14, 1989.

FOR FURTHER INFORMATION CONTACT: G. J. Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456; telephone: (202) 475-3919, or John R. Toth, Officer-In-Charge, Southeast Marketing Field Office, Florida Citrus Building, 500 Third Street, NW, P.O. Box 2276, Winter Haven, Florida 33883-2276; telephone: (813) 299-4770. Copies of this decision may be obtained from either of the above named individuals.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing issued April 6, 1988, and published in the **Federal Register** on April 11, 1988 (53 FR 11867); and Recommended Decision issued April 12, 1989, and published in the **Federal Register** April 17, 1989 (54 FR 15218).

This administrative action is governed by the provisions of sections 556 and 557 of title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291 and Departmental Regulation 1512-1.

Preliminary Statement

This proposed amendment of the order was formulated on the record of a public hearing held at Byron, Georgia, on April 28, 1988, to consider the proposed further amendment of Marketing Agreement and Order No. 918 (7 CFR part 918), both as amended, regulating the handling of fresh peaches grown in Georgia, hereinafter referred to collectively as the order. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), hereinafter referred to as the Act, and the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR part 900). The Notice of Hearing contained amendment proposals submitted by the committee, which locally administers the order. Those proposals pertained to: (1) Limiting the terms of office of committee members to six consecutive one-year terms; (2) changing committee voting procedures on size regulation recommendations by requiring at least one affirmative member vote from each of the three growing districts; (3) authorizing container and pack regulations and container marking regulations; (4) adding authority for positive lot identification procedures for inspected peaches; (5) authorizing production research and marketing research and development projects; (6) requiring a referendum at least every six years to determine if growers are in favor of continuing the marketing order. The notice also included proposals by the Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture (Department), to: (1) add provisions protecting the confidentiality of information provided by handlers; (2) add provisions specifying that the Secretary and the Committee may verify the correctness of reports filed by handlers and compliance with recordkeeping requirements; and (3) make any necessary conforming changes.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Administrator of the Agricultural Marketing Service (AMS), on April 12, 1989, filed with the Hearing Clerk, U.S. Department of Agriculture, a Recommended Decision containing a notice of the opportunity to file written exceptions thereto by May 17, 1989. No exceptions were filed.

Small Business Consideration

In accordance with the provisions of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), the Administrator of the Agricultural Marketing Service has determined that this action would not have a significant economic impact on a substantial number of small entities. Small agricultural producers have been defined by the Small Business Administration (SBA) (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $500,000. Small agricultural service firms, which include handlers under this marketing agreement and order, are defined as those firms with gross annual receipts of less than $3,500,000.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order

that small businesses will not be unduly or disproportionately burdened. Interested persons were invited in the Notice of Hearing to present evidence at the hearing on the probable regulatory and informational impact of the proposed changes on small businesses. Marketing orders issued pursuant to the Act and rules issued thereunder are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both the RFA and the Act are compatible with respect to small entities.

Approximately 30 handlers of Georgia peaches are subject to regulation under the order. In addition, there are approximately 265 peach growers in Georgia. The majority of these handlers and growers may be classified as small entities.

The proposed amendment of § 918.26 to limit the terms of office of committee members to six consecutive one-year terms would facilitate a regular rotation in committee membership and broaden industry participation in committee decision making. This would strengthen the program with no adverse impact on small entities.

Revising § 918.30(a) to alter committee voting procedures to require at least one affirmative vote from each of the three representation districts for any recommendation on size regulations would ensure that there was support for such recommendations in each district. The proposal should benefit small entities in all representation districts.

The proposal to add a new § 918.61a would authorize the committee, with the approval of the Secretary, to establish container, pack, and container-marking regulations in order to facilitate the efficient marketing of Georgia peaches and benefit growers and handlers. Such authority could reduce container and other marketing costs which would benefit small entities. Any savings would be directly proportional to the quantity of peaches handled. The impact of any particular proposed container, pack, and container-marking regulations would, of course, be considered at the time that such proposal would be made.

The proposed change amending § 918.64, would authorize the committee, with the approval of the Secretary, to establish positive lot identification procedures for peaches inspected under the order and would facilitate the committee's compliance effort by providing it with a reliable means of tying the inspection certificates it receives to the lots covered by the certificates. This could benefit both growers and handlers because the minimum quality and size requirements established under the order are important to the industry in fostering consumer satisfaction and increasing the demand for Georgia peaches. Hence, any advantages resulting from these procedures would be expected to outweigh any additional costs incurred by growers and handlers for positive lot identification. The additional costs would be proportional to the quantity of peaches handled. The impact of any particular proposal pertaining to positive lot identification would be considered at the time it is made.

The proposed addition of § 918.72 would authorize the committee, with the approval of the Secretary, to establish or provide for the establishment of production research and market research and development projects in order to facilitate research on many of its production and marketing problems. Such projects would benefit growers and handlers and would not adversely impact small entities. Any costs associated with this provision would be outweighed by the benefits of such projects.

The proposed amendment to § 918.81 would require a continuance referendum at least every six years which would provide growers a more frequent opportunity to periodically vote on whether the order should be continued. Such referenda would not adversely affect small entities.

The proposed amendment to § 918.76 containing provisions which would require confidential information provided by handlers to be protected from disclosure would improve operation of the order and would not adversely affect small entities.

The addition of § 918.77 authorizing the Secretary and the committee to verify the correctness of reports filed by handlers and to check handler compliance with recordkeeping requirements also would improve operation of the order and would not adversely affect small entities.

All of the proposed changes set forth in this document are designed to enhance the administration, operation, and functioning of the order.

The proposed amendments to the order would not have a significant impact on the recordkeeping and reporting burdens of the Georgia peach industry. Moreover, the proposed changes would not appreciably change the reporting and recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), which have been previously approved by the Office of Management and Budget, (OMB) under OMB No. 0581-0135. The action includes proposed amendments that would require information to be retained by handlers for at least two years. The evidence of record indicates that handlers generally maintain such information in the normal course of business for periods longer than two years. The information collection and recordkeeping requirements contained in this proposed action will be submitted to the OMB for approval. The requirements will not become effective prior to OMB approval.

Findings and Conclusions

Discussions and rulings included in the discussions of the material issues, findings, and general findings of the Recommended Decision set forth in the Federal Register (54 FR 15218; April 17, 1989) are hereby approved and adopted subject to the following modification:

In the findings and conclusions, a new paragraph is added at the end of Material Issue (5) on page 15223 to include a necessary conforming change relating to authorizing the committee, with the approval of the Secretary, to use funds, other than assessments collected from handlers, to pay expenses for projects conducted pursuant to proposed § 918.72. That paragraph should read as follows:

Currently, § 918.40 specifies that funds to cover committee expenses shall be acquired by the levying of assessments on handlers. In connection with authorizing the committee, with the approval of the Secretary, to use funds, other than those from assessments, to pay expenses for projects conducted pursuant to proposed § 918.72, the following sentence should be added as a conforming change at the end of § 918.40: "For projects conducted pursuant to § 918.72, other funds approved by the Secretary may also be used."

Rulings on Exceptions

The period for filing exceptions to the Recommended Decision ended May 17, 1989. No exceptions were filed.

Marketing Agreements and Orders

Annexed hereto and make part hereof are the documents entitled, "Order Amending the Order, As Amended, Regulating the Handling Of Fresh Peaches Grown In Georgia" and "Marketing Agreement, As Amended, Regulating the Handling of Fresh Peaches Grown In Georgia." These documents have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the annexed marketing agreement, be published in the Federal Register. The regulatory provisions of

the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the annexed order which is published with this decision.

Referendum Order

It is hereby directed that a referendum be conducted in accordance with the procedure for the conduct of referenda (7 CFR 900.400 *et seq.*), to determine whether the issuance of the annexed order, as amended and as hereby proposed to be further amended, regulating the handling of fresh peaches grown in Georgia, is approved or favored by growers, as defined under the terms of the order, who were engaged in the production for market of fresh peaches in the production area in Georgia. The representative period for such referendum is hereby determined to be August 15, 1988, through August 14, 1989.

The agents of the Secretary to conduct such referendum are hereby designated to be John R. Toth and William G. Pimental, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Florida Citrus Building, 500 3rd Street NW., (or Post Office Box 2276), Winter Haven, Florida 33883–2276, telephone: (813) 299–4770, and George Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456; telephone: (202) 475–3919.

Order Amending The Order, As Amended, Regulating The Handling Of Fresh Peaches Grown in Georgia[1]

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

Findings upon the basis of the hearing record. Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900), a public hearing was held upon proposed further amendment of the marketing agreement, as amended, and Order No. 918, as amended (7 CFR part 918), regulating the handling of fresh peaches grown in Georgia.

Upon the basis of the record it is found that:

General Findings

(1) The order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The order, as amended, and as hereby further amended, regulates the handling of fresh peaches grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in the marketing agreement and order upon which hearings have been held;

(3) The order, as amended, and as hereby further amended, is limited in its application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the Act;

(4) The order, as amended, and as hereby further amended, prescribes, so far as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the difference in the production and marketing of fresh peaches grown in the production area; and

(5) All handling of fresh peaches grown in the production area defined in the order is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

List of Subjects in 7 CFR Part 918

Marketing agreements and orders, Georgia, Peaches.

Order Relative to Handling

It is therefore ordered, than on and after the effective date hereof, the handling of fresh peaches grown in Georgia shall be in conformity to and in compliance with the terms and conditions of the order, as hereby amended, as follows:

With the exception of a conforming change in § 918.40, the provisions of the proposed marketing agreement and order, amending the order, contained in the Recommended Decision issued by the Administrator on April 12, 1989, and published in the **Federal Register** (54 FR 15218, April 17, 1989), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

PART 918—FRESH PEACHES GROWN IN GEORGIA

1. The authority citation for 7 CFR part 918 continues to read as follows:

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

2. Section 918.26 is amended by changing the period at the end to a colon and adding a provisio to read as follows:

§ 918.26 Term of office.

* * * *Provided,* That no member shall serve more than six full consecutive terms starting with the term beginning March 1, 1989.

3. The last sentence of § 918.30(a) is revised to read as follows:

§ 918.30 Procedure.

(a) * * * For any recommendation of the Industry Committee to be valid, not less than five (5) affirmative votes shall be necessary: *Provided,* That any recommendation on minimum size regulations also shall require at least one (1) concurring vote from each district.

* * * * *

4. A sentence is added at the end of § 918.40 to read as follows:

§ 918.40 Expenses.

* * * For projects conducted pursuant to § 918.72, other funds approved by the Secretary may also be used.

5. A new § 918.61a is added to read as follows:

§ 918.61a Container regulation.

Whenever the Industry Committee deems it advisable to establish a container regulation for any variety or varieties of peaches, it shall recommend to the Secretary the size, capacity, weight, marking, or pack of the container, or containers, which may be used in the handling of these peaches. If the Secretary finds upon the basis of such recommendation or other information available that such container regulation would tend to effectuate the declared policy of the Act the Secretary shall establish such regulation. Notice thereof shall be sent by the Industry Committee to all handlers of record.

§ 918.63 [Amended]

6. Section 918.63 is amended by changing the words "pursuant to

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

§§ 918.60 and 918.61," in the first sentence to "pursuant to §§ 918.60 through 918.61a."

7. Section 918.64 is amended by designating the current provisions as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 918.64 Inspection.

* * * * *

(b) The Industry Committee may establish with the approval of the Secretary positive lot identification requirements for lots of peaches inspected and certified pursuant to this section. Whenever implemented, such requirements shall at least specify that upon inspection, all peaches shall be identified by tags, stamps, marks, or other means of identification recognized by the Federal Inspection Service or the Federal-State Inspection Service or any other inspection service designated by the Secretary; that such identification shall be affixed to the container by the handler under the supervision of the Federal Inspection Service or the Federal-State Inspection Service or any other inspection service designated by the Secretary; and that such identification shall not be altered or removed except as directed by the Federal Inspection Service or the Federal-State Inspection Service or any other inspection service designated by the Secretary. For the purposes of this section, lot means the aggregate quantity of peaches of the same variety, in like containers with like identification offered for inspection as a shipping unit.

8. Insert the undesignated center heading, "RESEARCH AND DEVELOPMENT," after § 918.71 and add § 918.72 to read as follows:

Research and Development

§ 918.72 Production research and market research and development.

The Industry Committee, with the approval of the Secretary, may establish or provide for the establishment of projects involving production research and marketing research and development designed to assist, improve or promote the marketing, distribution and consumption of peaches and the efficient production thereof. The expenses of such projects shall be paid from funds collected pursuant to § 918.41, or from any other sources approved by the Secretary.

9. A new § 918.76 is added to read as follows:

§ 918.76 Confidential information.

All data or other information constituting a trade secret or disclosing a trade position or business condition shall be received by, and kept in the custody of, one or more designated employees of the Industry Committee, and information which would reveal the circumstances of a single handler shall be disclosed to no person other than the Secretary.

10. A new § 918.77 is added to read as follows:

§ 918.77 Verification of reports and records.

For the purpose of checking compliance with recordkeeping requirements and verifying reports filed by handlers, the Secretary and the Industry Committee through its duly authorized employees shall have access to any premises where peaches are held and, at any time during reasonable business hours, shall be permitted to examine any peaches held and any and all records with respect to matters within the purview of this part. Handlers shall furnish labor necessary to facilitate such examinations at no expense to the Industry Committee. All handlers shall maintain complete records which accurately show the quantity of peaches held, sold, and shipped. The Industry Committee, with the approval of the Secretary, may establish the type of records to be maintained. Such records shall be retained by handlers for not less than two years subsequent to the termination of each fiscal period.

11. Section 918.81 is amended by redesignating paragraph (d) as paragraph (e) and adding a new paragraph (d) to read as follows:

§ 918.81 Termination.

* * * * *

(d) The Secretary shall conduct a referendum among growers every six years after the effective date of this amended subpart to ascertain whether continuance of this part is favored by growers. However, when a continuance referendum is conducted pursuant to paragraph (c) of this section, this referendum shall be conducted six years after the referendum conducted to paragraph (c) of this section. The Secretary may terminate the provisions of this part at the end of any fiscal period in which the Secretary has found that continuance of this part is not favored by growers who, during a representative period determined by the Secretary, have been engaged in the production for market of the fruit in the production area, except that termination of this part shall be effective only if announced on or before the last day of the then current fiscal period.

* * * * *

Dated: August 21, 1989.

JoAnn R. Smith,

Assistant Secretary for Marketing and Inspection Services.

OMB Approval No. 0581–0135
Expiration Date: 8/31/91

United States Department of Agriculture

Agricultural Marketing Service

Marketing Agreement, as Further Amended, Regulating the Handling of Fresh Peaches Grown in Georgia

The parties hereto, in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601 *et seq.*), and in accordance with the applicable rules of practice and procedure effective thereunder (7 CFR part 900) desire to enter into this agreement further amending the marketing agreement regulating the handling of fresh peaches grown in Georgia; and each party hereto agrees that such handling shall, from the effective date of this marketing agreement, be inconformity to and in compliance with the provisions of said marketing agreement as hereby further amended.

The provisions of §§ 918.1 through 918.92, inclusive, of Marketing Order 918 (7 CFR part 918) as amended, and as further amended by the order annexed to and made a part of the decision of the Secretary of Agriculture with respect to the marketing agreement and order regulating the handling of fresh peaches grown in Georgia, plus the following additional provisions shall be, and the same hereby are, the terms and conditions hereof; and the specified provisions of said annexed order are hereby incorporated into this marketing agreement as if set forth in full herein.

Section 918.93 Counterparts.

This agreement may be executed in multiple counterparts and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original.

Section 918.94 Additional parties.

After the effective date hereof, any handler may become a party to this agreement if a counterpart is executed by such handler and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary, and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party.

Section 918.95 Order with marketing agreement.

Each signatory handler requests the Secretary to issue, pursuant to the Act, an order providing for regulating the handling of peaches in the same manner as is provided for in this agreement.

The undersigned hereby authorizes the Director, or Acting Director, Fruit and Vegetable Division, Agricultural Marketing

Service, U.S. Department of Agriculture, to correct any typographical errors which may have been made in this marketing agreement.

In witness whereof, the contracting parties, acting under the provisions of the Act, for the purpose and subject to the limitations therein contained, and not otherwise, have hereto set their signatures and seals.

(Firm Name) [1]

By:

(Signature)

(Mailing Address)

(Title)

(Corporate Seal; if none, so state)

(Date of Execution)

[FR Doc. 89-20098 Filed 8-24-89; 8:45 am]

BILLING CODE 3410-02-M

[1] If one of the contracting parties to this agreement is a corporation, my signature constitutes certification that I have the power granted to me by the Board of Directors to bind this corporation to the marketing agreement.

7 CFR Part 1065

[DA-89-032]

Milk in the Nebraska-Western Iowa Marketing Area; Proposed Revision of Supply Plant Shipping Percentage and Diversion Limitation Percentage

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed revision of rules.

SUMMARY: This notice invites written comments on a proposal to revise certain provisions of the Nebraska-Western Iowa Federal milk order. The proposed action would reduce the shipping standard for pooling supply plants by 10 percentage points and increase by 20 percentage points the amount of milk that may be moved directly from farms to nonpool plants and still be priced under the order. The action was requested by Associated Milk Producers, Inc. (AMPI), which operates pool supply plants and represents a significant number of producers whose milk is pooled under the order. AMPI contends that the revisions are needed to maintain the pool status for producers who have historically been associated with the market and to prevent uneconomic movements of milk. AMPI has requested the action for the months of September 1989 through March 1990 and has also requested that consideration be given to indefinitely revising these standards because of the past history of revisions during the fall and spring months over the last five years.

DATES: Comments are due no later than September 1, 1989.

ADDRESSES: Comments (two copies) should be sent to: USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456 (202) 447-2089.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. The action would lessen the regulatory impact of the order on milk handlers and would tend to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

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

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the provisions of §§ 1065.7(b)(3) and 1065.13(d)(4) of the order, the revision of certain provisions of the order regulating the handling of milk in the Nebraska-Western Iowa marketing area is being considered.

All persons who desire to submit written data, views or arguments about the proposed revision should send two copies of their views to USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456 by the 7th day after publication of this notice in the Federal Register. The period for filing comments is limited to seven days because a longer period would not provide the time needed to complete the required procedures and include September in the temporary revision period.

All written submissions made pursuant to this notice will be made available for public inspection in the Dairy Division during regular business hours (7 CFR 1.27(b)).

Statement of Consideration

The provisions proposed to be revised are the shipping standards set forth in § 1065.7(b) and the diversion limitations set forth in § 1065.13(d) (2) and (3). The revision would be effective beginning with the month of September 1989. The specific revisions would reduce the supply plant shipping percentage by 10 percentage points, from the present 40 to 30 percent for the months of September through March. Also, the diversion limits on producer milk would be increased by 20 percentage points, from 40 to 60 percent for the months of September through March, and from 50 to 70 percent during other months.

Sections 1065.7(b)(3) and 1065.13(d)(4) of the Nebraska-Western Iowa order allow the Director of the Dairy Division to increase or reduce the shipping percentage standard and the diversion limitation percentage by up to 20 percentage points. The adjustments can be made to help encourage additional shipments of milk or to prevent uneconomic shipments of milk merely for the purpose of assuring that dairy farmers will continue to have their milk priced under the order.

Revision of the supply plant shipping standard and the diversion limitations was requested by Associated Milk Producers, Inc. (AMPI). AMPI operates supply plants that historically have been pooled under the order and represents a substantial number of the dairy farmers who supply the market.

AMPI requested that the revision be applicable during September 1989 through March 1990. AMPI indicates that for the first six months of 1989 producer milk on the market is about 5.9 percent above the same period of 1988, while Class I utilization is down by about one percent. In view of the supply/demand relationship, AMPI indicates that it would be very unlikely for the marketwide Class I utilization to be more than 35 percent during the fall of 1989 or the spring of 1990. As a result, AMPI contends that the supply plant shipping standard should be reduced and the diversion limits should be increased. Such revision, AMPI contends, will eliminate the need for unnecessary shipments of milk and provide for the efficient disposition of milk supplies that are in excess of fluid milk needs.

AMPI also requested that consideration be given to extending the revision for an indefinite period of time. Such an action would eliminate the need for repeating the revision process every spring and fall. AMPI indicates that such a process has been repeated to revise these standards over the past five years and that such a history of the actions provide a basis for longer term action.

Therefore, it may be appropriate to revise the aforementioned provisions of §§ 1065.7(d) and 1065.13(d)(2) and (3) to prevent uneconomic shipments of milk.

List of Subjects in 7 CFR Part 1065

Dairy products, Milk, Milk marketing orders.

The authority citation for 7 CFR part 1065 continues to read as follows:

Authority: (Secs. 1–19, 84 Stat. 31, as amended; 7 U.S.C. 601–674)

Signed at Washington, DC, on August 21, 1989.

Richard M. McKee,

Acting Director, Dairy Division.

[FR Doc. 89–20040 Filed 8–24–89; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 1079

[DA–89–034]

Milk in the Iowa Marketing Area; Proposed Revision of Supply Plant Shipping Percentage

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed revision of rules.

SUMMARY: This notice invites written comments on a proposal to revise certain provisions of the Iowa Federal milk order for the months of September through November. The proposal would reduce the shipping percentage for pool supply plants by 10 percentage points from 35 to 25 percent of receipts. The action was requested by Beatrice Cheese, Inc., a handler who operates a pool supply plant under the order. The handler contends that the action is necessary to prevent uneconomic shipments of milk from supply plants to distributing plants. The handler has also requested that consideration be given to lowering the shipping percentage during the months of September–November for an indefinite period in view of a four-year history of reducing the shipping percentages during these months.

DATES: Comments are due no later than September 1, 1989.

ADDRESSES: Comments (two copies) should be sent to: USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456 (202) 447–2089.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. The action would reduce the regulatory impact on milk handlers and tend to ensure that the market would be adequately supplied with milk for fluid use with a smaller proportion of milk shipments from pool supply plants.

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

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the provisions of § 1079.7(b)(1) of the order, the revision of certain provisions of the order regulating the handling of milk in the Iowa marketing area is being considered for the months of September–November.

All persons who desire to submit written data, views or arguments about the proposed revision should send two copies of their views to USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456 by the 7th day after publication of this notice in the **Federal Register**. The period for filing comments is limited to seven days because a longer period would not provide the time needed to complete the required procedures and include September in the revision period.

All written submissions made pursuant to this notice will be made available for public inspection in the Dairy Division during regular business hours (7 CFR 1.27(b)).

Statement of Consideration

The provisions proposed to be revised are the supply plant shipping percentages for the months of September through November. The proposed action would reduce the shipping percentage by 10 percentage points from the present 35 to 25 percent of receipts.

Section 1079.7(b)(1) of the Iowa order provides that the Director of the Dairy Division may increase or reduce the supply plant shipping percentage by up to 10 percentage points. The adjustments can be made to encourage additional milk shipments or to prevent uneconomic shipments.

The revision was proposed by Beatrice Cheese, Inc., a handler who operates a pool supply plant under the order. The handler contends that the reduction of the shipping standard is necessary to prevent uneconomic shipments from supply plants to distributing plants. The handler points out that receipts of producer milk under the order during the first six months of 1989 were up about 4.5 percent from the previous year. In addition, about 26.5 percent of producer milk pooled under the order was used in Class I during the first six months, compared to 27.3 percent the previous year. The handler also points out that receipts of milk at its supply plant during the first six months were about 3.4 percent greater than the previous year. Based on the relationship of fluid milk sales to the receipts of milk, the handler contends that a reduction of the supply plant shipping percentage is necessary to prevent uneconomic shipments during the months of September–November. Absent a reduction, the handler contends that it would have to engage in the uneconomic backhauling of 3.0 to 3.2 million pounds of milk per month in order to pool its supply of milk. The handler maintains that distributing plants would be adequately supplied with milk with a lowering of the supply plant shipping percentage by 10 percentage points to 25 percent of receipts.

The handler has also requested that consideration be given to reducing the shipping percentage during the months of September through November for an indefinite duration. It is pointed out that the supply plant shipping percentage has been reduced by 10 percentage points during these months for the last four years. As a result, it may be appropriate to indefinitely reduce the shipping percentage for the months of September through November.

List of Subjects in 7 CFR Part 1079

Dairy products, Milk, Milk marketing orders.

The authority citation for 7 CFR part 1079 continues to read as follows:

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

Signed at Washington, DC, on August 21, 1989.

Richard M. McKee,

Acting Director, Dairy Division.

[FR Doc. 89–20041 Filed 8–24–89; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 1079

[DA-89-031]

Milk in the Iowa Marketing Area; Notice of Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal to suspend certain provisions of the Iowa Federal milk marketing order for the months of September through November. The proposed suspension would increase the amount of milk not needed for fluid use that may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. The action was requested by Associated Milk Producers, Inc. (AMPI), a cooperative association that represents producers who supply the market. AMPI contends that the action is necessary to avoid making costly and inefficient movements of milk that would otherwise be made to pool the milk of dairy farmers who have historically supplied the market. AMPI has requested that consideration be given to an indefinite duration of a suspension during these months to eliminate the subsequent need for suspension actions that have been made during the last five years.

DATES: Comments are due on or before September 1, 1989.

ADDRESSES: Comments (two copies) should be filed with the USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-2089.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

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

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), the suspension of the following provisions of the order regulating the handling of milk in the Iowa marketing area is being considered for September through November:

In § 1079.13(d)(2) and (3), the words "50 percent in the months of September through November and," and the words "in other months," as they appear in each such paragraph.

All persons who want to send written data, views or arguments about the proposed suspension should send two copies of them to the USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, by the 7th day after publication of this notice in the **Federal Register**. The period for filing comments is limited to 7 days because longer period would not provide the time needed to complete the required procedures and include September 1989 in the suspension period.

The comments that are sent will be made available for public inspection in the Dairy Division during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed suspension would allow more than 50 percent of a handler's producer milk receipts to be moved directly from farms to nonpool plants (diverted) and still be priced under the order during the months of September-November. The proposal was submitted by Associated Milk Producers, Inc. (AMPI), a cooperative association that represents producers who supply the market. AMPI maintains that the diversion limitations need to be relaxed, by a suspension action, to avoid the costs associated with receiving and transferring milk solely for the purpose of pooling the milk of dairy farmers who have historically supplied the market.

AMPI contends that the action is necessary because of the relationship between available milk production and fluid milk sales. AMPI points out that producer milk receipts during the first six months of 1989 are up about 4.7 percent from the previous year while fluid milk sales are at about the same level as a year earlier. As a result, the Class I utilization of producer milk for the first six months was about 26.5 percent, down slightly from the previous year. Consequently, AMPI projects that about 30 percent of the market's milk supply will be needed for Class I use during the September-November period this year. Thus, about 70 percent of the market's milk supply will be available for manufacturing uses, which AMPI contends can be most efficiently handled by diverting milk directly from farms to nonpool plants for processing. Absent a suspension action, AMPI maintains that the costly and inefficient marketing practices of receiving and transferring milk from pool plants would be undertaken to continue to pool the milk of dairy farmers who supply the market.

AMPI has also requested that consideration be given to suspending the 50 percent diversion limitation for the September through November period for an indefinite duration. AMPI points out that the same provisions have been suspended during each of the last five years. In view of this history, AMPI maintains that there is a sufficient basis for a suspension action of an indefinite duration that is more likely to reflect a diversion limitation that is more consistent with the market's supply and demand relationship during these months.

List of Subjects in 7 CFR Part 1079

Dairy products, Milk, Milk marketing orders.

The authority citation for 7 CFR part 1079 continues to read as follows:

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

Signed at Washington, DC, on August 21, 1989.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 89-20096 Filed 8-24-89; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 140

[FHWA Docket No. 89-14]

RIN 2125-AC07

Construction Engineering Costs

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FHWA proposes to implement changes mandated by section 133 of the Surface Transportation and Uniform Relocation Assistance Act (STURAA) of 1987 (Pub. L. 100-17, 101 Stat. 132) and to clarify the FHWA policy relating to the limitation for

reimbursement of eligible construction engineering (CE) costs established in 23 U.S.C. 121(d). These changes will establish the limitation at 15 percent and will eliminate the administrative burden placed on State highway agencies to prepare justifications to increase the limitation.

DATES: Written comments are due on or before October 24, 1989.

ADDRESSES: Submit written, signed comments, to the FHWA Docket No. 89–14, Federal Highway Administration, HCC–10, Room 4232, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m., ET, Monday through Friday, except legal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Max I. Inman, Office of Fiscal Services, (202) 366–2853, or Michael J. Laska, Office of the Chief Counsel, (202) 366–1383, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: Section 133 of the STURAA of 1987 revised 23 U.S.C. 121(d) by eliminating the 10 percent limitation on CE costs and increasing the limitation to 15 percent of construction costs.

Prior to the revision of 23 U.S.C. 121(d), reimbursement of CE costs to State highway agencies (SHA) was limited by law to 10 percent of construction costs. SHAs were required to submit a request to FHWA, along with adequate justification and supporting data, to demonstrate that a percentage increase in excess of 10 percent was necessary when actual eligible CE costs exceeed the limitation.

The current revision establishes the limitation at 15 percent and will eliminate the administrative burden placed on SHAs to prepare justifications to increase the limitation.

Other revisions are also being proposed to clarify current FHWA policy regarding CE costs. The specific changes proposed for each section of the regulation are as follows:

Section 140.201 Purpose

This section would be amended by removing the statement relating to increasing the statutory limitation from 10 to 15 percent.

Section 140.203 Definitions

This section would be revised by removing the definitions and adding a new section, Policy. This proposed new section includes provisions relating to the 15 percent limitation and also includes the following provisions which have been added to clarify existing FHWA policy on reimbursement of CE costs:

(1) Proposed § 140.203(d) requires that estimated CE costs approved at the time of project authorization be based on the amount of costs the SHA expects to incur, not to exceed the 15 percent limitation. The 15 percent is not a standard additive rate for project cost estimates.

(2) Proposed § 140.203(e) provides clarification of FHWA policy for determining CE costs when SHAs opt to use average rates in lieu of actual costs per project in accordance with the provisions of 23 U.S.C. 120 (h).

Section 140.205 Increase in Per Centum of Limitation

This section would be revised to remove the procedures for increasing the percentage limitation from 10 to 15 percent which are no longer applicable. The proposed revision to § 140.205 contains provisions relating to the application of the limitation.

Section 140.207 Categories of Funds Subject to Application of Limitation

Section 140.207 would be removed, but the provisions of this section would be included in the proposed revised § 140.205, Application of Limitation. The current regulation lists specific categories of funds subject to the limitation. Since most categories of funds are subject to the limitation, the proposed revised section lists only those categories of funds exempt from the limitation.

Regulatory Impact

The FHWA has determined that this document 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 rulemaking action is being initiated in order to implement a statutory mandate. A regulatory evaluation is not required because of the minsterial nature of this action. However, this revision will eliminate the administrative burden upon SHAs which was necessary to justify an increase in the construction engineering limitation from 10 percent to 15 percent.

Based on the information available to the FHWA at this preliminary stage of the rulemaking, it does not appear that this action will have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act (Public Law 96–354).

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking 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 of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

In consideration of the foregoing, the FHWA proposes to amend Title 23, Code of Federal Regulations, by revising Part 140, Subpart B as set forth below. (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 Part 140

Accounting, Grant programs—transportation, Highways and roads.

Issued on: August 18, 1989.

Eugene R. McCormick,

Deputy Administrator.

The FHWA proposes to revise 23 CFR part 140, subpart B as follows:

PART 140—REIMBURSEMENT

1. The authority citation for part 140 is revised to read as follows and all other authority citations which appear following the subpart headings and at the end of sections throughout part 140 are removed:

Authority: 23 U.S.C. 101(e), 114(a), 120, 121, 122 and 315; and 49 CFR 1.48(b).

2. Subpart B of part 140 is revised to read as follows:

Subpart B—Construction Engineering Costs

Sec.

§ 140.201 Purpose.

The purpose of this subpart is to

prescribe policies for claiming reimbursement for eligible construction engineering (CE) costs.

§ 140.203 Policy.

(a) States may be reimbursed for the Federal share of CE costs incurred in

(1) The supervision and inspection of construction activities,

(2) The additional staking functions considered necessary for effective control of the construction operations,

(3) The testing of materials incorporated into construction,

(4) The checking of shop drawings, and

(5) The taking of measurements needed for the preparation of pay estimates.

(b) Reimbursement of CE costs is limited to 15 percent of the costs of construction of a project, exclusive of the costs for preliminary engineering, CE, and rights-of-way.

(c) The 15 percent limitation applies to projects for which a final voucher was not approved prior to April 2, 1987.

(d) The estimated CE costs approved at the time of project authorization shall be based on the amount of costs the SHA expects to incur, not to exceed the 15 percent limitation.

(e) If the SHA claims CE costs as an average percentage of the actual construction costs in accordance with 23 U.S.C. 120(h), the average rate shall be determined based upon reimbursable CE costs. If the individual projects used in developing the average percentage contain CE costs exceeding the limitation established in 23 U.S.C. 121(d), then those excess costs shall not be included in determining the average percentage.

§ 140.205 Application of limitation.

All projects financed with Federal-aid highway funds are subject to the limitation except for projects funded from the following categories:

(a) Emergency Relief (23 U.S.C. 125),

(b) Federal Lands Highways (23 U.S.C. 204),

(c) Defense Access Roads (23 U.S.C. 210),

(d) Appalachian Development Highways (section 201 of Pub. L. 89-4, 79 Stat. 5),

(e) Public Lands Development Roads and Trails (23 U.S.C. 214), and

(f) Other categories determined by FHWA to be exempt from the limitation.

[FR Doc. 89-20048 Filed 8-24-89; 8:45 am]
BILLING CODE 4910-22-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 75

Belt Entry Ventilation Review; Comment Period

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of availability; comment period.

SUMMARY: The Mine Safety and Health Administration (MSHA) is announcing the availability of a report of findings and recommendations regarding belt conveyor entry ventilation in underground coal mines. Public comments may be submitted to the Agency on issues addressed in the report which are relevant to the Agency's ongoing rulemaking revision of existing mandatory safety standards for ventilation of underground coal mines in 30 CFR part 75. The report, along with the comments received, will become part of the rulemaking record for the proposed rules. Comments which address issues unrelated to the ventilation proposal will be considered by the Agency in identifying subjects for future rulemaking.

DATES: Written comments must be submitted on or before September 25, 1989.

ADDRESSES: The report may be obtained from the Business Office of the National Mine Health and Safety Academy, P.O. Box 1166, Beckley, West Virginia, 25802-1166. Phone (304) 256-3206. Send written comments to the Office of Standards, Regulations, and Variances; MSHA; Room 631; Ballston Tower No. 3; 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, MSHA, (703) 235-1910.

SUPPLEMENTARY INFORMATION: The Assistant Secretary of Labor for Mine Safety and Health formed a special committee on March 24, 1989, to review major aspects of the issues surrounding the use of air coursed through belt conveyor entries to ventilate working places in underground coal mines. The committee completed its report of findings and recommendations on July 31, 1989. The report analyzes three recognized methods of belt entry ventilation and makes recommendations for minimizing the hazard to miners of possible belt entry fires. Other recommendations include changes in mine ventilation design, further research, and improved training of miners. The report concludes that using belt air to ventilate working places, with proper monitoring for the products of combustion, is a safe method.

Belt conveyor entry ventilation and related matters addressed in the new report are subjects of MSHA's proposed ventilation standards for underground coal mines. The Agency is currently preparing the final rule and believes that public comments on these issues will be useful in drafting the final rule. Therefore, MSHA is making the report available to the public and is requesting comments. The comments submitted to the Agency, and the report, will be made a part of the rulemaking record for MSHA's proposed rules for ventilation of underground coal mines, published in the Federal Register on January 27, 1988 (53 FR 2382).

The Agency is especially interested in comments on the findings and conclusions in the report which directly relate to the ventilation proposal. At this stage in rulemaking, MSHA believes that these findings and conclusions must be considered in developing the final rule. The relevant findings and conclusions address these areas: (1) Protection of the intake escapeway from leakage from adjacent air courses; (2) belt entry ventilation where air from the belt entry will be used to ventilate working places, as well as where it will not be used to ventilate working places; (3) protection of the intake escapeway from fire sources in the escapeway; (4) smoke sensors; and (5) air velocities in belt entries. Comments, including technological and cost impact data, submitted to the Agency on these matters will assist MSHA in determining how the findings and conclusions in the report should be used in drafting the final rule.

Dated: August 23, 1989.

David C. O'Neal,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 89-20185 Filed 8-24-89; 8:45 am]
BILLING CODE 4510-43-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89-362, RM-6694, RM-6893]

Radio Broadcasting Services; Monroeville and Thomasville, AL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on two separately-filed rule making proposals. The first, filed on behalf of WJDB Radio, Inc., licensee of Station WJDB(FM), Channel 237A, Thomasville, Alabama, proposes the substitution of Channel 244C2 for Channel 237A and modification of its license accordingly (RM–6694). The second petition, filed on behalf of Hub City Broadcasting Corporation, proposes the allotment of Channel 237C3 to Monroeville, Alabama, in the event Channel 237A is relinquished at Thomasville (RM–6893). Coordinates for Channel 244C2 at Thomasville are 31–54–42 and 87–44–24. Coordinates for Channel 237C3 at Monroeville are 31–31–18 and 87–19–30.

DATES: Comments must be filed on or before October 10, 1989, and reply comments on or before October 25, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners' counsel, as follows: Jeffrey D. Southmayd, Esq., Southmayd, Powell & Taylor, 1764 Church St., NW, Washington, DC 20036 (WJDB Radio, Inc.); and M. Scott Johnson and Catherine M. Grofer, Esqs., Gardner, Carton & Douglas, 1000 Penn. Ave., NW, Suite 750–N, Washington, DC 20004 (Hub City Broadcasting Corporation) .

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89–362, adopted August 1, 1989, and released August 18, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

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

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

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

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–20017 Filed 8–24–89; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 89–361, RM–6718]

Radio Broadcasting Services; Beulah, Michigan

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Roger L. Hoppe II, proposing the allotment of FM Channel 221A to Beulah, Michigan, as that community's first FM broadcast service. Concurrence of the Canadian government is required for the allotment of FM Channel 221A at Beulah at coordinates 44–37–36 and 86–05–54.

DATES: Comments must be filed on or before October 10, 1989, and reply comments on or before October 25, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Roger L. Hoppe II, 8420 Deadstream Road, R.R. #1, Box No. 51G, Honor, Michigan 49640.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 89–361 adopted August 1, 1989, and released August 18, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

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

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Federal Communications Commission.

Karl Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–20018 Filed 8–24–89; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[BC Docket No. 81–742; FCC 89–109]

Broadcast Service; Comparative Renewal Process

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission seeks comment on an additional proposal in its inquiry into reforms of the standards used in comparative hearings in the license renewal context. The proposal, which would adopt a new order of proof for determining entitlement to a renewal expectancy credit, may improve the Commission's current process for determining such an entitlement. Thus, the instant Third Further Notice of Inquiry and Notice of Proposed Rule Making (Third Further Notice) is issued to solicit comment on this proposal.

DATES: Comments are due by October 10, 1989, and reply comments are due by October 25, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Marilyn Mohrman-Gillis, Mass Media Burean, Policy and Rules Division, (202) 632–7792.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Third Further Notice of Inquiry and Notice of Proposed Rule Making in BC Docket No. 81–742, adopted March 30, 1989, and released August 16, 1989. The complete text of this Third Further Notice is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC, and also may be purchased from the

Commission's copy contractor, International Transcription Services, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Synopsis of Third Further Notice of Inquiry and Notice of Proposed Rule Making

1. This Third Further Notice is a continuation of a comprehensive inquiry into proposals for reforming the standards used for selecting among competing applicants and incumbent licensees in comparative hearings in the license renewal context. The Commission took the first step toward reforming the comparative renewal process by adopting the First Report and Order in this proceeding (54 FR 22595, May 25, 1989). This decision placed limitations on the payments competing applicants and petitioners to deny could receive in exchange for settling their license renewal challenges. A Report and Order in a separate proceeding (*see* the Report and Order in Gen. Docket 88-328, 54 FR 19951, May 9, 1989) enacted revisions to FCC Form 301, the form for construction permit applications. These revisions were intended, among other things, to weed out sham and abusive applicants in the license renewal context.

2. The instant Third Further Notice relates to the standards used for comparing incumbent licensees and competing applicants in the license renewal context. These standards, in their present format, are not ideal for application in the renewal context because they often involve subjective, program-based judgments by the trier of fact. In previous notices in this proceeding (Notice of Inquiry at 88 FCC 2d 120, 1981; Further Notice of Inquiry at 47 FR 46117, October 15, 1982; and Second Further Notice of Inquiry and Notice of Proposed Rule Making at 53 FR 31894, August 22, 1988) comments were solicited on proposals for modifying the criteria used for comparing incumbent licensees and competing applicants in a license renewal hearing, as well as the stanadards used for determining whether an incumbent licensee is entitled to a "renewal expectancy" credit.

3. Because of drawbacks associated with each of the proposals related to reforming the procedure for awarding a renewal expectancy, the Commission issued this Third Further Notice to obtain comment on an additional proposal. In issuing this Notice, the Commission is not rejecting any of its former proposals.

4. Under this additional proposal, the Commission would continue to use its current standard for awarding a renewal expectancy credit—"meritorious" service to the broadcaster's community of license— but would adopt a new order of proof for determining entitlement to the credit. Upon demonstrating certain clearly defined, objective evidence at the hearing, an incumbent licensee would be granted a rebuttal presumption that it has provided meritorious service sufficient to warrant a renewal expectancy credit. The challenger would than have the opportunity to rebut the presumption with a specific evidentiary showing. The Commission believes that this additional proposal may improve its current process for determining entitlement to a renewal expectancy credit by limiting the hearing issues and reducing the degree of government intrusion into the licensee's editorial judgments and journalistic discretion.

5. While the Commission invited comment as to what kinds of evidence should be sufficient to trigger the presumption of meritorious service, it proposed that a licensee could meet the burden of going forward if it presents its "issues/programs" list as provided for in §§ 73.3526(a) (8) and (9) and 73.3527(a)(7) of the Commission's Rules. Once an existing licensee has carried this burden of going forward, other applicants would have an opportunity to dispute the incumbent's evidentiary showing and the resulting rebuttable presumption. While the Commission also invited comment as to what kinds of evidence could rebut a presumption of entitlement to a renewal expectancy, it proposed that a presumption based on compliance with the issues/programs list requirement could be rebutted by demonstrating that: (1) The licensee did not broadcast programs listed on its issues/programs list; or (2) the programs listed were not responsive to issues of concern to the licensee's audience and the licensee's judgments in this regard were not reasonably made.

6. Should the judge in the hearing, determine that the licensee did not meet its burden of going forward on the renewal expectancy issue, or that it met its burden but the challenger successfully rebutted the presumption, the issue of whether the incumbent should be awarded any preference for past service would be part of the comparative hearing, and the onus would fall upon the licensee to demonstrate that it should receive the preference. Should the judge determine that the challenger failed to sufficiently rebut the presumption of entitlement to a renewal expectancy credit or that a renewal expectancy was appropriate, the incumbent would be compared with the competing applicants with a preference for past meritorious service. This preference would be given significant weight *vis-a-vis* the other comparative criteria.

7. The Commission requested comment on whether this burden-shifting approach would be an improved method for applying the meritorious service renewal expectancy standard. The Commission specifically requested comment on the workability of the proposal. Will the procedure, in practice, narrow the hearing issues and reduce Commission involvement in scrutinizing broadcasters' program-related judgments? Will this proposal provide more certain guidelines for determining the likelihood that a license will or will not be renewed? Will this, in turn, encourage incumbents to invest in their broadcast facilities, and thereby ensure the quality of service rendered?

8. The Commission also requested comment on the type of evidence that should be required to grant an incumbent a presumption of entitlement to a renewal expectancy credit, as well as the type of showing that should be required by the challenger to rebut the presumption. The Commission specifically requested comment on its proposal that the incumbent's submission of its "issues/programs" list constitutes a *prima facie* showing, including comment on what, if any, rule changes are needed to implement the proposal. The Commission also urged commenters to suggest details as to how its proposal should be applied in practice.

9. Further, the Commission requested comment on whether this proposal is consistent with the comparative hearing requirement of section 309(e) as interpreted by the courts. Specifically, does the rebuttable presumption permit a fair and meaningful comparison between the incumbent and challengers? Finally, it asked commenters to evaluate the burden-shifting proposal described in this Third Further Notice *vis-a-vis* the other renewal expectancy reforms proposed in the Second Further Notice. Which of all of the proposals discussed do the commenters believe will best achieve the Commission's goals and why?

Paperwork Reduction Act Statement

10. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection, and/or

record keeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

Ex Parte Consideration

11. This is a non-restricted notice and comment rule making proceeding. *See* Section 1.1200 *et seq.* of the Commission's Rules, 47 CFR Section 1.1200 *et seq.*, for rules governing permissible *ex parte* contacts.

Comment Information

12. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before October 10, 1989, and reply comments on or before October 25, 1989. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

Further Initial Regulatory Flexibility Analysis

13. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 603, this proceeding will affect broadcast licensees who are seeking license renewal and applicants for construction permits for broadcast facilities that are mutually exclusive with facilities subject to license renewal. All broadcasters and competing applicants, including small entities and entrepreneurs, could benefit from the additional proposal suggested in this decision. The new order of proof could limit the issues in some license renewal hearings, thereby making them simpler and less expensive, and could reduce unnecessary Commission oversight of broadcasters' program-related judgments. This proposal would shift the burden of proving meritorious service away from the incumbent licensee, and place the burden of proving failure to provide meritorious service on the competing applicant, thus impacting on both parties. Public comment is requested on the Further Initial Regulatory Flexibility Act Analysis set out in full in the Commission's complete decision.

14. As required by section 603 of the Regulatory Flexibility Act, a further initial regulatory flexibility analysis (FIRFA) of the expected impact of the proposed reform on small entities is set forth in summary above, and in full in the complete text of the Commission's decision. Written public comments are requested on the FIRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the Third Further Notice of Inquiry and Notice of Proposed Rule Making, but they must have a separate and distinct heading designating them as responses to the regulatory flexibility analysis. The Secretary shall cause a copy of this Further Notice, including the FIRFA, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. Section 601 *et seq.* (1981).

List of Subjects in 47 CFR Part 73

Television broadcasting, Radio broadcasting.

Federal Communications Commission,
Donna R. Searcy,
Secretary.

[FR Doc. 89–20063 Filed 8–24–89; 8:45 am]
BILLING CODE 6712–01–M

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47 CFR Part 90

[PR Docket No. 88–548; FCC 89–255]

Frequency Coordination in the Private Land Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to revise the Commission's rules governing frequency coordination in the private land mobile radio services. Since the Commission changed these rules in 1986, some applicants have complained that they have no alternative to using the designated coordinator. The proposed rule changes would offer applicants two alternative ways of filing directly with the Commission.

DATES: Comments must be received by December 1, 1989; replies must be received by January 12, 1990.

ADDRESS: Comments should be sent to The Secretary, Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Kent Nakamura at (202) 632–6940 or Joseph Levin at (202) 632–6497.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, PR Docket 88–548, adopted August 2, 1989, released August 15, 1989.

The full text of this Commission document is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of the Notice of Proposed Rule Making may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Notice of Proposed Rule Making

On December 5, 1988, the Commission released a report on its experience with frequency coordination in the private land mobile radio services since the current rules went into effect in October 1986. In it, the Commission stated its general satisfaction with the frequency coordination procedures. It did, however, solicit comments on several alternatives to the existing structure.

Based on the record of that proceeding, the Commission has adopted this Notice soliciting comment on specific alternatives to the existing frequency coordination strucure. The proposal would allow an applicant for a radio license in the private land mobile radio services to file an application directly with the Commission rather than through a coordinator. Such an applicant would select a frequency through monitoring or through a database search to identify all co-channel licensees within 75 miles of the proposed transmitter location. The Notice further proposes that such an alternative be authorized as a two year pilot program to allow the Commission to evaluate the success of the new procedure and to assess its impact on Commission resources and procedures before committing to it permanently.

Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 603, the Commission's initial regulatory flexibility analysis has been prepared. It is available for public viewing as part of the full text of this decision, which may be obtained from the Commission or its copy contractor.

Paperwork Reduction

The proposals contained herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and contain new or modified form, information collection and/or recordkeeping, labeling, disclosure or record retention requirements, and may increase burden hours imposed on the public. Implementation of new or modified requirements will be subject to approval by the Office of Management and Budget as prescribed by the Act.

List of Subjects in 47 CFR Part 99

Frequency coordination, Radio.

Federal Communications Commission,
Donna R. Searcy,
Secretary.
[FR Doc. 89-20062 Filed 8-24-89; 8:45 am]
BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 54, No. 164
Friday, August 25, 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

Commodity Credit Corporation

Peanut Price Support Adjustment for 1989 Crop

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of determination.

SUMMARY: This notice sets forth a determination by the Executive Vice President, Commodity Credit Corporation, that the support rate for individual lots of 1989-crop quota and additional peanuts will be discounted by 100 percent from the support rate that otherwise would be applicable to such lots if a peanut producer is asked to certify whether a growth regulator has been applied with respect to the peanuts (1) refuses to make the certification; (2) certifies that a growth regulator has been used; or (3) supplies an inaccurate certification.

EFFECTIVE DATE: August 25, 1989.

FOR FURTHER INFORMATION CONTACT: Jack S. Forlines, Tobacco and Peanut Division, ASCS, USDA, P.O. Box 2415, Washington, DC 20013, telephone 202–382–0156.

SUPPLEMENTARY INFORMATION: Section 401 of the Agricultural Act of 1949 (the 1949 Act) authorizes the Secretary of Agriculture, except as otherwise provided in the 1949 Act, to determine the amounts, terms and conditions of price support operations and the extent to which such operations are carried out. Section 403 provides that appropriate adjustments may be made in the support price for any commodity for differences in grade, type, staple, quality, location, and other factors.

The adjustments to be made in determining the price support rate for the various types of 1989-crop peanuts were announced on April 19, 1989. The adjustments included premiums and discounts for differences in quality and location. Subsequent to the announcement, processors of peanuts have indicated that they will not purchase 1989-crop peanuts to which a growth regulator has been applied. Accordingly, a reduction in the commercial value of such peanuts may occur. In June the manufacturer voluntarily withdrew the product from the market and has written to all peanut producers notifying them that the company will buy back any stocks of the growth regulator. In addition, the Environmental Protection Agency is proposing to lower the legal residue level (tolerance) such growth regulator. The new tolerance (4 ppm) will cover any raw peanuts treated in 1989 and any processed products that may remain in channels of trade. The discount in the support rate that otherwise would be applicable to such peanuts prevents the Commodity Credit Corporation's price support program from becoming the "market" for peanuts to which a growth regulator was applied during production. Because of price support peanut pool accounting procedures and possible diminished selling prices for these peanuts out of the price support inventory, this could, unless a discount is implemented, result in losses to the Commodity Credit Corporation and/or losses to those peanut producers who pledge, as collateral for price support loans, peanuts that were produced without the use of a growth regulator.

Determination

The price support rate for an individual lot of 1989-crop quota and additional peanuts shall be discounted by 100 percent from the support rate that otherwise would be applicable to such peanuts if a peanut producer is asked to certify whether a growth regulator has been applied with respect to the peanuts and (1) refuses to make the certification; (2) certifies that a growth regulator has been used; or (3) supplies an inaccurate certification. If an inaccurate certification is made, a refund of the monies received as a result of the inaccurate certification will be required, and in addition, the producer may be assessed damages and other charges. If a producer offers to pledge peanuts as collateral for a price support loan but is not asked to provide a certification or other assurance that a growth regulator was not used to produce the peanuts, such discount shall not apply.

Authority: Sections 401 and 403 of the Agricultural Act of 1949 (7 U.S.C. 1421 and 1423).

Signed at Washington, DC on August 21, 1989.

Keith D. Bjerke,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 89–20029 Filed 8–24–89; 8:45 am]
BILLING CODE 3410–05–M

Forest Service

Rocky Mountain Region; Exemption of Fire Recovery Projects From Appeal

AGENCY: Forest Service, USDA.

ACTION: Notification that certain fire recovery projects are exempted from apeals under provisions of 36 CFR part 217.

SUMMARY: This is a notification that decisions to implement certain projects pertaining to recovery from the Clover-Mist fire on the Shoshone National Forest are exempted from appeal per provisions of 36 CFR Part 217.4 (a) (11) as published January 23, 1989, at Vol. 54, No. 13, page 3342.

EFFECTIVE DATE: Effective on August 25, 1989.

FOR FURTHER INFORMATION CONTACT: Barry Davis, Forest Supervisor, Shoshone National Forest, P.O. Box 2140, Cody, WY 82414–2140.

Background

In 1988, the Clover-Mist fire burned over 120,000 acres of the Shoshone National Forest. In September and October 1988, an interdisciplinary team surveyed much of the burned area, in part to identify emergency and long term rehabilitation needs. From this survey it was found that in many places, this fire burned hot enough to cause severe damage to vegetation, soil and water resources. Other burn damage includes: habitat essential to the endangered grizzly bears; habitat for other major species of wildlife; nursery streams for a Blue Ribbon Trout fishery; areas along a State and Nationally designated scenic By-way and an entrance to Yellowstone National Park; streams providing water for domestic and agricultural use; as well as structures for recreation and range management. The damage to soils is of greatest concern because this will affect the length of time necessary to

achieve natural revegetation as well as quantity and quality of water run-off from the area.

The emergency rehabilitation interdisciplinary team concluded that there was risk of flooding and reduced water quality caused by this fire. If left "untreated" these problems will persist for several years and the resulting vegetation will provide no diversity necessary for habitat of most wildlife species. The risk of insect and disease infestations in both the short and long run are possible and were noted by the team. They also projected a substantial loss of timber values over the 9,000 acres to 11,000 acres of suited timber base that was burned.

Field surveys of the burned area during June and July of 1989 indicate that many of the predicted consequences of the fire are taking place. In many areas, stream courses and riparian vegetation were severely damaged and natural process will take as much as 10 years to stabilize these areas. Damage to vegetation is great enough that a return to the prefire conditions of species diversity may take as much as 350 years through natural processes. In one instance in July, a flash flood at least 3 times the size of a 500 year event was caused by less than ½ inch of rain in a drainage that had been burned by the fire. This washed out a temporary bridge and stream gauge, and caused damage on the Forest as well as on private land down stream.

Because of the drought leading up to the fires in 1988, trees were damaged more than anticipated and are losing their sawlog value quicker than anticipated. Insects that attack both dead and live trees have moved into the area and threaten those areas not burned by the fire. If left untreated, this will cause loss of much of the unburned vegetation, further degradating wildlife habitat, recreation opportunities, visual quality and soil and water resources. All of these factors could increase the possibility for "landslides" in response to summer storms for the next 5 to 10 years.

In response to this new information, an accelerated schedule of planned fire recovery efforts including salvage of burned timber is necessary to mitigate as much of the damage caused by the fire as possible.

Planned Actions

Emergency rehabilitation efforts were limited to seeing only the most severely burned areas and work along trails to provide better drainage and sediment traps (by felling trees along these trails) to reduce water quality degradation. This emergency work was accomplished in 1988. Beyond this, the emergency rehabilitation team recommended a number of actions for restoration of the entire burned area as well as mitigation of the effects of the fires. Among these recommendations were:

Stirring up the burned soils and breaking the existing crust to allow for water infiltration and plant growth;

Felling and leaving trees perpendicular to slopes to slow run-off and trap sediment;

Leaving tops and limbs of cut trees as well as other vegetation to provide sediment traps and/or filter out sediment;

Plant different types of vegetation in patches to provide filtration of run-off in the short term and diversity in the longer term;

Remove fire damaged trees to remove breeding areas for harmful insects, enhance visual resources as well as remove a potential hazard to forest visitors;

Create "brush piles" to provide cover for smaller species of wildlife; and

Rehabilitate roads and trails to lessen run-off and sediment production.

The acres to be treated and decisions on what to plant vary by location and with the extent of the fire damage over the 120,000 acres of burn depending on the severity of burn, habitat types/soils, geology and location within/outside of wilderness. A number of projects aimed at accomplishing recovery objectives as planned for the summer of 1989 are being implemented.

Recent information on the extent of damage to natural ecological processes indicates that there is a need for increasing the number and extent of fire recovery efforts this year. Conclusions from the interdisciplinary team preparing Environmental Assessments for the salvage sales planned for 1989 indicate that such operations when done in conjunction with other recovery efforts will assist mitigation of fire effects and speed recovery. For these reasons, some of the recovery work, including 3 possible timber salvage sales, originally planned for the summer of 1990 will be attempted in 1989. These three salvage sale/recovery projects will include all of the above recommendations as part of the work to be accomplished during and/or after removal of most of the fire damaged trees. The feasibility of these projects is being analyzed at this time and environmental analyses will be completed within the next two to three months. This will assure that the most cost efficient manner for accomplishing specific recovery objectives will be identified and documented in an Environmental Assessment for each project.

Because of the extensive damage done to all resources within this area there is a need to remedy this damage as quickly as possible. Further, to accomplish this work in a manner which recovers part of the cost requires that the fire damaged trees be of commercial sawlog value. Not only will removing these trees accomplish many of the actions listed above, but a significant portion of the receipts from these sales will provide funding for the other work planned through collection of KV funds. Some of the fire damaged trees are deteriorating to the point where they will have no commercial value and it is anticipated that much of the commercial value will be lost in the next 12 to 18 months.

For these reasons, the next 3 salvage sale projects designed to accomplish the above objectives must be undertaken as quickly as possible, if, through environmental analysis, it is found that all three projects are feasible. To expedite these sale projects and the accompanying work, I am exempting these projects from review (appeal) under 36 CFR Part 217.

These three salvage sales are:

Cathedral Salvage Sale;
One Mile Salvage Sale: and
Oliver Gulch Salvage Sale.

Dated: August 16, 1989.

Charles J. Hendricks,

Acting Regional Forester.

[FR Doc. 89-19947 Filed 8-24-89; 8:45 am]

BILLING CODE 3410-11-M

National Agricultural Statistics Service

Proposed Change In Durum Wheat Estimating Program

Notice is hereby given that the National Agricultural Statistics Service (NASS) plans to change the Durum Wheat estimating program.

The proposed changes focus on Arizona and California. Estimates of Durum seeded acreage for these two States will be added to the *Wheat and Rye Seedings* report beginning with the January 1990 release. Forecasts of Durum production in Arizona and California will be added to the May and June 1 *Crop Production* reports. All six Durum estimating States will make July 1 production forecasts. Only the four northern Durum States will make new production forecasts for August 1 (Arizona and California estimates will be carried forward).

The Arizona and California changes are at the request of the Industry because of the large existing differences

in planting and harvesting dates between the northern and "Desert" Durum growing areas.

Comments from data users regarding the proposed modifications outlined should be addressed to Donald M. Bay, Director, Estimates Division, NASS/USDA, Washington, DC 20250.

Done at Washington, DC this 21st day of September 1989.

Charles E. Caudill,

Administrator.

[FR Doc. 89-20122 Filed 8-24-89; 8:45 am]

BILLING CODE 3410-20-M

Proposed Change in Unit of Measure for Sugar Deliveries

Notice is hereby given that the National Agricultural Statistics Service (NASS) plans to change the unit of measure for a portion of the data shown in the quarterly Sugar Market Statistics reports. Beginning with the first report of 1990, NASS plans to change the unit of measure for "sugar deliveries by type of product or business of buyer" from hundredweights, refined basis, to short tons, refined basis. Units of measure for all other tables in the publication are short tons, raw value.

This change is being proposed at the request of data users who historically have converted hundredweights in the publication to short tons in order to have all data in the same units.

Comments from data users regarding the proposed modifications outlined should be addressed to Donald M. Bay, Director, NASS/USDA, Washington, DC 20250.

Done at Washington, DC this 22nd day of August, 1989.

Charles E. Caudill,

Administrator.

[FR Doc. 89-20121 Filed 8-24-89; 8:45 am]

BILLING CODE 3410-20-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-428-037]

Drycleaning Machinery From West Germany; Final Results of Antidumping Duty Administrative Review in Accordance With Decision Upon Remand

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of Amendment to Final Results of Antidumping Duty Administrative Review in Accordance with Decision upon Remand.

SUMMARY: On December 1, 1988, the United States Court of International Trade ("the Court") ordered the Department of Commerce ("the Department") to reconsider respondent Boewe Maschinenfabrik GmbH's ("Boewe") claim for a "level of trade" adjustment in the administrative review of drycleaning machinery from West Germany. *American Permac, Inc.* v. *United States*, 12 CIT ___, 703 F. Supp. 97 (1988). The Department filed the required remand results with the Court on March 20, 1989. On June 14, 1989, the Court affirmed, in its entirety, the remand determination by the Department. *American Permac, Inc.* v. *United States*, 13 CIT ___, Slip Op. 89-83 (1989). As a result the margin for Boewe was reduced from 30.05 percent to 15.85 percent.

EFFECTIVE DATE: August 25, 1989.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or Chip Hayes, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-8312/2923.

SUPPLEMENTARY INFORMATION:

Background

On January 10, 1985, the Department published in the **Federal Register** (50 FR 1256) the final results of its administrative review of the antidumping duty finding on drycleaning machinery from West Germany. The review covered two producers and/or exporters of this merchandise to the United States and the period July 1, 1979 through June 30, 1980. That notice gave 30.05 percent as the margin for Boewe. The notice stated that the Department had compared sales through distributors in the United States with direct sales to end-users in the home market, with no adjustment for level of trade differences because the differences were not adequately quantified.

Respondent Boewe field a lawsuit challenging our denial of a level trade adjustment. Boewe alleged that it had, in fact, provided sufficient quantification of expenses attributable to level of trade differences.

On December 1, 1988, the Court remanded the final results of review to the Department for reconsideration of Boewe's level of trade claim. On March 20, 1989, the Department issued remand results that amended the final results of review on drycleaning machinery from West Germany. The Department determined that Boewe had adequately quantified certain level of trade differences that were claimed. The amended results were affirmed by the Court, in their entirety, as a result of the ruling issued on June 14, 1989. *American Permac, Inc.* v. *United States*, 13 CIT ___, Slip. Op. 89-83 (1989). We have changed the margin for Boewe from those presented in the final results to 15.85 percent.

Amended Final Results of the Review

The Department has amended the final results. The amended weighted-average margin for Boewe is 15.85 percent.

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

This amendment to final results of antidumping duty administrative review notice is in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.22 of the new Commerce Regulations (19 CFR 353.22).

Dated: August 17, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-20014 Filed 8-24-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-811]

Preliminary Determination of Sales at Less Than Fair Value; Drafting Machines and Parts Thereof From Japan

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that drafting machines and parts thereof from Japan 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 suspend liquidation of all entries of drafting machines and parts thereof from Japan as described in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make a final determination by November 1, 1989.

EFFECTIVE DATE: August 25, 1989.

FOR FURTHER INFORMATION CONTACT: Mark Wells or Louis Apple, 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) 377–3798 and (202) 377–1769, respectively.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We preliminarily determine that drafting machines and parts thereof from Japan are being, or are likey to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The estimated average margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the notice of initiation (54 FR 19424, May 5, 1989), the following events have occurred: On May 22, 1989, the ITC determined that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports from Japan of drafting machines and parts thereof (USITC Pub. 2192, May 1989).

On May 26, 1989, the respondent in the investigation, Mutoh Industries, Ltd. and Mutoh America, Inc. (collectively Mutoh), asked for the exclusion of parts data from the questionnaire response.

On May 30, 1989, the Department presented sections A, B and C of the antidumping questionnaire to respondent.

On June 8, 1989, respondent requested an extension of the deadline for filing the response to sections B and C of the questionnaire. We also granted respondent's May 26, 1989 request for the exclusion of parts data from the questionnaire response.

On June 14, 1989, we granted respondent an extension to July 13, 1989 for filing the response to sections B and C of the questionnaire. We also received section A of the questionnaire response from respondent.

On July 13, 1989, counsel for respondent notified the Department that respondent has decided not to actively participate in the investigation. Respondent requested the return of all submissions made to the Department and asked the Department to instruct petitioner's counsel to return all materials released under the terms of the administrative protective order (APO).

On July 17, 1989, citing § 353.15(e) of the Department's regulations published in the Federal Register on March 28, 1989 (54 FR 12742) (to be codified at 19 CFR 353.15), counsel for Vemco, petitioner in this investigation, requested a disclosure conference and also inquired about the disposition of petitioner's business proprietary data that had been released to respondent's counsel under APO.

On July 19, 1989, counsel for petitioner informed the Department and the counsel for respondent that material and copies of material released under the APO had been destroyed pursuant to the Department's instructions.

On July 20, 1989, counsel for respondent informed the Department that, although respondent would not provide further factual information in the investigation, counsel for respondent still intended to participate in the proceeding and wanted to retain information released under the APO.

On August 4, 1989, we informed counsel for petitioner that counsel for respondent was still entitled to information released under the APO. We also determined that a disclosure conference as specified by § 353.15(e) of the Department's regulations, did not apply in this investigation.

Period of Investigation

The period of investigation (POI) is November 1, 1988 through April 30, 1989.

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 is now classified solely according to the appropriate HTS item numbers. The HTS item numbers are provided for convenience and U.S. Customs Service purposes. The written description remains dispositive.

The products covered by this investigation include drafting machines and parts thereof from Japan, currently classifiable under the Harmonized Tariff Schedule sub-headings 9017.10.00, and 9017.90.00. Prior to January 1, 1989, such merchandise was classified under item 710.8025 of the Tariff Schedules of the United States Annotated (TSUSA).

The scope of this investigation includes drafting machines that are finished, unfinished, assembled, or unassembled, and drafting machine kits. For purposes of this investigation, "drafting machine" refers to "track" or "elbow-type" drafting machines used by designers, engineers, architects, layout artists, and others. Drafting machines are devices for aligning scales (or rulers) at a variety of angles anywhere on a drawing surface, generally a drafting board. A protractor head allows angles to be set and read and lines to be drawn at this angle. The machine is generally clamped to the board. Both "track" and elbow-type" drafting machines are classified under HTS 9017.10.00.

Also included within the scope of this investigation are parts of drafting machines classified under HTS 9017.90.00. Parts include, but are not limited to, horizontal and vertical tracks, parts of horizontal and vertical tracks, band and pulley mechanisms, parts of band and pulley mechanisms, protractor heads, and parts of protractor heads, destined for use in drafting machines. Accessories, such as parallel rulers, lamps and scales are not subject to this investigation.

Such or Similar Comparisons

For respondents, pursuant to section 771(16)(c), we established two categories of "such or similar" merchandise: (1) Track drafting machines and (2) elbow-type drafting machines.

Product comparisons for track and elbow-type drafting machines were based on information submitted in the petition.

Some Japanese models sold only in the home market during the period of investigation include a scale balancer, which is found only on track drafting machines. A scale balancer keeps the scale stationary and allows for added balance to the equipment, thus increasing the efficiency and precision of the drafting machine.

Fair Value Comparisons

To determine whether sales of drafting machines and parts thereof from Japan to the United States were made at less than fair value, we compared the United States price to the foreign market value, as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

Since Mutoh Industries declined to participate in this investigation we used the best information available as required by section 776(c) of the Act. As best information available, we used data contained in the petition. Petitioner provided price data on five models of drafting machines exported to the United States and five comparable models sold in the home market. Some of petitioner's price adjustments were disallowed because sufficient documentation was not provided to support its allegations.

Since petitioner did not provide a 1988 price list for respondent's sales in the

United States, price data from the petition over a thirty-four month period (January 1985–October 1987) was used to calculate an average yearly price increase for each model. This price increase was then applied to respondent's 1987 list prices for all five U.S. models to arrive at an estimated 1988 list price for each model. Deductions from the estimated 1988 list price were made for sales discounts to unrelated dealers, U.S. customs duties and fees, and U.S. warehousing fees, to arrive at an adjusted United States price for each model.

Prices contained in the petition for the only two alleged U.S. importers were used because the petitioner provided inadequate support for the derivation of estimated prices charged by Mutoh, Japan.

The Department's estimate of foreign market value was based on list prices in Japan as adjusted and explained above, less sales discounts to unrelated dealers and a difference in merchandise adjustment for Japanese models that include a scale balancer.

We took the highest margin for each such or similar category of merchandise and calculated a simple average of the values to determine the margin for Mutoh Industries and the All Other rate.

United States Price

United States price was based on the U.S. price information provided in the petition as adjusted and explained in the "Fair Value Comparisons" section of this notice.

Foreign Market Value

Foreign market value was based on home market prices provided in the petition as adjusted and explained in the "Fair Value Comparisons" section of this notice.

Verification

Since Mutoh did not furnish a complete response to the questionnaire, we will not conduct a verification.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of drafting machines and parts thereof from Japan, as defined in the "Scope of Investigation" section of this notice, 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 require a cash deposit or posting of a bond equal to the estimated amounts by which the foreign market value of the subject merchandise from Japan exceeds the United States price as shown below. This suspension of liquidation will remain in effect until further notice. The estimated less than fair value margins are shown below.

Manufacturer/Producer/Exporter	Margin percentage
Mutoh Industries, Ltd. (Mutoh)	86.91
All Others	86.91

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. In addition, 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 protection order, without the written consent of the Assistant Secretary for Import Administration.

The ITC will determine whether these imports materially injury, or threaten material injure to, a U.S. industry before the later of 120 days after the date of this preliminary determination or 45 days after our final determination, if affirmative.

Public Comment

In accordance with § 353.38 of the Department's regulations, case briefs, and any other written comments, in at least ten copies must be submitted to the Assistant Secretary by October 2, 1989, and rebuttal briefs by October 10, 1989. In accordance with § 353.38(b) of the Department's regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs at 10:00 a.m. on October 13, 1989, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, DC. 10230. Individuals who wish to participate in the hearing must submit a request to the Assistant Secretary for Import Administration, Room B–099, at the above address within ten days of the publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the arguments to be raised. In accordance with § 353.38(b) of the Department's regulations, presentations will be limited to issues raised in the briefs.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)).

Dated: August 18, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

FR Doc. 89–20138 Filed 8–24–89; 8:45 am]

BILLING CODE 3510–DS–M

National Institute of Standards and Technology

Malcolm Baldrige National Quality Award's Panel of Judges

AGENCY: National Institute for Standards and Technology, Commerce.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that there will be a closed meeting of the Panel of Judges of the Malcolm Baldrige National Quality Award from Wednesday, October 4, through Friday, October 6, 1989. The Panel of Judges is composed of nine members prominent in the field of quality management and appointed by the Secretary of Commerce. The purpose of this meeting is to review the 1989 Award applications and to select applicants to be recommended for receipt of the Award. The applications under review contain trade secrets and proprietary commercial information submitted to the Government in confidence.

DATES: The meeting will convene October 4, 1989 at 8:30 a.m. and adjourn at approximately 2:00 p.m. on October 6, 1989. The entire meeting will be closed.

ADDRESSES: The meeting will be held in Lecture Room C, National Institute of Standards and Technology, Gaithersburg, MD 20899.

FOR FURTHER INFORMATION CONTACT: Dr. Curt W. Reimann, Associate Director for Quality Programs, National Institute for Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975–2036.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on May 19, 1989 that the meeting of the Panel of Judges will be closed pursuant to Section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App., as amended by Section 5(c) of the Government in the Sunshine Act, Public Law 94–409. The meeting, which involves examination of records and discussion of Award applicant data,

may be closed to the public in accordance with section 552b(c)(4) of Title 5, United States Code, since the meeting is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential.

Dated: August 21, 1989.

Raymond G. Kammer,

Acting Director.

[FR Doc. 89-20077 Filed 8-24-89; 8:45 am]

BILLING CODE 3510-13-M

National Telecommunications and Information Administration

Comprehensive Study of the Radio Frequency Spectrum

AGENCY: National Telecommunications and Information Administration (NTIA), Commerce.

ACTION: Notice.

Commencing this fall, the National Telecommunications and Information Administration (NTIA) will undertake a comprehensive policy review of the use and management of radio spectrum in the United States. While NTIA has previously analyzed and reviewed in detail many policy aspects of spectrum use and management, this announcement marks the start of the first fundamental reexamination of spectrum policy objectives and issues since NTIA's organization in 1978.

Such a review is timely in light of sweeping changes in demand for spectrum as well as the associated technology. These changes require the development and fostering of policies that will encourage the most effective, efficient, and fair use of spectrum.

For example, while demand for spectrum continues to expand dramatically, technological advances such as the widespread deployment of fiber optics and satellite technologies afford users the opportunity to shift among communications media and thereby free spectrum for other needs. Moreover, advanced management techniques could permit more efficient use of spectrum and exploitation of underutilized bands.

In the near future, NTIA intends to issue a Notice of Inquiry (NOI) to request public comment on specific economic, technical, and regulatory issues to be studied concerning U.S. spectrum policy. General policy goals for spectrum use and management include affording maximum opportunity for the development of innovative services; ensuring U.S. national defense, law enforcement and other essential government service requirements are met; ensuring that international frequency management accommodates U.S. interests; and providing U.S. spectrum users with fair and efficient access to this resource.

NTIA is the Executive Branch agency principally responsible for the development and presentation of domestic and international telecommunications policy. Under Executive Order 12046, NTIA acts as principal adviser to the President on telecommunication policy, and is directed to develop a long range U.S. spectrum management plan. NTIA also has statutory authority to license government radio frequency use.

ADDRESSES: National Telecommunications and Information Administration, Room HCH 4725, U.S. Department of Commerce, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Joseph L. Gattuso, Office of Policy Analysis and Development, 202-377-1880, or Fred Wentland, Office of Spectrum Management, 202-377-1850.

Janice Obuchowski,

Assistant Secretary of Commerce for Communications and Information.

[FR Doc. 89-20006 Filed 8-24-89; 8:45 am]

BILLING CODE 3510-60-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1989 Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1989 commodities to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: September 25, 1989.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: On April 28 and May 12, 1989 the Committee for Purchase from the Blind and Other Severely Handicapped published notices (54 FR 18324 and 20628) of the proposed addition of 100 percent of the total Government requirements for cold weather undershirts and cold weather drawers to Procurement List 1989, November 15, 1988 (53 FR 46018).

Comments were received from several firms and others on their behalf objecting to the addition of the total requirements for the undershirts and drawers to the Procurement List. The significant issues raised involved the firms' expenditure of substantial nonreimbursable funds to assist the Government in developing the specification for the items without the opportunity to compete for the initial quantity purchased under the finalized specification; the difficulty in producing the items involved; and adverse impact on the Defense Mobilization Base, the previous contractors, and a current subcontractor. In addition, comments were received from the workshops proposed to produce these items and from others on their behalf recommending that the drawers and undershirts be added to the Procurement List because of the employment and training opportunities that would be generated for persons with severe disabilities.

Lack of Opportunity To Compete Under Finalized Specification

Seven firms received contracts for these items during the 1986-1989 period. Of these, five received small contracts, and two received small contracts and substantial follow-ons to produce the items prior to the development of the final specifications.

Three of the five firms which had received small contracts during the 1986-1987 period but are not current contractors wrote to complain about the lack of opportunity to compete for future contracts under the finalized specification. These firms stated that they had expended significant nonreimbursable funds to test the Government specification and that the addition of the undershirt and drawers to the Procurement List would make it impossible for them to recoup costs incurred in working with suppliers, purchasing equipment, preproduction planning, start-up, and training workers to produce the items. They indicated that the lack of opportunity would cause irreparable harm to their firms.

For fixed price contracts of the type received by these firms, contractors are only guaranteed that the quantities included in the contracts will be procured. A firm that expends funds to develop its capability to produce an item for the Government does so with no guarantee that it will receive future contracts for the item involved. The former contractors in question expended funds of their own volition, knowing that they would not necessarily receive additional work. In fact, in each case,

the firms did not receive any of the substantial follow-on purchases made during the 1988–1989 period. Consequently, since those firms do not currently hold contracts and have no guarantee that they will receive contracts in the future, adding 100 percent of the items to the Procurement List would not have a severe adverse impact on their operations.

Adverse Impact on Defense Mobilization Base

One commenter indicated that the Defense Mobilization Base for these items would be adversely affected if they were added to the Procurement List. There is no justification for this assertion, which assumes that work centers cannot meet Government needs for DOD Industrial Preparedness program items. In fact, there are a number of DOD Industrial Preparedness items on the Procurement List which workshops have been successfully producing in accordance with Government requirements.

Ability To Produce

One commenter indicated that some of the manufacturing operations require significant eye/hand coordination. Another stated that the items are highly specialized requiring extensive training of the labor force. In considering comments of this nature, the Committee relies primarily upon information provided by the appropriate central nonprofit agency (in this case, the National Industries for the Severely Handicapped) and the procuring agency (in this case, DPSC). The central nonprofit agency is charged with the responsibility of working closely with work centers to ensure that they will have the equipment and raw materials, the technical knowledge, and the quality assurance procedures needed to produce the commodity in compliance with Government specifications. The procuring agency is asked to review the workshops' capability and to conduct an on-site inspection if deemed necessary.

Information provided by these sources in this case led the Committee to conclude that the eye/hand coordination and labor force training requirements associated with these items can be handled by the workshops and, in fact, are not as significant as those required for other items being successfully provided by workshops. The Committee was influenced, however, by concerns expressed by DPSC about the workshops' abilities to produce the large volumes that will be required initially.

Impact on Current Contractors

Of the two contractors that received substantial awards for these items during the 1988–1989 period prior to finalization of the specifications, one submitted comments. The letter explained that the contractor did not intend to bid on future solicitations for the items but that its subcontractor, which had handled 100 percent of the production under earlier contracts, did. The contractor indicated that the addition would have a tremendous effect on the subcontractor and had the potential of forcing it to close. The contractor also expressed the hope that the subcontractor would have the opportunity to bid on at least a portion of future contracts.

The estimated annual values of the total Government requirements for the drawers and undershirts represent approximately 1.3 percent and 0.04 percent of the annual sales of the current contractor. This is not considered to be severe adverse impact.

Other Impact

The Committee's procedures require consideration of the impact of a proposed addition of the current or most recent contractor and not upon subcontractors. However, the Committee does take into account comments submitted by all parties, including subcontractors.

In this case, a subcontractor to one of the current contractors for both items submitted comments. The firm's vice-president expressed concern about the addition, indicating that it would be extremely harmful to the firm's business, resulting in the termination of a large number of employees and the possible closing of the firm. He indicated that sales of the two items represented more than half of the firm's business and that his firm intended to bid as a contractor on future procurements of the items. The subcontractor also indicated that a compromise could be reached by giving the "Handicapped" a portion of the future contracts.

In response to the subcontractor's compromise suggestion, the Committee asked the subcontractor what impact the addition to the Procurement List of 50 percent of each of the two items would have on his firm. The subcontractor indicated that a 50 percent addition would allow it an opportunity to bid on future contracts and that the economic impact on the firm would be less.

Committee Decision

After consideration of the material presented to it concerning the capability of qualified workshops to produce the drawers and undershirts at fair market prices and the impact of the addition on the current or most recent contractor, the Committee has determined that the undershirts and drawers are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.6. Taking into account the circumstances of the subcontractor, the compromise suggestions, and the DPSC concerns about the work centers' capabilities to produce the entire initial amount, the Committee decided to add only 50 percent of the total Government requirements for each of the items to the Procurement List at this time.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities listed.

c. The actions will result in authorizing small entities to produce the commodities procured by the Government.

Accordingly, the following commodities are hereby added to Procurement List in 1989:

Drawers, Cold Weather, 8415–01–227–9542, 8415–01–227–9543, 8415–01–227–9544, 8415–01–227–9545, 8415–01–227–9546, (50 percent of the Government's requirement).

Undershirt, Cold Weather; 8415–01–227–9547, 8415–01–227–9548, 8415–01–227–9549, 8415–01–227–9550, 8415–01–227–9551, (50 percent of the Government's requirement).

E. R. Alley, Jr.,

Deputy Executive Director.

[FR Doc. 89–20081 Filed 8–24–89; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1989 Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1989 a commodity to be produced and services to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: September 25, 1989.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557–1145.

SUPPLEMENTARY INFORMATION: On June 16, 30 and July 10, 1989, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (54 FR 25601, 27667 and 28832) of proposed additions to Procurement List 1989, which was published on November 15, 1988 (53 FR 46016).

After consideration of the material presented to it concerning capability of qualified workshops to produce the commodity and provide the services at a fair market price and impact of the addition on the current or most recent contractors, the Committee has determined that the commodity and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.6.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodity and services listed.

c. The actions will result in authorizing small entities to produce the commodity and provide the services procured by the Government.

Accordingly, the following commodity and services are hereby added to Procurement List 1989:

Commodity

Strap Assembly, Webbing

2540–00–894–9545

Services

Janitorial/Custodial
Federal Building and U.S. Courthouse, 131 East Fourth Street, Davenport, Iowa

Janitorial/Custodial
U.S. Army Corps of Engineers at the following Yakima, Washington locations:
Fort Lewis Resident Office
Project Office adjacent to Building 810
Yakima Firing Center.

E.R. Alley, Jr.,
Deputy Executive Director.

[FR Doc. 89–20062 Filed 8–24–89; 8:45 am]
BILLING CODE 6820–33–M

Procurement List 1989 Proposed Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed addition to procurement list.

SUMMARY: The Committee has received a proposal to add to Procurement List 1989 a commodity to be produced by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: September 25, 1989.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.6. Its purpose to provide interested persons an opportunity to submit comments on the possible impact of the proposed action.

If the Committee approves the proposed addition, all entities of the Federal Government will be required to procure the commodity listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity to Procurement List 1989, which was published on November 15, 1988 (53 FR 46018):

Cushion, Seat, Vehicular

2540–00–737–3309.

E. R. Alley, Jr.,
Deputy Executive Director.

[FR Doc. 89–20083 Filed 8–24–89; 8:45 am]
BILLING CODE 6820–33–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Establishment of the DoD Clothing and Textile Board

ACTION: Establishment of the DoD Clothing and Textile Board.

SUMMARY: Under the provisions of Public Law 92–463, "Federal Advisory Committee Act," notice is hereby given that the Department of Defense (DoD) Clothing and Textile Board has been determined to be in the public interest and has been established.

The DoD Clothing and Textile Board will provide the Under Secretary of Defense (Acquisition) and the Director, Defense Logistics Agency with advice on matters related to the acquisition of clothing and textile items for all the Military Services. The range of advice will include: Developing a strategy to broaden the production base for clothing and textile items and encourage more participation by a larger segment of the clothing and textile industry; recommending improvements to military specifications to achieve higher quality and productivity; and suggesting and evaluating improvements in contracting and contract administration to facilitate more effective Government and industry working relationships.

The DoD Clothing and Textile Board will be well balanced with respect to the types and diversity of the members appointed to serve. Candidates for membership will be selected from outstanding leaders in the clothing and textile industry, both fabric and clothing item manufacturers, and will also include academicians with expertise in the field, as well as Government members from the Military Services and the Defense Logistics Agency.

Dated: August 21, 1989.

Linda M. Bynum,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89–20047 Filed 8–24–89; 8:45 am]
BILLING CODE 3810–01–M

Defense Intelligence Agency Advisory Board; Closed Meeting

AGENCY: Defense Intelligence Agency Advisory Board.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the provisions of subsection (d) of section 10 of Public Law 92–463, as amended by section 5 of Public Law 94–409, notice is hereby given that a closed meeting of a panel of the DIA Advisory Board has been scheduled as follows:

DATES: Wednesday, 13 September 1989 (8:30 a.m. to 4 p.m.)

ADDRESSES: The DIAC, Bolling AFB, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel John E. Hatlelid, USAF, Executive Secretary, DIA Advisory Board, Washington, DC 20340–1328 (202/373–4930).

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be

closed to the public. Subject matter will be used in a special study on HUMINT/ Scientific and Technical Intelligence Interface.

Dated: August 21, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89-20046 Filed 8-24-89; 8:45 am]

BILLING CODE 3870-01-M

Defense Manufacturing Board Project on Defense Industrial Strategy; Planning Meeting

AGENCY: Under Secretary of Defense (Acquisition).

ACTION: Notice of open meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Office of the Under Secretary of Defense for Acquisition announces a forthcoming planning meeting for a Defense Manufacturing Board project on Defense Industrial Strategy.

DATE AND TIME: 15 Sep 89, 0900-1630.

ADDRESS: Institute for Defense Analysis (Softech Building, 4th Floor), 2000 N. Beauregard, Alexandria, VA.

The agenda for the meeting will include a discussion of methods for identifying critical opportunities in the defense industry and ways of generating strategies for ensuring their viability.

FOR FURTHER INFORMATION CONTACT: Ms. Sherry Fitzpatrick of the DMB Secretariat, (202) 697-0957.

Dated: August 21, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89-20044 Filed 8-24-89; 8:45 am]

BILLING CODE 3810-01-M

Defense Manufacturing Board Project on Foreign Ownership and Control; Planning Meeting

AGENCY: Under Secretary of Defense (Acquisition).

ACTION: Notice of open meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Office of the Under Secretary of Defense for Acquisition announces a forthcoming planning meeting for a Defense Manufacturing Board project on Foreign Ownership and Control.

DATE AND TIME: 7 Sep 89, 0830-1700.

ADDRESS: Institute for Defense Analysis (Softech Building, 4th Floor) 2000 N. Beauregard, Alexandria, VA.

The agenda for the meeting will include a review of federal agency initiatives to monitor foreign ownership and control of defense industrial facilities, and methods for assessing their impact on national security.

FOR FURTHER INFORMATION CONTACT: Ms. Sherry Fitzpatrick of the DMB Secretariat, (202) 697-0957.

Dated: August 21, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89-20045 Filed 8-24-89; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Notice of 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.

DATES: Interested persons are invited to submit comments on or before September 25, 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 available from Margaret Webster at the address specified above.

Dated: August 22, 1989.

Carlos U. Rice,

Director, for Office of Information Resources Management.

Office of Bilingual Education and Minority Languages Affairs

Type of Review: New.

Title: Descriptive Study of Significant Features of Exemplary Special Alternative Instructional Programs.

Frequency: Semi-Annually.

Affected Public: State or local governments; Federal agencies or employees; Non-profit institutions.

Reporting Burden:

Responses: 360

Burden Hours: 90

Recordkeeping Burden:

Recordkeepers: 0

Burden Hours: 0

Abstract: This study will provide the Department with data about exemplary Special Alternative Instructional Programs. A sample of teachers will be asked to provide data about a targeted population of students who exit SAIP programs and enter regular classroom activities.

Office of Planning, Budget, and Evaluation

Type of Review: New.

Title: Design for a Study of Chapter 1 Services in Secondary Schools.

Frequency: One time.

Affected Public: State or local governments.

Reporting Burden:

Responses: 240

Burden Hours: 160

Recordkeeping Burden:

Recordkeepers: 0

Burden Hours: 0

Abstract: The purpose of this study is to provide the Department with detailed information of Chapter 1 programs in secondary schools and to examine

existing dropout rates or prevention programs that might serve as models for administering Chapter 1 services.

[FR Doc. 89-20113 Filed 8-24-89; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Financial Assistance Award; Intent To Award Grant to Grinding Consultants Company

AGENCY: Department of Energy.

ACTION: Notice of unsolicited financial assistance award.

SUMMARY: The Department of Energy announces that pursuant to 10 CFR 600.14, it is making a financial assistance award based on an unsolicited application under Grant Number DE-FG01-89CE15447 to Grinding Consultants Company to assist in the development of an invention entitled "Energy Predictive High Speed Grinding." The technology is a production metal grinding system based on predictive control of machine operating parameters to control the unit volume energy of high speed grinding.

SCOPE: This grant will aid in the assembly of a prototype of the inventor's self-truing grinding system and establish correct operating parameters to maintain grinding wheel temperatures between 300-400 degrees. Direct comparisons of production rates, part quality, and costs for conventional and this grinding system will also be made.

The current technology consists of machine mounted, organic- and vitreous-bonded grinding wheels which are used in the precision grinding of moving machine components. The amount of metal that can be removed per minute is a function of grinding wheel surface roughness (grade) and speed. The vitreous-bonded wheels are limited by internal strength to speeds of 6000 feet/minute. Organic bonded wheels have these same limits, since higher speeds cause the edges of the surface to break, causing fines which fill in surface pores, reducing the grade and efficiency.

The National Institute of Standards and Technology (NIST) estimates that 1.2 billion kWh (or 700,000 barrels of oil) per year would be saved at the powerplant. This assumes 25 percent market penetration and realization of 60 percent energy saving, as estimated by the inventor.

ELIGIBILITY: Based on receipt of an unsolicited application, eligibility of this award is being limited to Grinding Consultants Company. Mr. Roderick L. Smith, the inventor, is President of Grinding Consultants Company of Rockford, Illinois, and has 40 years of engineering and management experience with industrial machinery, and is the holder of more than 20 patents.

The term of this grant shall be two years from the effective date of award.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Procurement Operations, ATTN: Rosemarie H. Marshall, MA-453.2, 1000 Independence Avenue SW., Washington, DC 20585.

Thomas S. Keefe,

Director, Contract Operations Branch B, Office of Procurement Operations.

[FR Doc. 89-20124 Filed 8-24-89; 8:45 am]

BILLING CODE 6450-01-M

Secretarial Panel for the Evaluation of Epidemiologic Research Activities; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Secretarial Panel for the Evaluation of Epidemiologic Research Activities.

Date and Time:

Tuesday, September 12, 1989, 1:30 p.m.—4:30 p.m.

Wednesday, September 13, 1989, 8:30 a.m.—5:30 p.m.

Place: Wyndham Bristol Hotel, 2430 Pennsylvania Ave. NW., Washington, DC 20037.

Contact: Steven F. Boedigheimer, Executive Director, S.P.E.E.R.A., 1000 Independence Ave. SW., Washington, DC 20585, Telephone: (202) 586-7304.

Purpose: The Panel was established to provide the Secretary with an independent evaluation of the Department of Energy's epidemiology program and the appropriateness, effectiveness, and overall quality of the Departments epidemiologic research activities.

Tentative Agenda:

Tuesday, September 12, 1989

1:30 p.m. *Panel Procedural Business*
- —Introductions of members and staff
- —Establishment of operational procedures
- —Review of relevant rules governing advisory committee operations

2:30 p.m. *Overview of the Department of Energy*
- —Officials of the Department of Energy

Purpose and Objectives of the Panel
- —The Honorable James D. Watkins, Secretary, Department of Energy

Epidemiology Program of Department of Energy
- —Robert Goldsmith, Ph.D.

4:30 p.m. Meeting adjourned until 8:30 a.m. September 13, 1989

Wednesday, September 13, 1989

8:30 a.m. *Epidemiology Program of Department of Energy (con't)*
- —Robert Goldsmith, Ph.D.

10:30 a.m. *Invited Testimony*
12:00 p.m.-1:00 p.m. Lunch Break
1:00 p.m. *Invited Testimony (con't)*
3:00 p.m. *Public Comment*
4:00 p.m. *Panel Discussion of Work Plan*
5:30 p.m. Meeting adjourned.

Public Participation: The meeting is open to the public. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will, in the Chairperson's judgement, facilitate the orderly conduct of business. Any member of the public who wishes to make oral statements pertaining to agenda items should contact the Executive Director at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Minutes: Available for public review and copying approximately 30 days following the meeting at the Public Reading Room 1E-190, Forrestal Building, 1000 Independence Ave. SW., Washington, DC between 9:00 a.m. and 4:00 p.m., Monday through Friday except Federal holidays.

Issued: Washington, DC, on August 22, 1989.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 89-20128 Filed 8-24-89; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. FE C&E 89-16; Certification Notice—42]

Office of Fossil Energy

Filing Certification of Compliance; Coal Capability of New Electric Powerplant Pursuant to Provisions of the Powerplant and Industrial Fuel Use Act, as Amended

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of filing.

SUMMARY: Title II of the Powerplant and Industrial Fuel Use Act of 1978, as

amended ("FUA" or "the Act") (42 U.S.C. 8301 *et seq.*) provides that no new electric powerplant may be constructed or operated as a base load powerplant without the capability to use coal or another alternate fuel as a primary energy source (section 201(a), 42 U.S.C. 8311 (a), Supp. V 1987). In order to meet the requirement of coal capability, the owner or operator of any new electric powerplant to be operated as a base load powerplant proposing to use natural gas or petroleum as its primary energy source may certify, pursuant to section 201(d), to the Secretary of Energy prior to construction, or prior to operation as to base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) as of the date it is filed with the Secretary. The Secretary is required to publish in the Federal Register a notice reciting that the certification has been filed. One owner and operator of proposed new electric base load powerplants has filed self certifications in accordance with section 201(d). Further information is provided in the "SUPPLEMENTARY INFORMATION" section below.

SUPPLEMENTARY INFORMATION: The following company has filed two self certifications:

Name	Date received	Type of facility	Megawatt capacity	Location
Florida Power & Light Company, Miami, FL	08-04-89	Combined Cycle	456-524	Ft. Lauderdale, FL
Florida Power & Light Company, Miami, FL	08-04-89	Combined Cycle	770	Indiantown, FL

Amendments to the FUA on May 21, 1987, (Pub. L. 100-42) altered the general prohibitions to include only new electric base load powerplants and to provide for the self certification procedure.

Issued in Washington, DC on August 21, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89-20123 Filed 8-24-89; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Proposed Consent Order With Occidental Petroleum Corp.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Additional notice and opportunity for public comment on proposed consent order.

SUMMARY: On May 24, 1989, the Economic Regulatory Administration (ERA) gave Notice in the Federal Register of a proposed Consent Order between the Department of Energy (DOE) and Occidental Petroleum Corporation (Occidental) which would resolve matters relating to Occidental's compliance with the federal petroleum price and allocation regulations during the period October 1979 through January 1981. 54 FR 22469. The proposed Consent Order requires Occidental to pay DOE $205,080,000, which includes interest over eight years, in settlement of Occidental's potential liability for $263.9 million in alleged overcharges, plus interest, found by DOE's Office of Hearings and Appeals (OHA) in a September 30, 1988, Remedial Order issued to Occidental's wholly-owned subsidiary, OXY USA Inc. (formerly Cities Service Oil and Gas Corporation, successor in interest to Cities Service Company). *Cities Service Oil and Gas Corp.*, 17 DOE ¶83,021 (1988). Under the proposed settlement, persons claiming to have been harmed by the overcharge claims resolved by the proposed Consent Order will be able to present applications for refunds in an administrative claims proceeding before OHA.

As of August 11, 1989, ERA had received eighteen submissions concerning the proposed Consent Order. After review of those submissions, ERA has determined to invite additional written comments addressed to certain issues raised in some of those submissions. ERA will consider any additional comments that are received from the public within thirty (30) days following publication of this Notice. Following this comment period, on September 27, 1989, at 10:30 a.m. in the Department of Energy Auditorium, Room GE-086, Forrestal Building, 1000 Independence Avenue SW., Washington, DC, ERA will conduct a public hearing to provide interested persons an additional opportunity to present comments on matters solicited for comment in this Notice.

Requests to make presentations must be received in writing by 5:00 p.m. September 25, 1989, and should be marked "Request To Make Oral Comments" and forwarded to the same address indicated for written comments.

The request should identify the person (with address and telephone number) who wishes to make a presentation and the amount of the time desired. Presentations should be limited to 15 minutes. ERA will consider the written and oral comments in determining whether to accept the settlement and issue a final Order, reject the settlement, or renegotiate the agreement and, if successful, issue a modified agreement as a final Order. In view of the public interest in a prompt determination on the proposed Consent Order, and because of the number and nature of the comments already received, the only additional comments that will be considered by ERA in making a determination on whether to finalize the proposed Consent Order will be those solicited by this Notice which are received within the additional 30-day comment period and oral comments presented at the September 27, 1989 hearing.

FOR FURTHER INFORMATION CONTACT: Dorothy Hamid, Economic Regulatory Administration, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-1699.

SUPPLEMENTARY INFORMATION:

I. Comments Received

II. Analysis of Comments

III. Submission of Additional Comments.

I. Comments Received

The May 24 Notice solicited written comments to enable the ERA to receive information from the public relevant to the decision whether the proposed Consent Order should be finalized as proposed, modified, or rejected. To ensure public understanding of the bases for the proposed settlement, the May 24 Notice provided detailed information regarding Occidental's potential liability for the matters resolved by the proposed Consent Order and the considerations which formed the bases of the ERA's preliminary agreement to the proposed settlement terms. ERA received eighteen written comments on behalf of various interests, eleven of which were received during the 30-day period prescribed by the May 24 Notice.

Three letters were received from the Honorable John D. Dingell, Chairman of the House Energy Subcommittee on

Oversight and Investigations. Two of those letters were written prior to publication of the May 24 Notice. The third letter commented upon some of the considerations outlined in the May 24 Notice, and addressed a number of matters contained in ERA's May 19, 1989, response to prior correspondence from Chairman Dingell concerning the proposed Consent Order. A filing and five letters were submitted on behalf of Chevron U.S.A., Inc. (Chevron). The last three letters were submitted after the expiration date of the comment period. A comment was filed by Energy Refunds, Inc. (ERI), and comments from the following were also received: (1) Alabama, California, Connecticut, Idaho, Indiana, Maryland, Michigan, Mississippi, Montana, Ohio, South Dakota, Vermont, Wisconsin, and Wyoming (hereinafter the States); (2) the Attorney General of Texas, on behalf of Texas, New Jersey, and New Mexico (hereinafter Texas comments) (New Jersey also filed a separate one-page letter endorsing the Texas comments); and (3) a group of five utilities, eighteen transporters, and four manufacturers (hereinafter UTM, for Utilities, Transporters and Manufacturers).

A series of written comments were filed after expiration of the 30-day public comment period. Late comments were filed by Occidental (on July 7, July 31 and August 4), Senator Don Nickles (on July 10) and Chevron (on July 28, August 2 and August 9). Copies of all of the written comments are available through the Public Reading Room of the DOE's Freedom of Information Act office, 1000 Independence Avenue SW., Washington, DC 20585.

The Texas comments urge ERA's withdrawal from the proposed Consent Order, the continuation of litigation on the *Cities* Remedial Order, and the issuance of a Proposed Remedial Order to Cities regarding the Entitlements Program reporting matter remanded to ERA by OHA's *Cities* Remedial Order decision. The States would support either the continuation of litigation of the *Cities* Remedial Order through the administrative and judicial appeals process or a settlement which considers both Cities' price violations adjudicated in the OHA Remedial Order and also the "full impact of [Cities'] pecuniary benefit from its entitlements participation." The UTM also take the position that the proposed settlement should be renegotiated, or rejected in favor of continuing the *Cities* litigation, on the basis that the proposed settlement amount is inadequate and not in line with other recent settlements, especially compared to the 1988 Consent Order with Texaco Inc. for $1.25 billion, and that the eight-year payment period is unwarranted. In addition, in undertaking a rebuttal of each of Cities' principal defenses to the overcharge claims adjudicated in the *Cities* Remedial Order, the foregoing commenters appear to take the position that there are few, if any, risks to the government in continuing the *Cities* litigation through the remaining levels of administrative review and judicial appeal.

Chairman Dingell and Chevron take the position that final action by ERA join the proposed Consent Order should be deferred. In his May 26, 1989, letter to ERA, the Chairman urges that "allegations of fraud" committed by Cities be fully investigated by DOE and resolved before the proposed settlement is finalized, and asserts that the eight-year payout period is not appropriate. Chevron suggests that ERA conduct "further proceedings" with regard to Cities' "fraud" on the Delaware district court and the DOE in connection with Cities' 1980–82 declaratory judgement action against DOE,[1] such further proceedings to include Cities' "full" production of documents (i) currently in Chevron's (but not DOE's) possession and under seal by order of a Tulsa, Oklahoma state court in private litigation between Cities and Chevron (successor in interest to Gulf Oil Corporation), and, (ii) currently the subject of attorney-client privilege claims by Cities in private litigation between Cities and Chevron in federal district court for the Southern District of New York. Both of these referenced lawsuits arise out of Gulf's 1982 tender offer to merge with Cities.[2]

In comments received after the June 23, 1989, expiration of the original public comment period, Occidental, in responding to the comments filed by Chevron and the States, asserted, among other arguments: (1) that it is appropriate for the ERA to recognize the "preliminary nature" of OHA's Remedial Order findings concerning Cities' lack of a good faith belief that the crude oil transactions at issue in the *Cities* litigation complied with DOE regulations, and to weigh the "additional record evidence" which assertedly shows that Cities made reasonable efforts to obtain DOE guidance while the regulations were still in effect;[3] (2) that Cities disclosed to the Delaware district court and to DOE in Cities' 1980 request for Interpretation the key characteristics of several illustrative crude oil transactions of the type at issue in the *Cities* litigation; (3) that in entering into the proposed settlement, DOE has had access to all relevant documents to which either the DOE itself or the courts have determined DOE is entitled;[4] and (4) that if, as Chevron asserts, the evidence is already "overwhelming" that Cities believed it was burying miscertified oil, then further evidence to the same effect which Chevron "speculates" is contained in the undisclosed documents currently the subject of discovery proceedings in the Gulf/Cities tender offer litigation would be merely cumulative.

By letter of July 10, 1989, Senator Nickles urged prompt finalization of the proposed Consent Order.

Chevron's later comments dated July 28, August 2, and August 9, 1989, and Occidental's later comments dated July 31, 1989, and August 4, 1989, each take issue with the other party's next preceding submission characterizing Cities' representations to the Delaware federal district court in 1980–81 and the import of the *Cities* Remedial Order's finding concerning Cities' lack of a good faith belief that its tie-in crude oil transactions complied with DOE regulations.

II. Analysis of Comments

A. Comments Related to Process

A number of comments received address the process utilized by the ERA in reaching the proposed settlement with Occidental. The States maintain that the May 24 Notice is so lacking in substance that it cannot be deemed to comply with the requirements of 10 CFR 205.199J, and that it fails to "fulfill the Department of Energy's promise to the Court—and the States and the public—in the *Stripper Well* Final Settlement Agreement, and to the Congress, that it would bring all violators to justice." The States' arguments are misplaced, and without foundation. The notice requirements of 10 CFR 205.199J(c) state in relevant part:

> The **Federal Register** * * * will state at a minimum the name of the company concerned, a brief summary of the Consent Order and other facts or allegations relevant thereto, the address and telephone number of the DOE office at which copies of the

[1] *Cities Service Co. v. DOE*, 520 F. Supp. 1132 (D. Del. 1981), *aff'd per curiam*, No. 3–28 (TECA August 27, 1982).

[2] *Cities Service Co. v. Gulf Oil Corp.*, No. C–82–1998 (Okla.); *In re Gulf Oil/Cities Service Tender Offer Litigation*, No. 82 Civ. 5253 (S.D.N.Y.); *W. Alton Jones Foundation v. Chevron U.S.A., Inc.*, No. 87 Civ. 8982 (S.D.N.Y.).

[3] See *Cities Service Co.*, Interpretation 1980–43, 45 Fed. Reg. 82575 (December 15, 1980).

[4] *See United States v. Gulf Oil Corp.*, 760 F.2d 292 (TECA 1985); *United States v. Arthur Young & Co.*, 1 FR Serv. 3d 448 (N.D. Okla. 1984).

Consent Order will be available free of charge, the address to which comments on the Consent Order will be received by the DOE, and the date by which such comments should be submitted * * *

The May 24 Notice regarding the proposed Occidental Consent Order clearly exceeded these regulatory requirements. Not only was a summary of the proposed settlement terms provided, but the entirety of the Occidental Consent Order was published as well. The matter sought to be resolved by the proposed Consent Order were specifically identified, and the bases for the DOE's preliminary agreement to the proposed; settlement were explained.

Regarding the adequacy of the May 24 Notice as it relates to the Department's compliance with the terms of the Final Settlement Agreement in *In Re: The Department of Energy Stripper Well Exemption Litigation*, MDL No. 378 (D. Kan.), the States' comments fail to articulate any basis to support their conclusion concerning the alleged inadequacy of the May 24 Notice. As discussed above, the May 24 Notice exceeds the regulatory requirements of 10 CFR 205.199J(c). Whether Occidental is brought "to justice" is precisely the point in considering whether the proposed settlement is in the public interest, comment concerning which is what the May 24 Notice invites. And, while the States are accorded the opportunity by 10 CFR 205.199J(c) to comment on this or any other proposed Consent Order, paragraph IV.A.2 of the *Stripper Well* Final Settlement Agreement expressly provides that "it remains solely in the DOE's discretion to determine whether an enforcement proceeding should be initiated, settled, pursued on particular terms or terminated." The States and Texas were signatories to that agreement.

Texas takes the position that because the DOE has not yet responded to the Texas Attorney General's pending Freedom of Information Act request for documents relating to the proposed Consent Order, it was "unable to ascertain the full scope of ERA's proposed compromise consent agreement, its litigation risk analysis methodologies, and such other pertinent information as the documents may reveal." Texas comments at 14. In fact, the "full scope" of the proposed settlement is set forth in the proposed Consent Order, the entirety of which was published in the May 24 Notice. As to the assertion that Texas was unable to ascertain ERA's "litigation risk analysis methodologies" and "other pertinent information" without benefit of DOE's FOIA response, it appears that Texas fails to comprehend the purpose and nature of the Consent Order process. That process is designed to elicit public comment on and evaluation of the terms of the proposed agreement itself, not to probe the ERA's internal deliberations which preceded its decision to enter into the proposed Consent Order. In this case, as it has in the past, DOE generally described in its public notice the factors it considered in preliminarily agreeing to the particular proposed Consent Order.[5] However, the agency does not publicly disclose the relative weights it would assign to the generally described factors. Public disclosure of litigation risk analysis methodologies would impair DOE's litigation and/or bargaining positions both in the case proposed for resolution, as well as in other pending cases.

The States' comments regarding Occidental Chairman Armand Hammer's approach to the former Secretary of Energy regarding resolution of the *Cities* litigation and "concerns about government ethics" are also misplaced.[6] Citizens have a right to petition their government, and the States have availed themselves of that opportunity in the very matter under consideration by seeking a direct contact with the present Secretary of Energy to advance their own viewpoint regarding the proposed Consent Order. In any event, the States' comments are not relevant to the merits of the question whether the proposed Consent Order should be finalized.

The States also "formally request", pursuant to 10 CFR Part 205, Subpart H, that "this matter be decided directly by the Secretary without further involvement by ERA", and if this request is rejected for any reason, that the proposed order be modified to provide the following:

> [I]f within a period of not less than 90 days after payment, any interested party institutes proceedings to seek available administrative, judicial, or legislative review of the compliance of the substance and procedure of this proposal with applicable legal and regulatory standards, including 10 CFR Part 205 and the Stripper Well Agreement, then the effectiveness of the agreement will automatically be stayed and the money be held in escrow pending a further determination of the validity of the consent order.

The consent order process falls under the provisions of 10 CFR Part 20.5, Subpart O; and 10 CFR 205.199J(b) specifically prohibits appeals. The express regulatory prohibition reflects the considered policy that, ultimately, the enforcement branch of an agency is charged with the responsibility for case resolution. Case resolution might be accomplished through the initiation of litigation, settlement, or termination of a suit. The States' proposed modification is contrary to this policy and to the express regulatory prohibition of appeals of final Consent Orders. The proposed modification would shift case resolution authority and responsibility from enforcement officials to adjudicators and legislators. The States assert no cognizable basis for modifying the proposed Consent Order to provide for any judicial or legislative review, which in any event the States contend is already "available", and, moreover, the States' proposal would effectively negate the purpose of the notice and comment process prescribed by 10 CFR 205.199J. Accordingly, the proposed Consent Order will not be modified as the States request. Furthermore, inasmuch as the States provide no legally sufficient basis for excluding the ERA Administrator from involvement in this matter, and in light of the fact that the Administrator's exercise of authority is pursuant to direct delegation from the DOE Secretary, neither will ERA's "involvement" in the Occidental Consent Order process be terminated.

Chairman Dingell and Texas expressed concern regarding allegations that the ERA Administrator excluded ERA litigation staff from the settlement negotiations and process. These allegations are factually incorrect, and in any event are not relevant to the reasonableness of the proposed Consent Order itself.

Chevron, in its June 8, 1989, submission, questions the ERA Administrator's authority to enter into Consent Orders, and assserts that the explanatory rationale for the proposed settlement set forth in the May 24 Notice impermissibly contradicts OHA's adjudicatory findings in the *Cities* Remedial Order, thereby "invading" both OHA's and FERC's jurisdictions. Both claims are unfounded. First, in the eleven-year existence of the DOE, no settlement has been found wanting due to any lack of authority of the ERA Administrator. Many hundreds of enforcement cases, involving over $6 billion, have been resolved by way of settlement pursuant to the authority of

[5] *See, e.g.*, 53 FR 48710 (December 2, 1988) (proposed Tesoro Consent Order notice); and 53 FR 15106 (April 27, 1988) (proposed Tesoro Consent Order notice).

[6] The States may be unaware of the facts that Mr. Hammer wrote to Chairman Dingell on two occasions and advised Chairman Dingell of the initial contact with former Secretary Herrington. Furthermore, during the comment period Chevron sought to meet with the DOE Deputy Secretary and Under Secretary to discuss its views on the proposed Consent Order with Occidental.

the ERA Administrator as delegated by the Secretary of Energy. Indeed, Chevron itself has entered into such settlements with the ERA in the recent past, including resolution by settlement of matters that were the subject of adjudication by the OHA. See *Gulf Oil Corporation*, 12 DOE ¶ 83,004 (1984), 29 FERC ¶ 62,095 (1984), *appeal dismissed*, 32 FERC ¶ 63,010 (1985); *Gulf Oil Corporation*, 10 DOE ¶ 81,011 (1982), 27 FERC ¶ 62,172 (1984), *appeal dismissed*, 32 FERC ¶ 63,022 (1985).

Second, just as ERA possesses authority to prosecute enforcement actions, it has concomitant authority to resolve them. Resolution can be accomplished by determining whether a proceeding should be pursued, terminated, or settled. In the case of settlements, all consent orders, including the one under consideration, represent compromises by both parties. Contrary to Chevron's assertion, ERA's agreement to particular settlement terms with Occidental does not constitute the "overruling" of OHA factual findings in the *Cities* Remedial Order concerning witness credibility or any other matter. By the express terms of the proposed Occidental Consent Order (Paragraph 303), the DOE and Occidental each asserted its belief that its respective legal and factual positions resolved by the Consent Order are meritorious. At the same time, both parties agreed to compromise their differences, to avoid protracted litigation of unknown outcome.

In conclusion, for the reasons stated, none of the foregoing comments related to process will be considered further in determining appropriate action with respect to the proposed settlement.

B. The Permian Corporation

ERI urged that a former subsidiary of Occidental, The Permian Corporation (Permian), should be made a party to the proposed Consent Order. ERI asserts without explanation that Occidental benefited from Permian's alleged regulatory violations and should therefore be held accountable for Permian's obligations. ERI submitted in 1989 on behalf of one of its clients a refund claim based on the Permian Consent Order that was made final by publication of notice in the Federal Register on June 25, 1982. Potential refund claimants in that proceeding were permitted three years in which to file their claims before any unclaimed amounts were finally distributed. ERI's refund claim was filed beyond the three-year claim period and its client's refund claim was rejected, inasmuch as the Permian settlement funds had been distributed in June 1985 pursuant to the Consent Order terms. By the terms of its Consent Order, Permian's compliance therewith was deemed to constitute full compliance with respect to all matters covered by the Consent Order. ERI's failure to file a timely refund claim for a portion of the Permian settlement monies is not an appropriate basis on which to modify the proposed Occidental Consent Order, which is based on resolution of an enforcement action against Cities arising out of transactions entirely unrelated to Permian's conduct. Accordingly, the proposed Consent Order will not be modified as requested by ERI.

C. Eight-Year Payout Terms

In his May 26, 1989, letter, Chairman Dingell expressed concern about the proposed Consent Order provisions which permit OXY USA Inc. extended time payments and urged that ERA "should *not* accept Oxy's *word* that it lacks 'sufficient cash reserves' to make payments immediately or at least earlier than the period specified." The UTM argue that a delay in payment "inflicts another injury upon consumers" inasumuch as interest at the rate of 10% "is no solace to a[n] electric utility who must pay a substantially higher rate of interest if he desires to obtain the benefit of the anticipated refunds at an earlier date." UTM comments at 4.

The ERA did not intend to rely, and has not relied, solely on the oral representations of OXY USA regarding the nature of its cash flow position. The ERA requested, and received, information from Occidental regarding the levels of OXY USA's recent cash flow experience. ERA is continuing its review of that information. Moreover, as an additional assurance of payment, Occidental, with stockholders' equity of $6.2 billion as of December 1988, is the signatory to the proposed Consent Order and therefore obligated to make the required payments.

The issue raised by Chairman Dingell and the UTM more appropriately focuses on the relative merits of an eight-year period for payments.[7] Although extended payments would include interest at an effective rate of 10% (as prescribed by DOE policy), the UTM argue that some customers who need the monies immediately may have to borrow against the anticipated refunds at a higher rate of interest. ERA has determined that additional comment on this subject is in order, and specifically requests comments addressing whether the eight-year payment period should be renegotiated.

D. Effect of OHA's Remedial Order

Several commenters provided extensive commentary regarding the *Cities* Remedial Order. Variously describing the OHA's decision as "well reasoned" (States comments at 2), and a "well conceived, immently [sic] logical and wholly defensible opinion" (Texas comments at 11), the States, Texas and Chevron used the language and findings in the Remedial Order or ERA's litigation pleadings to rebut the stated considerations in the May 24 Notice for the Department's preliminary agreement to the proposed settlement. These commenters apparently urge the ERA to conclude that its explanatory rationale for agreeing to the proposed Consent Order is improper or without merit.

Contrary to the assumption underlying these comments, ERA, the principal advocate of the factual findings and legal conclusions reflected in OHA's Remedial Order decision, fully endorses that decision. See Occidental Proposed Consent Order, Paragraph 303. That assessment, however, does not militate against settlement generally, or against the terms of the proposed Occidental Consent Order in particular. To the extent that the commenters appear to take the position that there is no litigation risk whatever to the government obtaining a final judgment in its favor in the *Cities* litigation, such a position is, in ERA's view, unrealistic. As to OHA's particular findings in the Remedial Order, including those dealing with Cities' defenses of good faith and estoppel, the assessment of litigation risk cannot appropriately focus on the OHA Remedial Order decision alone. That Order is subject to several additional levels of appeal, so it cannot represent the conclusive assessment of case value.

ERA recognizes that OHA, in ruling on Cities' affirmative defense of judicial estoppel, found that Cities did not hold a good faith belief that its crude oil transactions complied with the regulations and that Cities did not disclose in its request for Interpretation or in the Delaware declaratory judgment action the key characteristics of Cities' so-called "tier trades." Notwithstanding the commenters' general endorsement of the correctness of OHA's ruling in assessing the DOE's litigation risk, ERA invites additional comment as to whether, in a settlement context, it is appropriate to exclude consideration of

[7] The UTM comments erroneously stated the time period as being nine years.

all other factors in reaching an appropriate level of compromise with Occidental.

E. Additional Documents

As noted in Section I of this Notice, Chevron has suggested that ERA conduct "further proceedings" with regard to Cities' "fraud" on the Delaware district court and the DOE in connection with Cities' 1980–82 declaratory judgment action against DOE, such proceedings to include Cities' production to DOE both of documents held under seal by order of a Tulsa, Oklahoma state court and documents currently the subject of attorney-client privilege claims by Cities in the Cities/Gulf tender offer litigation in a New York federal district court. Similarly, Chairman Dingell urges that no settlement be approved as long as DOE has not obtained those two categories of Cities documents which "reportedly" bear on the issue of fraud.

In light of OHA's Remedial Order findings regarding Cities' asserted good faith belief that entitlements exempt uses, rather than miscertification, explained the tie-in transactions, and the underlying evidence of record in the *Cities* litigation relating to the state of Cities officials' knowledge of this matter, all of which findings and submission of evidence predate the ERA's agreement to the proposed Consent Order, ERA also requests comment on the additional significance, if any, which should be attached to the undisclosed contents of documents that are currently subject to privilege claims or under seal in private litigation between Chevron and Cities in federal and state courts and are not in the DOE's possession.

Finally, Chairman Dingell's May 26 letter refers to "an allegation made to [his] staff that some of the documents obtained in discovery by Chev[]ron (which unquestionably has an important interest separate from that of the Government) may have been withheld from the [DOE] when DOE sought relevant documents." Chevron, in its August 2 comment, states that "there are documents which are *not* privileged which Chevron has and which Cities refuses to give to ERA" (emphasis in original). In view of the significance which Chairman Dingell and Chevron attach to ERA obtaining additional documents alleged to be relevant to ERA action on the proposed Consent Order, and in order to permit ERA to consider these allegations, ERA urges all persons with specific information concerning any relevant documents which Cities is alleged to have withheld from DOF to provide the particulars regarding the same to ERA during the 30-day additional comment period announced in this Notice.

III. Submission of Written Comments

The proposed Consent Order cannot be made effective until the conclusion of the public review process, of which this Notice is a part. The ERA continues to review the numerous comments received on the proposed Consent Order. In view of the diversity of the parties filing comments and the views expressed by them, ERA has determined to offer an additional opportunity to the submitters and other members of the public to file comments on the specific issues described above involving the proposed Consent Order.

Interested persons are invited to submit written comments to: Occidental Consent Order Comments, RG–30, Economic Regulatory Administration, 1000 Independence Avenue SW., Washington, DC 20585. Any information considered confidential by the person submitting it must be identified as such in accordance with the provisions of 10 CFR 205.9(f).

Although this proposed settlement does not resolve a wide range of issues within the meaning of the Notice published at 49 Fed. Reg. 12301 (March 29, 1984), DOE has determined it would be useful to hold a public hearing in this instance because the proposed Consent Order would resolve issues concerning a large monetary amount. Accordingly, interested persons are also invited to appear at a public hearing beginning at 10:30 a.m. on September 27, 1989. All comments received by the thirtieth day following publication of this Notice in the **Federal Register** and all comments made at the hearing will be considered before determining whether to adopt the proposed Consent Order as a final Order. Any modifications of the proposed Consent Order which significantly alter its terms or impact will be published for additional comment. If, after considering the comments it has received, ERA determines to issue the proposed Consent Order as a final Order, the proposed Order will be made final and effective by publication of notice in the **Federal Register.**

Issued in Washington, DC on August 22, 1989.

Chandler L. van Orman,

Administrator, Economic Regulatory Administration.

[FR Doc. 89–20129 Filed 8–24–89; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. ER89–255–001 et al.]

Arizona Public Service Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. Arizona Public Service Company

[Docket No. ER89–255–001]

August 16, 1989.

Take notice that on August 14, 1989, Arizona Public Service Company (APS or Company) tendered for filing amendments affecting estimated contract demands or maximum demands in the following FPC/FERC Electric Service Rate Schedules:

FPC/FERC No.	Customer	Revised exhibit
58	Wellton-Mohawk	Exhibit B.
59	APA	Exhibit B.
65	CRIIP	Exhibit A.
66	SCIIP	Exhibit A.
74	Wickenburg	Exhibit B.
120	Southern California Edison.	Exhibit B.
126	ED–6	Exhibit "II".
128	ED–7	Exhibit "II".
140	ED–8	Exhibit "II".
141	AID	Exhibit "II".
142	McMullen Valley	Exhibit "II".
143	Tonopah	Exhibit "II".
149	Citizens Utility Company.	Exhibit B.
153	Harquahala	Exhibit "II".
155	Buckeye	Exhibit "II".
158	Roosevelt	Exhibit "II".
161	PTUA	Exhibit B.
170	Wickenburg	Exhibit A.

APS states no changes from the currently effective Wholesale Power or Transmission ("Wheeling") rate levels are proposed herein. No new facilities are required to provide these services.

A copy of this filing has been served on the above customers, the California Public Utilities Commission and the Arizona Corporation Commission.

Comment date: August 31, 1989, in accordance with Standard Paragraph E at the end of this document.

2. Florida Power & Light Corporation

[Docket No. ER89–357–000]

August 16, 1989.

Take notice that on August 10, 1989, Florida Power & Light Corporation (Florida Power) tendered for filing an amendment to its April 19, 1989 filing in this docket in order to withdraw a proposed amendment filed on June 15, 1989 in this docket and replace it with a similar amendment in order to clarify

the charges under Schedule D, Long Term Firm Interchange for Kissimmee Utility Authority, the City of St. Cloud, and the Sebring Utility Commission. Florida Power states this amendment is being filed to provide a definition for hourly broker sell quotes during periods of firm commitment sales.

According to Florida Power, the filing has been served on each of the affected utilities and the Florida Public Service Commission.

Comment date: August 31, 1989, in accordance with Standard Paragraph E at the end of this notice.

3. Minnesota Power & Light Company

[Docket No. ER89-527-000]

August 16, 1989.

Take notice that on August 14, 1989, Minnesota Power & Light Company tendered for filing supplemental information relating to the rate charged for energy under the Participation Power Transaction Agreement between Minnesota Power & Light Company and Iowa Electric Light and Power Company. The agreement was tendered for filing on June 30, 1989. The parties request a waiver of the Commission's 60 day filing period for this Agreement and an effective date of May 1, 1989.

Comment date: August 31, 1989, in accordance with Standard Paragraph E at the end of this notice.

4. Leonard A. O'Connor

[Docket No. ID-1612-000]

August 16, 1989.

Take notice that on August 7, 1989, Leonard A. O'Connor (Applicant) tendered for filing a Notice of Change. The notice of change states that effective July 1, 1989, Applicant resigned from the position as Vice President of Connecticut Light and Power Company. The notice further states that applicant now holds no position with this company.

Comment date: August 31, 1989, in accordance with Standard Paragraph E at the end of this notice.

5. John J. Smith

[Docket No. ID-2002-001]

August 16, 1989.

Take notice that on August 7, 1989, John J. Smith (Applicant) tendered for filing a Notice of Change. The notice of change states that effective July 1, 1989, Applicant resigned from the position as Vice President of Connecticut Light and Power Company. The notice further states that applicant now holds no position with this company.

Comment date: August 31, 1989, in accordance with Standard Paragraph E at the end of this notice.

6. Philip T. Ashton

[Docket No. ID-1843-002]

August 16, 1989.

Take notice that on August 7, 1989, Philip T. Ashton (Applicant) tendered for filing a Notice of Change. The notice of change states that effective July 1, 1989, Applicant resigned from the following positions:

Senior Vice President & Director.	Connecticut Light and Power Company
Director	Western Massachusetts Electric Company
Director	Holyoke Water Power Company
Director	Holyoke Power and Electric Company

The notice further states that Applicant now holds no position with any of the above companies.

Comment date: August 31, 1989, in accordance with Standard Paragraph E at the end of this notice.

7. Interstate Power Company

[Docket No. ER89-524-000]

August 17, 1989.

Take notice that on August 16, 1989, Interstate Power Company (Interstate) tendered for filing an amendment to its June 27, 1989 filing in this docket.

Interstate's present fuel cost adjustment computation includes only fuel and energy related costs. The proposed change will update the fuel cost adjustment clause in accordance with FERC Order No. 352 in Docket No. RM83-62-000; allowing recovery of all expenses related to power or energy purchased over a period of twelve months or less where the total cost of the purchase is less than Interstate's total avoided variable cost and the purchase is not made to maintain reserve levels.

According to Interstate the purpose of this amendment is to revise the system reserve criteria, stated in the original filing, to include the method used to derive Interstate's daily operating reserve obligation.

Copies of the filing were served upon Interstate's jurisdictional customers and the State Commissions of Iowa, Illinois and Minnesota.

Comment date: September 1, 1989, in accordance with Standard Paragraph E at the end of this notice.

8. Ohio Edison Company

[Docket No. ER88-544-000]

August 17, 1989.

Take notice that on August 11, 1989, Ohio Edison Company (Ohio) tendered for its compliance refund report in this docket between Ohio and American Municipal Power-Ohio, Inc.

Comment date: September 1, 1989, in accordance with Standard Paragraph E at the end of this notice.

9. Idaho Power Company

[Docket No. ER89-472-000]

August 17, 1989.

Take notice that on July 31, 1989, Idaho Power Company (Idaho) tendered for filing a Notice of Cancellation of FERC Rate Schedule No. 76 between Idaho and Washington Water Power Company.

Comment date: August 31, 1989, in accordance with Standard Paragraph E at the end of this notice.

10. UNITIL Power Corporation

[Docket No. ER89-607-000]

August 17, 1989.

Take notice that on August 15, 1989, UNITIL Power Corporation (UNITIL) filed with the Commission an Electric Tariff No. 3, Sale of Electric Generating Capacity and Energy, for the sale of capacity and associated energy from UNITIL's excess capacity entitlements in various generating plants.

UNITIL requests an effective date of February 29, 1988 and states that waiver of the notice requirement will not adversely affect any of the utility customers.

Comment date: September 1, 1989, in accordance with Paragraph E at the end of this notice.

11. Consolidated Edison Company

[Docket No. ER89-606-000]

August 17, 1989.

Take notice that on August 15, 1989, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing Supplements to its Rate Schedules FERC Nos. 60, 66 and 78, agreements to provide transmission service for the Power Authority of the State of New York (the Authority). The Supplements provide for an increase in the monthly transmission charge from $1.05 to $1.14 per kilowatt for transmission of power and energy sold by the Authority to Brookhaven National Laboratory, Grumman Corporation and the Long Island Municipal Distribution Agencies, thus increasing annual revenues under the Rate Schedules by a total of $42,597.36 Con Edison has requested waiver of notice requirements so that the increase can be made effective as of July 1, 1989.

Con Edison states that a copy of this filing has been served by mail upon the Authority.

Comment date: September 1, 1989, in accordance with Standard Paragraph E at the end of this notice.

12. Consolidated Edison Company of New York, Inc.

[Docket No. ER89-605-000]

August 17, 1989.

Take notice that on August 15, 1989, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing a Supplement to its Rate schedule FERC No. 51, an agreement to provide transmission service for the Power Authority of the State of New York (the Authority). The Supplement provides for a decrease in the monthly transmission charge from $2.57 to $2.55 per kilowatt for transmission of power and energy sold by the Authority to the Long Island Village of Freeport, Greenport and Rockville Centre, thus decreasing annual revenues under the Rate Schedule by a total of $14,120.64 Con Edison has requested waiver of notice requirements so that the decrease can be made effective as of July 1, 1989.

Con Edison states that a copy of this filing has been served by mail upon the Authority and the Villages.

Comment date: September 1, 1989, in accordance with Standard Paragraph E at the end of this notice.

13. Mississippi Power & Light Company

[Docket No. ER89-604-000]

August 17, 1989.

Take notice that on August 14, 1989, Mississippi Power & Light Company (MP&L) tendered for filing a Notice of Cancellation of the following Rate Schedules:

Rate schedule	Termination date
Supplement No. 25 to MP&L Rate Schedule No. 35.	December 9, 1988.
Supplement No. 26 to MP&L Rate Schedule No. 35.	February 28, 1989.
Supplement No. 27 to MP&L Rate Schedule No. 35.	December 16, 1988.

MP&L states that copies of the filing have been mailed to the Mississippi Public Service Commission and TVA.

Comment date: September 1, 1989, in accordance with Standard Paragraph E at the end of this notice.

14. N. B. Partners, Ltd.—North Branch Power Project

[Docket No. QF88-412-001]

On August 1, 1989, N. B. Partners, Ltd., c/o EASE/NMI, Inc., (Applicant), of 9171 Towne Centre Drive, Suite 400, San Diego, California 92122, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located approximately two miles southeast of the town of Bayard, in Grant County, West Virginia. The facility will consist of two fluidized bed combustion boilers, an extraction/condensing steam turbine generator and approximately 6.7 miles of 115 kV transmission line. Applicant states that the thermal output of the facility, in the form of heated water, will be sold to a non-affiliated controlled environment growing facility primarily for use in growing tomatoes and bell peppers. The net electric power production capacity of the facility will be 60 MW. Construction of the facility began in December 1988.

Comment date: September 1, 1989, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropirate 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. 89-20039 Filed 8-24-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ST89-4077-000 Through ST89-4358-000]

Natural Gas Pipeline Company of America et al.; Self-Implementing Transactions

August 18, 1989.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations, sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA) and section 5 of the Outer Continental Shelf Lands Act.[1]

The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline on behalf of an intrastate pipeline or a local distribution company pursuant to § 284.102 of the Commission's Regulations and section 311(a)(1) of the NGPA.

A "C" indicates transportation by an intrastate pipeline on behalf of an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.122 of the Commission's Regulations and section 311(a)(2) of the NGPA. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and the expiration date of the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a motion to intervene with the Secretary of the Commission on or before September 8, 1989.

A "D" indicates a sale by an intrastate pipeline to an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.142 of the Commission's Regulations and section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

An "E" indicates an assignment by an intrastate pipeline to any interstate pipeline or local distribution company pursuant to § 284.163 of the Commission's Regulations and section 312 of the NGPA.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.222 and a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G-S" indicates transportation by interstate pipelines on behalf of shippers other than interstate pipelines—pursuant to § 284.223 and a blanket certificate issued under § 284.221 of the Commission's Regulations.

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[1] Notice of a transaction does not constitute a determination that the terms and conditions of the proposed service will be approved or that the noticed filing is in compliance with the Commission's Regulations.

A "G–LT" or "G–LS" indicates transportation, sales or assignments by a local distribution company on behalf of or to an interstate pipeline or local distribution company pursuant to a blanket certificate issued under § 284.224 of the Commission's Regulations.

A "G–HT" or "G–HS" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.224 of the Commission's Regulations.

A "K" indicates transportation of natural gas on the Outer Continental Shelf by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.303 of the Commission's Regulations.

A "K–S" indicates transporation of natural gas on the Outer Continental Shelf by an intrastate pipeline on behalf of shippers other than interstate pipelines—pursuant to § 284.303 of the Commission's Regulations.

Lois D. Cashell,

Secretary.

Docket Number*	Transporter/Seller	Recipient	Date Filed	Part 284 Subpart	Expiration Date**	Transportation Rate (¢/MMBtu)
ST89–4077	Natural Gas Pipeline Co. of America	Phillips 66 Natural Gas Co	07–03–89	G–S		
ST89–4078	Gulf Energy Pipeline Co	Tennessee Gas Pipeline Co	07–03–89	C		
ST89–4079	Acadian Gas Pipeline System	ANR Pipeline Co	07–03–89	C		
ST89–4080	Texas Eastern Transmission Corp	Equitable Gas Co	07–03–89	B		
ST89–4081	Texas Eastern Transmission Corp	Hope Gas, Inc	07–03–89	B		
ST89–4082	Texas Eastern Transmission Corp	Brooklyn Union Gas Co	07–03–89	B		
ST89–4083	Gulf States Pipeline Corp	Mississippi River Trans. Corp., et al	07–03–89	C		
ST89–4084	Texas Eastern Transmission Corp	Access Energy Pipeline Corp	07–03–89	B		
ST89–4085	Texas Eastern Transmission Corp	Torch Energy Marketing, Inc	07–03–89	B		
ST89–4086	Stingray Pipeline Co	Texas Eastern Transmission Corp	07–03–89	K		
ST89–4087	Tennessee Gas Pipeline Co	Florida Gas Transmission Co	07–03–89	G		
ST89–4088	Transok, Inc	Phillips Gas Pipeline Co	07–03–89	C	11–30–89	32.50
ST89–4089	Enogex Inc	Natural Gas Pipeline Co. of America	07–03–89	C	11–30–89	43.57
ST89–4090	Enogex Inc	Iowa Public Service Co	07–03–89	C	11–30–89	43.57
ST89–4091	Enogex Inc	Peoples Natural Gas Co	07–03–89	C	11–30–89	43.57
ST89–4092	Williams Natural Gas Co	Atchison Pipeline Co., L.P	07–03–89	B		
ST89–4093	Williams Natural Gas Co	Consolidated Fuel Corp	07–03–89	G–S		
ST89–4094	Williams Natural Gas Co	Farmland Industries, Inc	07–03–89	G–S		
ST89–4095	Northwest Pipeline Corp	Gasmark Inc	07–03–89	G–S		
ST89–4096	Northwest Pipeline Corp	Roseburg Forest Products Co	07–03–89	G–S		
ST89–4097	Northwest Pipeline Corp	Union Pacific Resources Co	07–03–89	G–S		
ST89–4098	El Paso Natural Gas Co	Gulf Gas Utilities Co	07–05–89	G–S		
ST89–4099	Transcontinental Gas Pipe Line Corp	Brooklyn Union Gas Co	07–05–89	B		
ST89–4100	Transcontinental Gas Pipe Line Corp	Transco Energy Marketing Co	07–05–89	G–S		
ST89–4101	Transcontinental Gas Pipe Line Corp	Mobil Vanderbilt-Beaumont Pipeline Co	07–06–89	B		
ST89–4102	Tennessee Gas Pipeline Co	Southeastern Natural Gas Co	07–06–89	B		
ST89–4103	Transcontinental Gas Pipe Line Corp	Pennsylvania Gas and Water Co	07–06–89	B		
ST89–4104	Transcontinental Gas Pipe Line Corp	Access Energy Pipeline Corp	07–06–89	B		
ST89–4105	Arkla Energy Resources	Cornerstone Natural Gas Co	07–06–89	B		
ST89–4106	Arkla Energy Resources	Louisiana Gas Marketing Co	07–06–89	B		
ST89–4107	Arkla Energy Resources	Woodward Pipeline, Inc	07–06–89	B		
ST89–4108	East Ohio Gas Co	Greenland Petroleum Co	07–06–89	G–HT		
ST89–4109	Natural Gas Pipeline Co. of America	Delhi Gas Pipeline Corp	07–07–89	B		
ST89–4110	Natural Gas Pipeline Co. of America	Crescent Gas Corp	07–07–89	B		
ST89–4111	Sea Robin Pipeline Co	CNG Trading Co	07–07–89	B		
ST89–4112	United Gas Pipe Line Co	Pennzoil Gas Marketing Corp	07–07–89	G–S		
ST89–4113	Colorado Interstate Gas Co	Marathon Oil Co	07–07–89	G–S		
ST89–4114	Colorado Interstate Gas Co	Marathon Oil Co	07–07–89	G–S		
ST89–4115	Colorado Interstate Gas Co	Associated Intrastate Pipeline Co	07–07–89	B		
ST89–4116	Arkla Energy Resources	Louisville Gas & Electric Co	07–07–89	B		
ST89–4117	Colorado Interstate Gas Co	Helmerich & Payne, Inc	07–10–89	G–S		
ST89–4118	Colorado Interstate Gas Co	Associated Intrastate Pipeline Co	07–10–89	B		
ST89–4119	Colorado Interstate Gas Co	Associated Intrastate Pipeline Co	07–10–89	B		
ST89–4120	Colorado Interstate Gas Co	Coastal States Gas Transmission Co	07–10–89	B		
ST89–4121	Colorado Interstate Gas Co	Minnegasco, Inc	07–10–89	B		
ST89–4122	Natural Gas Pipeline Co. of America	Natural Gas Clearinghouse, Inc	07–10–89	G–S		
ST89–4123	Sabine Pipe Line Co	Seagull Louisiana Intrastate Pipeline Co	07–10–89	B		
ST89–4124	Sabine Pipe Line Co	FRM, Inc	07–10–89	B		
ST89–4125	Sabine Pipe Line Co	Union Exploration Partners, Ltd	07–10–89	G–S		
ST89–4126	Columbia Gulf Transmission Co	Pontchartrain Natural Gas System	07–10–89	B		
ST89–4127	Columbia Gulf Transmission Co	Consolidated Edison Co. of NY, Inc	07–10–89	B		
ST89–4128	ANR Pipeline Co	Texaco Gas Marketing, Inc	07–11–89	G–S		
ST89–4129	Natural Gas Pipeline Co. of America	Elf Aquitaine, Inc	07–11–89	G–S		
ST89–4130	Tennessee Gas Pipeline Co	Elf Aquitaine, Inc	07–11–89	G–S		
ST89–4131	Texas Eastern Transmission Corp	South Central Intrastate Pipe Line Co	07–11–89	B		
ST89–4132	Texas Eastern Transmission Corp	Apollo Gas Co	07–11–89	B		
ST89–4133	Texas Eastern Transmission Corp	Energy Supply Consultants	07–11–89	B		
ST89–4134	Texas Eastern Transmission Corp	Wellhead Ventures Corp	07–11–89	B		
ST89–4135	Panhandle Eastern Pipe Line Co	V.H.C. Gas System, L.P	07–11–89	G–S		
ST89–4136	Panhandle Eastern Pipe Line Co	Boyd Rosene & Associates, Inc	07–11–89	G–S		
ST89–4137	Trunkline Gas Co	Michigan Gas Utilities Co	07–11–89	B		
ST89–4138	Western Gas Supply Co	Northwest Pipeline Corp	07–12–89	C		
ST89–4139	Tennessee Gas Pipeline Co	North Alabama Gas District	07–12–89	B		
ST89–4140	Tennessee Gas Pipeline Co	Nashville Gas Co	07–12–89	B		
ST89–4141	ANR Pipeline Co	Howard Energy Co., Inc	07–12–89	G–		
ST89–4142	ANR Pipeline Co	BP Gas Transmission Co	07–12–89	B		
ST89–4143	ANR Pipeline Co	Semco Energy Services, Inc	07–12–89	G–S		

Docket Number*	Transporter/Seller	Recipient	Date Filed	Part 284 Subpart	Expiration Date**	Transportation Rate (¢/MMBtu)
ST89-4144	ANR Pipeline Co	B & A Pipeline Co	07-12-89	B		
ST89-4145	ANR Pipeline Co	Dekalb Energy Canada, Ltd	07-12-89	G-S		
ST89-4146	ANR Pipeline Co	Battle Creek Gas Co	07-12-89	B		
ST89-4147	ANR Pipeline Co	Peoples Gas Light & Coke Co	07-12-89	B		
ST89-4148	ANR Pipeline Co	Grace Petroleum Corp	07-12-89	G-S		
ST89-4149	ANR Pipeline Co	Chevron U.S.A., Inc	07-12-89	G-S		
ST89-4150	ANR Pipeline Co	Dekalb Energy Canada, Ltd	07-12-89	G-S		
ST89-4151	ANR Pipeline Co	Mobil Vanderbilt-Beaumont Pipeline Co	07-12-89	B		
ST89-4152	Transok, Inc	Amoco Gas Co	07-12-89	C	12-09-89	32.50
ST89-4153	Tennessee Gas Pipeline Co	Entrade Corp	07-13-89	G-S		
ST89-4154	ANR Pipeline Co	Unifield Natural Gas Group	07-13-89	G-S		
ST89-4155	ANR Pipeline Co	Inland Steel Co	07-13-89	G-S		
ST89-4156	ANR Pipeline Co	Wisconsin Gas Co	07-13-89	B		
ST89-4157	ANR Pipeline Co	Texas Industrial Energy Co	07-13-89	B		
ST89-4158	ANR Pipeline Co	Michigan Consolidated Gas Co	07-13-89	B		
ST89-4159	ANR Pipeline Co	Madison Gas & Electric Co	07-13-89	B		
ST89-4160	ANR Pipeline Co	Madison Gas & Electric Co	07-13-89	B		
ST89-4161	ANR Pipeline Co	Apache Transmission Corp	07-13-89	B		
ST89-4162	ANR Pipeline Co	Panhandle Gas Co	07-13-89	B		
ST89-4163	ANR Pipeline Co	Michigan Consolidated Gas Co	07-13-89	B		
ST89-4164	ANR Pipeline Co	Coastal States Gas Transmission Co	07-13-89	B		
ST89-4165	ANR Pipeline Co	West Ohio Gas Co	07-13-89	B		
ST89-4166	ANR Pipeline Co	Indiana Gas Co	07-13-89	B		
ST89-4167	ANR Pipeline Co	NGC Intrastate Pipeline Co	07-13-89	B		
ST89-4168	ANR Pipeline Co	Consumers Power Co	07-13-89	B		
ST89-4169	ANR Pipeline Co	NGC Intrastate Pipeline Co	07-13-89	B		
ST89-4170	ANR Pipeline Co	Venture Pipeline Co	07-13-89	B		
ST89-4171	United Gas Pipe Line Co	Centran Corp	07-13-89	G-S		
ST89-4172	United Gas Pipe Line Co	PSI, Inc	07-13-89	G-S		
ST89-4173	United Gas Pipe Line Co	Phoenix Gas Pipeline Co	07-13-89	G-S		
ST89-4174	Cabot Gas Supply Corp	Northern Natural Gas Co	07-13-89	C		
ST89-4175	Sea Robin Pipeline Co	City Gas Co., et al	07-13-89	B		
ST89-4176	Tennessee Gas Pipeline Co	CNG Transmission Corp	07-13-89	G		
ST89-4177	Transwestern Pipeline Co	Cabot Energy Marketing Corp	07-13-89	G-S		
ST89-4178	Houston Pipe Line Co	Amoco Gas Co	07-13-89	C		
ST89-4179	Houston Pipe Line Co	Northern Natural Gas Co	07-13-89	C		
ST89-4180	Houston Pipe Line Co	Black Marlin Pipeline Co	07-13-89	C		
ST89-4181	Houston Pipe Line Co	Enron Industrial Natural Gas Co	07-13-89	C		
ST89-4182	Houston Pipe Line Co	Natural Gas Pipeline Co of America	07-13-89	C		
ST89-4183	Houston Pipe Line Co	Trunkline Gas Co	07-13-89	C		
ST89-4184	Houston Pipe Line Co	Enron Industrial Natural Gas Co	07-13-89	C		
ST89-4185	Northern Natural Gas Co	Tennessee Gas Pipeline Co	07-13-89	G		
ST89-4186	Oasis Pipe Line Co	Transwestern Pipeline Co	07-13-89	C		
ST89-4187	Tennessee Gas Pipeline Co	Varibus Corp	07-14-89	B		
ST89-4188	Algonquin Gas Transmission Co	Connecticut Light & Power Co	07-14-89	B		
ST89-4189	Algonquin Gas Transmission Co	Providence Gas Co	07-14-89	B		
ST89-4190	Algonquin Gas Transmission Co	Colonial Gas Company	07-14-89	B		
ST89-4191	El Paso Natural Gas Co	Access Energy Corp	07-14-89	G-S		
ST89-4192	Equitrans, Inc	Equitable Gas Co	07-17-89	B		
ST89-4193	Valero Interstate Transmission Co	Valero Transmission, L.P	07-17-89	B		
ST89-4194	Cavallo Pipeline Co	Enron Industrial Natural Gas Co	07-17-89	C		
ST89-4195	Algonquin Gas Transmission Co	Bay State Gas Co	07-17-89	B		
ST89-4196	Algonquin Gas Transmission Co	Colonial Gas Company	07-17-89	B		
ST89-4197	Columbia Gulf Transmission Co	Houston Lighting and Power Co	07-17-89	B		
ST89-4198	Columbia Gulf Transmission Co	Tejas Power Corp	07-17-89	G-S		
ST89-4199	Columbia Gulf Transmission Co	Eastex Gas Transmission Co	07-17-89	B		
ST89-4200	Columbia Gulf Transmission Co	Lafayette Gas Intrastate Co	07-17-89	B		
ST89-4201	Texas Gas Transmission Corp	Western Kentucky Gas Co	07-18-89	B		
ST89-4202	Texas Gas Transmission Corp	Transco Energy Marketing Co	07-18-89	G-S		
ST89-4203	Texas Gas Transmission Corp	American Central Gas Marketing Co	07-18-89	G-S		
ST89-4204	Texas Gas Transmission Corp	NGC Transportation, Inc	07-18-89	G-S		
ST89-4205	Questar Pipeline Co	Northwest Natural Gas Co	07-18-89	B		
ST89-4206	Tennessee Gas Pipeline Co	Consolidated Edison Co. of NY, Inc	07-18-89	B		
ST89-4207	United Gas Pipe Line Co	Conoco, Inc	07-18-89	G-S		
ST89-4208	El Paso Natural Gas Co	Union Pacific Resources Co	07-18-89	G-S		
ST89-4209	El Paso Natural Gas Co	Hadson Gas Sytems, Inc	07-18-89	G-S		
ST89-4210	El Paso Natural Gas Co	Bonneville Fuels Corp	07-18-89	G-S		
ST89-4211	United Gas Pipe Line Co	Delhi Gas Pipeline Corp	07-18-89	B		
ST89-4212	CNG Transmission Co	Northern Illinois Gas Co	07-19-89	C	12-16-89	24.32
ST89-4213	BP Gas Transmission Co	Panhandle Eastern Pipeline Co., et al	07-19-89	C	12-16-89	28.80
ST89-4214	Northwest Pipeline Corp	Kimball Energy Corp	07-19-89	G-S		
ST89-4215	Northwest Pipeline Corp	Arco Oil & Gas Co	07-19-89	G-S		
ST89-4216	Northwest Pipeline Corp	KTM, Inc	07-19-89	G-S		
ST89-4217	Northwest Pipeline Corp	Northwest Pipeline Corp	07-19-89	G-S		
ST89-4218	Transcontinental Gas Pipe Line Corp	B & A Pipeline Co	07-19-89	B		
ST89-4219	Transcontinental Gas Pipe Line Corp	Southern Industrial Gas Corp	07-19-89	B		
ST89-4220	Transcontinental Gas Pipe Line Corp	Brooklyn Union Gas Co	07-19-89	B		
ST89-4221	Transcontinental Gas Pipe Line Corp	Neches Gas Distribution Co	07-19-89	B		
ST89-4222	Transcontinental Gas Pipe Line Corp	Texaco Gas Marketing, Inc	07-19-89	G-S		
ST89-4223	Neches Pipeline System	Natural Gas Pipeline Co. of America	07-20-89	C		
ST89-4224	Neches Pipeline System	Spindletop Gas Distribution System	07-20-89	C		

Docket Number*	Transporter/Seller	Recipient	Date Filed	Part 284 Subpart	Expiration Date**	Transportation Rate (¢/MMBtu)
ST89-4225	BP Gas Transmission Co	ANR Pipeline Co., et al	07-20-89	C	12-17-89	13.70
ST89-4226	Paiute Pipeline Co	High Sierra Casino Hotel	07-20-89	G-S		
ST89-4227	Neches Pipeline System	Natural Gas Pipeline Co. of America	07-20-89	C		
ST89-4228	Colorado Interstate Gas Co	Coastal States Gas Transmission Co	07-20-89	B		
ST89-4229	Taft Pipeline Co	Northern Natural Gas Co	07-20-89	C	12-17-89	9.00
ST89-4230	Texas Eastern Transmission Corp	Allied Gas Co	07-20-89	B		
ST89-4231	Texas Eastern Transmission Corp	Rockland Pipeline System	07-20-89	B		
ST89-4232	Texas Eastern Transmission Corp	Crescent Gas Corp	07-20-89	B		
ST89-4233	Webb/Duval Gatherers	Tennessee Gas Pipeline Co	07-21-89	C		
ST89-4234	El Paso Natural Gas Co	Western Gas Processors, Ltd	07-21-89	G-S		
ST89-4235	Northern Natural Gas Co	Vantage Pipeline Systems, Inc	07-21-89	G-S		
ST89-4236	Northern Natural Gas Co	Adobe Gas Marketing Co	07-21-89	G-S		
ST89-4237	Northern Natural Gas Co	Centran Corp	07-21-89	C-S		
ST89-4238	Tennessee Gas Pipeline Co	Varibus Corp	07-21-89	B		
ST89-4239	Williston Basin Interstate P/L Co	MGTC, Inc	07-21-89	B		
ST89-4240	Williston Basin Interstate P/L Co	Quivira Gas Co	07-21-89	B		
ST89-4241	Williston Basin Interstate P/L Co	MGTC, Inc	07-21-89	B		
ST89-4242	Colorado Interstate Gas Co	NGC Intrastate Pipeline Co	07-21-89	B		
ST89-4243	Colorado Interstate Gas Co	Golden Gas Energies, Inc	07-21-89	B		
ST89-4244	Colorado Interstate Gas Co	Phillips Pipeline Co	07-21-89	G-S		
ST89-4245	Colorado Interstate Gas Co	Coastal Gas Marketing Co	07-21-89	G-S		
ST89-4246	Colorado Interstate Gas Co	Associated Intrastate Pipeline Co	07-21-89	B		
ST89-4247	Colorado Interstate Gas Co	NGC Intrastate Pipeline Co	07-21-89	B		
ST89-4248	Gas Co. of NM (Div. Public Serv. Co. NM)	El Paso Natural Gas Co	07-24-89	G-HT		
ST89-4249	BP Gas Transmission Co	Texas Eastern Trans., Corp., et al	07-24-89	C	12-21-89	18.66
ST89-4250	BP Gas Transmission Co	ANR Pipeline Co., et al	07-24-89	C	12-21-89	13.70
ST89-4251	Sea Robin Pipeline Co	Phillips Natural Gas Co	07-24-89	B		
ST89-4252	Western Gas Supply Co	El Paso Natural Gas Co	07-24-89	C		
ST89-4253	Western Gas Supply Co	Questar Pipeline Co	07-24-89	C		
ST89-4254	Western Gas Supply Co	Northwest Pipeline Corp	07-24-89	C		
ST89-4255	Western Gas Supply Co	El Paso Natural Gas Co	07-24-89	C		
ST89-4256	Western Gas Supply Co	Northwest Pipeline Corp	07-24-89	C		
ST89-4257	Western Gas Supply Co	Northwest Pipeline Corp	07-24-89	C		
ST89-4258	Western Gas Supply Co	El Paso Natural Gas Co	07-24-89	C		
ST89-4259	United Gas Pipe Line Co	Prior Intrastate Corp	07-24-89	B		
ST89-4260	United Gas Pipe Line Co	Conoco, Inc	07-24-89	G-S		
ST89-4261	United Gas Pipe Line Co	Exxon Corp	07-24-89	G-S		
ST89-4262	United Gas Pipe Line Co	Graham Energy Marketing Co	07-24-89	G-S		
ST89-4263	United Gas Pipe Line Co	American Central Gas Cos., Inc	07-24-89	G-S		
ST89-4264	Tennessee Gas Pipeline Co	Kerr-McGee Corp	07-24-89	G-S		
ST89-4265	Tennessee Gas Pipeline Co	Western Kentucky Gas Co	07-24-89	B		
ST89-4266	Columbia Gulf Transmission Co	Transco Energy Marketing Co	07-24-89	G-S		
ST89-4267	Columbia Gulf Transmission Co	Seagull Marketing Services, Inc	07-24-89	G-S		
ST89-4268	Columbia Gulf Transmission Co	Bridgeline Gas Distribution Co	07-24-89	B		
ST89-4269	Columbia Gulf Transmission Co	Diamond Shamrock Offshore Partners Ltd	07-25-89	G-S		
ST89-4270	Utah Gas Service Co	Northwest Pipeline Corp	07-25-89	C	12-22-89	18.00
ST89-4271	Transok, Inc	Northern Illinois Gas Co	07-26-89	C	12-23-89	32.50
ST89-4272	BP Gas Transmission Co	ANR Pipeline Co., et al	07-26-89	C	12-23-89	13.70
ST89-4273	Northern Natural Gas Co	Llano, Inc	07-26-89	B		
ST89-4274	Northern Natural Gas Co	Texas Eastern Gas Services Co	07-26-89	G-S		
ST89-4275	Tennessee Gas Pipeline Co	Olympic Pipeline Co	07-26-89	B		
ST89-4276	United Gas Pipe Line Co	Air Products & Chemicals, Inc	07-26-89	G-S		
ST89-4277	United Gas Pipe Line Co	Marathon Oil Co	07-26-89	G-S		
ST89-4278	United Gas Pipe Line Co	PSI, Inc	07-26-89	G-S		
ST89-4279	United Gas Pipe Line Co	Texaco Gas Marketing, Inc	07-26-89	G-S		
ST89-4280	United Gas Pipe Line Co	Seagull Marketing Services, Inc	07-26-89	G-S		
ST89-4281	United Gas Pipe Line Co	Midcon Marketing Corp	07-26-89	G-S		
ST89-4282	United Gas Pipe Line Co	Midcon Marketing Corp	07-26-89	G-S		
ST89-4283	Arkla Energy Resources	Polaris Pipeline Co	07-25-89	B		
ST89-4284	Arkla Energy Resources	Wisconsin Natural Gas Co	07-25-89	B		
ST89-4285	Arkla Energy Resources	AER Intrastate Pipeline	07-25-89	B		
ST89-4286	Arkla Energy Resources	Orange and Rockland Utilities, Inc	07-25-89	B		
ST89-4287	Tennessee Gas Pipeline Co	City of Grayson	07-27-89	B		
ST89-4288	Natural Gas Pipeline Co. of America	Shell Gas Trading Co	07-27-89	G-S		
ST89-4289	ANR Pipeline Co	Consumers Power Co	07-27-89	B		
ST89-4290	ANR Pipeline Co	Kaztex Energy Management, Inc	07-27-89	G-S		
ST89-4291	ANR Pipeline Co	Northern Illinois Gas Co	07-27-89	B		
ST89-4292	ANR Pipeline Co	Xebec Gas Co	07-27-89	G-S		
ST89-4293	ANR Pipeline Co	Xebec Gas Co	07-27-89	G-S		
ST89-4294	ANR Pipeline Co	Clinton Gas Marketing, Inc	07-27-89	G-S		
ST89-4295	ANR Pipeline Co	Semco Energy Services, Inc	07-27-89	G-S		
ST89-4296	ANR Pipeline Co	Coastal Gas Marketing Co	07-27-89	G-S		
ST89-4297	ANR Pipeline Co	Dekalb Energy Canada, Ltd	07-27-89	G-S		
ST89-4298	Sabine Pipe Line Co	Petrofina Gas Pipeline Co	07-28-89	B		
ST89-4299	Mid Louisiana Gas Co	Tennessee Gas Pipeline Co	07-28-89	G		
ST89-4300	Tennessee Gas Pipeline Co	Entrade Corp	07-28-89	G-S		
ST89-4301	Natural Gas Pipeline Co. of America	Illinois Power Co	07-28-89	B		
ST89-4302	Natural Gas Pipeline Co. of America	Southern California Gas Co	07-28-89	B		
ST89-4303	Natural Gas Pipeline Co. of America	Petrofina Gas Pipeline Co	07-28-89	B		
ST89-4304	Natural Gas Pipeline Co. of America	Illinois Power Co	07-28-89	B		
ST89-4305	Natural Gas Pipeline Co. of America	Northern Illinois Gas Co	07-28-89	B		

Docket Number*	Transporter/Seller	Recipient	Date Filed	Part 284 Subpart	Expiration Date**	Transportation Rate (¢/MMBtu)
ST89-4306	Natural Gas Pipeline Co. of America	Midcon Marketing Corp	07-28-89	B		
ST89-4307	Natural Gas Pipeline Co. of America	Phibro Distributors Corp	07-28-89	G-S		
ST89-4308	Tennessee Gas Pipeline Co	Panhandle Trading Co	07-28-89	G-S		
ST89-4309	United Gas Pipe Line Co	Tenngasco Corp	07-28-89	G-S		
ST89-4310	United Gas Pipe Line Co	Texaco Gas Marketing, Inc	07-28-89	G-S		
ST89-4311	Texas Eastern Transmission Corp	Coastal States Gas Transmission Co	07-28-89	B		
ST89-4312	Texas Eastern Transmission Corp	Coastal States Gas Transmission Co	07-28-89	B		
ST89-4313	Texas Eastern Transmission Corp	Quivira Gas Co	07-28-89	B		
ST89-4314	Panhandle Eastern Pipe Line Co	Central Illinois Light Co	07-28-89	B		
ST89-4315	Panhandle Eastern Pipe Line Co	Energy Pipeline Co	07-28-89	B		
ST89-4316	Panhandle Eastern Pipe Line Co	Access Energy Corp	07-28-89	G-S		
ST89-4317	Panhandle Eastern Pipe Line Co	Access Energy Corp	07-28-89	G-S		
ST89-4318	Panhandle Eastern Pipe Line Co	Centran Corp	07-28-89	G-S		
ST89-4319	Texas Gas Transmission Corp	Ladd Gas Marketing, Inc	07-28-89	G-S		
ST89-4320	Texas Gas Transmission Corp	Ladd Gas Marketing, Inc	07-28-89	G-S		
ST89-4321	Texas Gas Transmission Corp	Krupp and Assoc	07-28-89	G-S		
ST89-4322	Texas Gas Transmission Corp	United Cities Gas Co	07-28-89	B		
ST89-4323	Texas Gas Transmission Corp	Western Kentucky Gas Co	07-28-89	B		
ST89-4324	Panhandle Eastern Pipe Line Co	Gastrak Corp	07-31-89	G-S		
ST89-4325	Panhandle Eastern Pipe Line Co	Mountain Iron & Supply Co	07-31-89	G-S		
ST89-4326	Panhandle Eastern Pipe Line Co	Mountain Iron & Supply Co	07-31-89	G-S		
ST89-4327	Panhandle Eastern Pipe Line Co	Vesta Energy Co	07-31-89	G-S		
ST89-4328	Panhandle Eastern Pipe Line Co	Colony Pipeline Corp	07-31-89	B		
ST89-4329	Panhandle Eastern Pipe Line Co	Mountain Iron & Supply Co	07-31-89	G-S		
ST89-4330	Panhandle Eastern Pipe Line Co	Mountain Iron & Supply Co	07-31-89	G-S		
ST89-4331	Panhandle Eastern Pipe Line Co	Mountain Iron & Supply Co	07-31-89	G-S		
ST89-4332	Panhandle Eastern Pipe Line Co	Amgas, Inc	07-31-89	G-S		
ST89-4333	United Gas Pipe Line Co	Seagull Marketing Services, Inc	07-31-89	G-S		
ST89-4334	Paiute Pipeline Co	KTM, Inc	07-31-89	G-S		
ST89-4335	Texas Eastern Transmission Corp	Somerset Gas Service	07-31-89	B		
ST89-4336	Texas Eastern Transmission Corp	Somerset Gas Service	07-31-89	B		
ST89-4337	Texas Eastern Transmission Corp	Equitable Gas Co	07-31-89	B		
ST89-4338	Texas Eastern Transmission Corp	Excel Intrastate Pipeline Co	07-31-89	B		
ST89-4339	Transcontinental Gas Pipe Line Corp	Citizens Gas Supply Corp	07-31-89	B		
ST89-4340	Transcontinental Gas Pipe Line Corp	NGC Intrastate Pipeline Co	07-31-89	B		
ST89-4341	Transcontinental Gas Pipe Line Corp	Panhandle Gas Co	07-31-89	B		
ST89-4342	Natural Gas Pipeline Co. of America	Northern Indiana Public Service Co	07-31-89	B		
ST89-4343	Natural Gas Pipeline Co. of America	Texarkoma Transportation Co	07-31-89	G-S		
ST89-4344	Stingray Pipeline Co	Phibro Distributors Corp	07-31-89	K-S		
ST89-4345	Stingray Pipeline Co	Amoco Production Co	07-31-89	K-S		
ST89-4346	Tennessee Gas Pipeline Co	Neches Gas Distribution Co	07-31-89	B		
ST89-4347	Columbia Gas Transmission Corp	Columbia Gas of Ohio, Inc	07-31-89	B		
ST89-4348	Trunkline Gas Co	United Cities Gas Co	07-31-89	B		
ST89-4349	Trunkline Gas Co	Missouri Public Service Co	07-31-89	B		
ST89-4350	Trunkline Gas Co	BP Gas Transmission Co	07-31-89	B		
ST89-4351	Trunkline Gas Co	Mobil Natural Gas, Inc	07-31-89	G-S		
ST89-4352	Trunkline Gas Co	American Central Gas Marketing Co	07-31-89	G-S		
ST89-4353	Trunkline Gas Co	Access Energy Corp	07-31-89	B		
ST89-4354	Trunkline Gas Co	Hadson Gas Systems, Inc	07-31-89	G-S		
ST89-4355	South Georgia Natural Gas Co	Sonat Marketing Co	07-31-89	B		
ST89-4356	Southern Natural Gas Co	Kerr-McGee Corp	07-31-89	G-S		
ST89-4357	Southern Natural Gas Co	Kerr-McGee Corp	07-31-89	G-S		
ST89-4358	Southern Natural Gas Co	Kerr-McGee Corp	07-31-89	G-S		

* Notice of transactions does not constitute a determination that filings comply with Commission regulations in accordance with Order No. 436 (Final rule and notice requesting supplemental comments, 50 FR 42,372, 10/18/85).

** The Intrastate Pipeline has sought Commission approval of its transportation rate pursuant to section 284.123(B)(2) of the Commission's regulations (18 CFR 284.123(B)(2)). Such rates are deemed fair and equitable if the Commission does not take action by the date indicated.

[FR Doc. 89-20038 Filed 8-24-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 9697-001; Maryland]

Savage Hydro Associates; Surrender of Preliminary Permit

August 18, 1989.

Take notice that Savage Hydro Associates, permittee for the Savage River Dam Project, located on the Savage River in Garrett County, Maryland, has requested that its preliminary permit be terminated. The preliminary permit was issued on November 14, 1988, and would have expired on October 31, 1991. Following issuance of the preliminary permit, the permittee has pursued first round consultations with government agencies and concerned recreational interests, and explored power sales options and project financing alternatives. The permittee has determined that the construction and operation of this project is not feasible at this time.

The permittee filed the request on July 14, 1989, and the preliminary permit for Project No. 9697 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 89-20035 Filed 8-24-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2368-001 Maine]

Maine Public Service Co.; Establishment of Procedures for Relicensing and a Deadline for Submission of Final Amendments

August 18, 1989.

The license for the Squa Pan Hydro Project No. 2368 located on the Squa Pan Stream in Aroostook County, Maine expires on December 31, 1990. The statutory deadline for filing applications for new license was December 31, 1988. An application for new license has been filed as follows:

Project No.	Applicant	Contact
2368-001	Maine Public Service Company, 209 State Street, P.O. Box 1209, Presque Isle, ME 04769.	Mr. Frederick C. Bustard, MPSC, (207) 768-5811 Ext. 122

Pursuant to section 15(c)(1) of the Federal Power Act, the deadline for the applicant to file final amendments, if any, to its application is October 1, 1989.

The following is the schedule and procedures that will be followed in processing the application.

Date	Action
July 31, 1989	The Commission notified the applicant that its application had been accepted.
August 8, 1989	The Commission issued public notice of application that had been accepted describing project and established October 12, 1989, as the date for filing motions to intervene, comments, protests, and agency recommendations.

Upon receipt of all additional information and the information filed in response to the public notice of the acceptance of the application, the Commission will evaluate the application in accordance with applicable statutory requirements and take appropriate action on the application.

Any questions concerning this notice should be directed to Ed Lee at (202) 376-5786.

Lois D. Cashell,

Secretary.

[FR Doc. 89-20034 Filed 8-24-89; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL ENERGY REGULATORY COMMISSION

[Docket No. RP88-94-000]

Natural Gas Pipeline Company of America; Technical Conference

August 18, 1989.

Pursuant to the Commission's order, which issued on August 15, 1989, a technical conference will be held to resolve the issues raised in the above-captioned proceeding. The conference will be held on Thursday, September 21, 1989 at 10:00 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

All interested persons and Staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 89-20036 Filed 8-24-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-120-000]

Questar Pipeline Co.; Technical Conference

August 18, 1989.

Pursuant to the Commission's order, which issued on June 26, 1989, a technical conference will be held to resolve the issues raised in the above-captioned proceeding. The conference will be held on Thursday, September 14, 1989 at 10 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

All interested persons and Staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 89-20037 Filed 8-24-89; 8:45 am]

BILLING CODE 6717-01-M

Federal Energy Regulatory Commission

[Docket No. RP88-227-018]

Paiute Pipeline Co.; Compliance Filing

August 18, 1989.

Take notice that on August 14, 1989, Paiute Pipeline Company (Paiute), in compliance with the order issued by the Federal Energy Regulatory Commission on June 7, 1989, in Docket Nos. RP88-227-014 and -015, submitted Fourth Revised Sheet No. 99 to be a part of its FERC Gas Tariff, Original Volume No. 1.

Paiute states the purpose of this filing is to comply with the Commission's order to conform its Index of Purchasers to reflect service levels that are consistent with the D-2 nominations of Paiute's customers.

Paiute requests an effective date of February 1, 1989 for its proposed tariff sheet since said tariff sheet was submitted in response to the Commission's directive that Paiute revise Third Revised Sheet No 99, which the Commission accepted effective February 1, 1989, subject to modification.

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 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such protests should be filed on or before August 25, 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. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-20030 Filed 8-24-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-8-002]

Pacific Interstate Transmission Co.; Filing

August 18, 1989.

Take notice that on August 11, 1989, Pacific Interstate Transmission Company (PITCO) filed Second Revised Sheet No. 7 and Fourth Revised Sheet No. 9 to its FERC Gas Tariff, Original Volume No. 1, to be effective August 1, 1989.

PITCO states these tariff sheets were originally submitted in its Offer of Settlement, and the Commission, on August 1, 1989, found the Offer of Settlement to be a reasonable resolution of the issues and in the public interest. PITCO states that it is now submitting these tariff sheets for final acceptance to be incorporated into its FERC Gas Tariff.

PITCO states that a copy of this filing has been served to the parties on the official service list.

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 August 25, 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. 89-20031 Filed 8-24-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA90-1-40-000]

Raton Gas Transmission Co.; Filing of Annual Purchased Gas Adjustment

August 18, 1989.

Raton Gas Transmission Company (Raton) on August 11, 1989, tendered for filing proposed changes to its FERC Gas Tariff, Original Volume No. 1, to implement its annual purchased gas adjustment under the provisions of Order Nos. 483 and 483A. The proposed tariff sheets are to be effective October 1, 1989.

Raton states that the revised tariff sheets reflects a demand rate decrease of 28 cents and an increase in commodity rate of 22.4 cents to track rate changes filed by Colorado Interstate Gas Compnay (CIG) to be effective on October 1, 1989. CIG is the sole gas supplier to Raton.

Raton states that the filing also reflects an increase in surcharge rate from 1.09 cents to 2.92 cents for the twelve months period beginning October 1, 1989 due to increase in Account 191. Unrecovered Purchased Gas Costs as of May 31, 1989.

Raton also states that copies of this filing have been served on Raton's two customers and the New Mexico Public Service Commission.

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, 29426, in accordance with Rules 214 and 211 of the Commission's rules of practice and procedure (18 CFR 385.214, 385.11 (1989)). All such motions or protests shuld be filed on or before September 6, 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. 89-20032 Filed 8-24-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-147-005]

United Gas Pipe Line Co.; Filing

August 18, 1989.

Take notice that on August 11, 1989, United Gas Pipe Line Company (United) filed Third Substitute Original Sheet Nos. 4-M, 4-O, 4-Q and Second Substitute Original Sheet No. 4-Q1 to its FERC Gas Tariff, First Revised Volume No. 1, to be effective May 1, 1989.

United states that this filing corrects several clerical errors found in its July 31, 1989 filing.

United states it is serving this filing upon all parties listed on the official service list for this proceeding.

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 August 25, 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. 89-20033 Filed 8-24-89; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed During the Week of July 14 Through July 21, 1989

During the Week of July 14 through July 21, 1989, the applications listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: August 16, 1989.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of July 14 through July 21, 1989]

Date	Name and location of applicant	Case No.
7/14/89	Walsh' Gulf	RF300-10848
7/14/89	Wingate Management Corporation.	RF272-75560
7/14/89	United Technologies	RF307-10010
7/14/89	Holtzman Petroleum Company.	RFRF307-10011
7/14/89	Mobil Oil Corporation	RF307-10012
7/14/89	Enron Corporation	RF307-10013
7/14/89	A-1 Exxon Service Station.	RF307-10014
7/14/89	Cliff's Exxon	RF307-10015
7/14/89	Sanders Associates	RF307-10016
7/14/89	Dryden Oil Company	RF307-10017
7/14/89	Central Gulf Lines, Inc	RF307-10018
7/14/89	Odessa L.P.G. Transport, Inc.	RF307-10019
7/14/89	Autex Fibers, Inc	RF307-10020
7/14/89	The Hertz Corporation	RF307-10021
7/14/89	Thibodeau's Gulf	RF300-10849
7/14/89	Red's Gulf	RF300-10850
7/14/89	Longie's Gulf Service	RF300-10851
7/14/89	Siew's Gulf	RF300-10852
7/14/89	Country Gulf	RF300-10853
7/17/89	Ford Wholesale Company, Inc.	RF272-75561
7/17/89	Red River Parish Sheriff's.	RF272-75562
7/17/89	Gulf States Asphalt Company.	RF307-10022
7/17/89	ANR Freight Systems, Inc..	RF307-10023
7/17/89	Memphis City Schools	RF307-10024
7/17/89	Redland's Exxon	RF307-10025
7/17/89	The Flintkote Company.	RF307-10026
7/17/89	Hernamdze Exxon	RF307-10027
7/17/89	Silva's Exxon	RF307-10028
7/17/89	McLaughlin's Exxon	RF307-10029
7/17/89	William R. Bonnett	RF307-10030
7/17/89	McLaughlins Exxon	RF307-10031
7/17/89	J&O Trucking, Inc	RF313-203
7/17/89	Crown Gas	RF313-204
7/17/89	Dewey Clark	RC272-57
7/17/89	Dewey Clark	RF272-75563
7/17/89	Gray's Creek Superette.	RF307-10032
7/18/89	Johnson's Esso	RF307-10033
7/19/89	Farmers Cooperative Oil & Svs.	RF272-75564
7/19/89	Farmers Cooperative Oil & Svs.	RA-272-57
7/20/89	Dewey Clark	RA-272-10
7/20/89	Clark Oil Company	RF309-1369
7/20/89	The Firestone Tire & Rubber.	RF307-10034
7/20/89	A. T. Williams Oil Company.	RF313-205
7/20/89	Petroleum Wholesale, Inc.	RF313-206

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of July 14 through July 21, 1989]

Date	Name and location of applicant	Case No.
7/14/89 thru 7/21/89	Atlantic Richfield Refund. Applications Received...	RF304-9055 thru RF304-9972
7/14/89 thru 7/21/89	Shell Oil Refunds..... Applications Received...	RF315-6545 thru RF315-6577

[FR Doc. 89-20125 Filed 8-24-89; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed During the Week of July 21 Through July 28, 1989

During the week of July 21 through July 28, 1989, the appeals and applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: August 16, 1989.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of July 21 Through July 28, 1989]

Date	Name and location of applicant	Case No.	Type of submission
July 21, 1989.....	Don Devereux, Phoenix, AZ.....	KFA-0307	Appeal of an information request denial. If granted: Don Devereux would receive access to information requested.
July 27, 1989.....	Boulder Scientific Company, Washington, DC.....	KFA-0308	Appeal of an information request denial. If granted: The June 12, 1989, Freedom of Information Request Denial issued by the Savannah River Operations Office would be rescinded and the Boulder Scientific Company would receive access to certain DOE documents.

REFUND APPLICATIONS RECEIVED

[Week of July 21 to July 28, 1989]

Date received	Name if refund applicant	Case No.
12/31/87	Pr. William Co. Dept. of Gen. Svs.	RF272-75571
7/12/89	F&M Canterbury, Inc.....	RF300-10854
7/19/89	Farmers Cooperative Oil & Ser.	RF272-57
7/20/89	Dewey Clark.....	RA272-10
7/20/89	Clark Oil Company.....	RF309-1369
7/20/89	The Firestone Tire & Rubber.	RF307-10034
7/20/89	A. T. Williams Oil Company.	RF313-205
7/20/89	Petroleum Wholesale, Inc.	RF313-206
7/21/89	Joe Simmons Trucking..	RF272-75565
7/21/89	Ashtabula County Commissioners.	RF272-75566
7/21/89	Rockingham Cooperative Farm.	RF272-75567
7/24/89	Moore's Crown.....	RF313-208
7/24/89	Minit Mart.....	RF313-209
7/24/89	Hyman Litsky.....	RF272-58
7/24/89	William F. Allen.....	RF307-10035
7/24/89	Leonard J. Clanton.....	RF307-10036
7/24/89	Nat'l Steel Corp.—Midwest.	RF272-75568
7/24/89	Warren & Miller, Inc.....	RF272-75569
7/24/89	Pat O'Keefe Texaco.....	RF272-75570
7/24/89	Adamidis Service Station.	RF300-10855
7/26/89	Annandale Crown.....	RF313-210
7/26/89	Burch's Crown P-31.....	RF313-211
7/26/89	Oaks Esso S/C.....	RF307-10037
7/26/89	Gilbert's Exxon Servicenter.	RF307-10038
7/26/89	State Escrow Distribution.	RF302-7

REFUND APPLICATIONS RECEIVED—Continued

[Week of July 21 to July 28, 1989]

Date received	Name if refund applicant	Case No.
7/27/89	Abray Service Station, Inc.	RF307-10039
7/27/89	Shelly-Scott SVC Station Inc.	RF307-10040
7/27/89	Enron Corporation.....	RF300-10856
7/27/89	J. R. Mabbett & Son, Inc.	RF313-212
7/27/89	Tauler's Crown.....	RF313-213
7/27/89	James Morse.....	RC272-59
7/27/89	A. S. Csaky Communications.	RC272-60
7/31/89	Jacksonville Electric Auth.	RC272-61
7/28/89	SVC Station Management Corp.	RF313-214
7/28/89	Philip H. Bailey Jr.....	RF313-215
7/28/89	Carroll Independent Fuel.	RF313-216
7/28/89	Caddo Parish Commission.	RF272-75572
7/28/89	Abbey of Gethsemani, Inc.	RF272-75573
7/21/89 thru 7/28/89	Atlantic Richfield Refunds. Applications Received...	RF304-9973 thru RF304-10080
7/21/89 thru 7/28/89	Shell Oil Refunds..... Applications Received...	RF315-6571 thru RF315-6660

[FR Doc. 89-20126 Filed 8-24-89; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed During the Week of July 7 Through July 14, 1989

During the Week of July 7 through July 14, 1989, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regualtions, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: August 15, 1989.

George B. Breznay,

Director, Office of Hearings and Appeals.

List of Cases Received by the Office of Hearings and Appeals

[Week of July 7 through July 14, 1989]

Date	Name and location of applicant	Case No.	Type of submission
July 13, 1989	William R. Bowling, II, Rolla, Montana	KFA-0305	Freedom of information appeal. If granted: William R. Bowling, II would receive access to certain DOE documents.
July 14, 1989	Lynn K. Zusman & Associates, Washington, D.C.	KFA-0306	Appeal of an informaiton request denial. If granted: Lynne K. Zusman & Associates would receive access to documents in order to correct Seymour Kleiman's personnel records.
July 12, 1989	341 Tract Unit of Citronelle Field,	KEZ-0096	Supplemental order. If granted: The office of Hearings and Appeals would issue an Order (i) approving the settlement agreement concerning the exception relief granted to the 341 Tract of Citronelle Field and (ii) dismissing related OHA proceedings, Case Nos. HER-0050, HER-0106. Comments or requests for oral argument may be filed.
July 13, 1989	Gasoline Marketers of America, Washington, D.C.	KEF-0138	Implementation of special refund procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 C.F.R. Part 205, Subpart V, in connection with September 30, 1983 Remedial Order issued to Gasoline Marketers of America.

Refund Applications Received

[Week of July 7 to July 14, 1989]

Date received	Name of refund applicant	Case No.
7/7/89 thru 7/14/89	Atlantic Richfield Refund. Applications received	RF304-9855 thru RF304-9984
7/7/89 thru 7/14/89	Shell Oil Refund. Applications received	RF315-6485 thru RF315-6544
7/10/89	Guignard Freight Lines, Inc.	RF272-75554
7/10/89	National Steel Corp./ GRT Lakes.	RF272-75555
7/10/89	Ed's Eastside Exxon	RF307-10001
7/10/89	Forest Lane Exxon	RF307-10002
7/10/89	The Henley-Lundgren Company.	RF307-10003
7/10/89	Livingston Supreme, Inc.	RF313-195
7/10/89	Enterprise Products	RF313-197
7/11/89	Georgia Kraft Co.	RC272-53
7/11/89	Kimberly Clark Corp.	RC272-54
7/11/89	W.L.F., Inc.	RF313-196
7/11/89	Norman E. Schwartz	RF272-75556
7/12/89	Paul S. Stevens.	RA272-9
7/12/89	Conway Asphalt Company.	RF272-75558
7/12/89	Conway Asphalt Company.	RC272-55
7/12/89	Tross Farming Company.	RC272-56
7/12/89	Paul S. Stevens.	RA272-9
7/12/89	Jones Oil Inc.	RF313-198
7/12/89	Roberts Oil Co.	RF313-199
7/12/89	Doris Foster	RF307-10004
7/12/89	Faustino O. Sanchez	RF307-10005
7/12/89	Lincoln Exxon Servicenter.	RF307-10006
7/12/89	Tony's Exxon	RF307-10007
7/12/89	Public Service Electric & Gas.	RF307-10008
7/12/89	Solar Gas, Inc.	RF272-75559
7/12/89	Lawton's Texaco	RF272-75557
7/13/89	Jet-Pep Oil Co.	RF313-200
7/13/89	M & G Gas Company	RF307-10009
7/13/89	Bill's APCO Service Station.	RF310-343
7/14/89	Metro Oil Company	RF313-201
7/14/89	Cougar Oil, Inc.	RF313-203

[FR Doc. 89-20127 Filed 8-24-89; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3635-6]

Agency Information Collection Activities Under Office of Management and Budget Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.),* this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATE: Comments must be submitted on or before September 25, 1989.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Pesticides and Toxic Substances

Title: Notification of Substantial Risk under TSCA section 8(e) (EPA ICR # 0794.03, OMB Control # 2070-0046). This submission requests an extension of the expiration date for a currently approved collection.

Abstract: Under section 8(e) of TSCA, chemical manufacturers, importers, processors, and distributors must immediately inform EPA when they obtain information which indicates that their product(s) may present a substantial risk of injury to health or the environment. EPA and other federal agencies use this information to determine and control chemical risks.

Burden Statement: The public reporting burden for this collection of information is estimated to average 21 hours per response for initial submissions and 4 hours per response for follow-up submissions. This estimate includes the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: Chemical manufacturers, importers, processors, and distributors.

Estimated No. of Respondents: 250.

Estimated Total Annual Burden on Respondents: 2020 hours.

Frequency of Collection: On occasion.

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223), 401 M Street, SW., Washington, DC 20460,

and,

Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place, NW., Washington, DC 20530.

Dated: August 17, 1989.

Paul Lapsley,

Director, Information and Regulatory Systems Division.

[FR Doc. 89-20108 Filed 8-24-89; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3635-8]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared August 7, 1989 through August 11, 1989 pursuant to the Environmental Review Process (ERP), under section 309

of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 7, 1989 (54 FR 15006).

Draft EISs

ERP No. D–COE–K32045–HI, Rating LO, Kahului Harbor Light Draft Navigation Improvement, Implementation, Island of Maui, Hawaiian Archipelago, HI.

Summary: EPA expressed a lack of objections with the proposed project, but requested that certain conditions be included in the Section 404/10 permit application to protect marine resource, and that the Army Corps coordinate with the Hawaii Health Department on the protection of water quality and beneficial uses.

Final EISs

ERP No. F–BLM–K65118–AZ, San Pedro River Riparian Resource Management Plan, Implementation, San Simon Resource Area, Safford District, Cochise County, AZ.

Summary: Review of the final EIS was not deemed necessary.

ERP No. F–FHW–D40229–MD, MD–228 Extension, US 301 to MD–210 and MD–210 Improvement, MD–228 Extended to Old Fort Road, Funding, Charles and Prince Georges Counties, MD.

Summary: EPA believes that most of the environmental concerns have been addressed in this document.

ERP No. FS–USA–K21000–00, Johnston Atoll Chemical Agent Disposal System (JACADS), Implementation, Updated Information, Johnston Island, TT.

Summary: EPA requested that the Record of Decision contain a commitment that JACADS liquid waste/waste brine will be dried to salts and disposed as solid waste in an approved landfill rather than disposed of in the ocean, in order to comply with the Ocean Dumping Ban Act of 1988.

Dated: August 22, 1989.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 89–20102 Filed 8–24–89; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3635–5]

Science Advisory Board; Relative Risk Reduction Strategies Subcommittee; Public Meeting

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Environmental Protection Agency's Science Advisory Board (SAB) has formed a Relative Risk Reduction Strategies Subcommittee (RRRSS). This Subcommittee, along with various EPA sponsored workgroups, will meet during the coming months to provide technical advice to the EPA Administrator on strategic options that will assist EPA in assessing possible Agency actions to reduce relative risk. The RRRSS will hold its first meeting on October 25, 1989, from 8:30 a.m. to 12:30 p.m. in the Education Center Auditorium, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Future meetings of the Subcommittee and the Workgroups will be announced in subsequent **Federal Register** Notices.

BACKGROUND: In its 1988 report on research strategies for the 1990's, "Future Risk", the SAB recommended that the concept of risk reduction be used more broadly in EPA. As a follow-up to that report, the EPA Administrator requested that the SAB develop risk reduction strategic options that will assist him in assessing possible Agency activities. As part of this process, the RRRSS will review an Agency report prepared two years ago by senior EPA Staff entitled "Unfinished Business: A comparative Assessment of Environmental Problems."

FOR FURTHER INFORMATION CONTACT: The meeting is open to the public. Any member of the public wishing further information or an agenda concerning the meeting, the role of the RRRSS, its Charge, and its membership, should contact Dr. Donald Barnes, Director, or Mrs. Joanna Foelmer, Secretary to the Director, Science Advisory Board (A–101F), U.S. EPA, 401 M Street, SW., Washington, DC 20460, (202) 382–4126, (FTS) 382–4126. Seating at the meeting will be on a first come basis.

Dated: August 16, 1989.

A. Robert Flaak,

Acting Deputy Director, Science Advisory Board.

[FR Doc. 89–20109 Filed 8–24–89; 8:45 am]

BILLING CODE 6560–50–M

[OPP–00281; FRL–8636–3]

FIFRA Scientific Advisory Panel/ Science Advisory Board; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a 1-day meeting held jointly by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP) and the Science Advisory Board (SAB) to review a set of scientific issues being considered by the Agency in connection with a draft report of Cholinesterase Inhibition as an Indication of Adverse Toxicological Effect.

DATE: Wednesday, September 27, 1989, from 8:30 a.m. to 5 p.m.

ADDRESS: The meeting will be held at: Holiday Inn/National Airport, 1489 Jefferson Davis Highway, Arlington, VA 22202, (703) 920–0772.

FOR FURTHER INFORMATION CONTACT:

By mail: Robert B. Jaeger, Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (H7509C), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Room 816G, CM#2, Arlington, VA, (703) 557–4369.

And/or

Samuel R. Rondberg, Science Advisory Board (A101F), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382–2552.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will include the following topics:

Review a set of scientific issues in connection with a draft report prepared by the Risk Assessment Forum entitled, "Cholinesterase Inhibition as an Indication of Adverse Toxicological Effect." Clinical determination of cholinesterase enzyme changes in animal studies, and less frequently in human monitoring, are continually used to evaluate exposure to, and the degree of, absorption of cholinesterase inhibiting compounds. The degree of change and the specific cholinesterase enzyme involved may connote adverse effects on biological systems.

The SAP/SAB Joint Panel will review the scientific issues identified and provide comment which will assist the Agency in interpreting cholinesterase enzyme data derived from laboratory animal studies and human monitoring data. These comments will form the scientific basis toward developing a

uniform Agency approach to regulating cholinesterase inhibiting compounds, such as carbamates and organophosphates.

Copies of documents relating to these items may be obtained by containing:

By mail: Information Services Branch, Program Management and Support Division (H7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Room 244 Bay, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 557–2805.

Any member of the public wishing to submit written comments should contact Robert B. Jaeger or Samuel R. Rondberg at the address or telephone number given above to be sure that the meeting is still scheduled and to confirm the Panel's agenda. Interested persons should file such statements before the meeting. To the extent that time permits and upon advance notice to the officials named above, interested persons may be permitted by the chairman of the Scientific Advisory Panel to present oral statements at the meeting. There is no limit on written comments for consideration by the Panel, but oral statements before the Panel should be limited due to time constraints. Since oral statements will be permitted only as time permits, the Agency urges the public to submit written comments in lieu of oral presentations. Information submitted as a comment in response to this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public docket. Information not marked confidential will be included in the public docket without prior notice. The public docket will be available for public inspection in Room 240 Bay at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. All statements will be made part of the record and will be taken into consideration by the Panel. Persons wishing to make oral and/or written statements should notify the officials named above and submit ten copies of a summary no later than September 12, 1989, in order to ensure appropriate consideration by the Panel.

Dated: August 22, 1989.

Linda J. Fisher,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 89–20204 Filed 8–24–89; 8:45 am]

BILLING CODE 6560–50–M

[OPP–00280; FRL–3636–4]

FIFRA Scientific Advisory Panel; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a 2-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP) to review a set of scientific issues being considered by the Agency in connection with proposed guidelines for Neurotoxicity Testing and Mutagenicity Testing under FIFRA; to review a set of scientific issues being considered by the Agency in connection with the peer review of DDVP as a Class C oncogen; to review a set of scientific issues being considered by the Agency in connection with the peer review of Acetochlor as a Class B oncogen; and to review a set of scientific issues being considered by the Agency in connection with the peer review of Simazine as a Class C oncogen.

DATE: Thursday, September 28, 1989, from 8:30 a.m. to 5 p.m., and on Friday, September 29, 1989, from 8:30 a.m. to 11 a.m.

ADDRESS: The meeting will be held at: Holiday Inn/National Airport, 1489 Jefferson Davis Highway, Arlington, VA 22202, (703) 920–0772.

FOR FURTHER INFORMATION CONTACT:

By mail: Robert B. Jaeger, Executive Secretary, FIFRA Scientific Advisory Panel (H7509C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Room 816G, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 557–4369/2244.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will include the following topics:

1. Review a set of scientific issues in connection with proposed guidelines for Neurotoxicity Testing under FIFRA, and to request the comments of the FIFRA Scientific Advisory Panel (SAP) on the technical merits of these methods and the desirability of combining certain related guidelines to achieve efficiency.

2. Review a set of scientific issues in connection with the Agency's classification of DDVP as a Class C oncogen based on the biological significance of forestomach tumors in B6C3F1 mice following exposure to DDVP.

3. Review a set of scientific issues in connection with the Agency's classification of Acetochlor as a Class B2 oncogen and request comments of the FIFRA SAP on the assessment of the weight of evidence, according to the Agency's guidelines for Carcinogen Risk Assessment.

4. Review a set of scientific issues in connection with the Agency's classification of Simazine as a Class C oncogen based on increased incidence of malignant mammary and pituitary tumors in female Sprague-Dawley mice.

5. Review a set of scientific issues in connection with proposed guidelines for Mutagenicity Testing under FIFRA to reflect the current science of mutagenicity testing and to incorporate a uniform testing approach with other Agency offices.

Copies of documents related to items 1–5 may be obtained by contacting:

By mail: Information Services Branch, Program Management and Support Division (H7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Room 244 Bay, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 557–2805.

Any member of the public wishing to submit written comments should contact Robert B. Jaeger at the address or the phone number given above to be sure that the meeting is still scheduled and to confirm the Panel's agenda. Interested persons are permitted to file such statements before the meeting. To the extent that time permits and upon advance notice to the Executive Secretary, interested persons may be permitted by the chairman of the Scientific Advisory Panel to present oral statements at the meeting. There is no limit on written comments for consideration by the Panel, but oral statements before the Panel are limited to about 5 minutes. Since oral statements will be permitted only as time permits, the Agency urges the public to submit written comments in lieu of oral presentations. Information submitted as a comment in response to this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment

that does not contain CBI must be submitted for inclusion in the public docket. Information not marked confidential will be included in the public docket without prior notice. The public docket will be available for public inspection in Room 244 Bay at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. All statements will be made part of the record and will be taken into consideration by the Panel. Persons wishing to make oral and/or written statements should notify the Executive Secretary and submit ten copies of a summary no later than September 12, 1989, in order to ensure appropriate consideration by the Panel.

Dated: August 22, 1989.

Linda J. Fisher,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 89-20190 Filed 8-24-89; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3635-7]

Environmental Impact Statements; Availability

Responsibility Agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075. Availability of Environment Impact Statements filed August 14, 1989 through August 18, 1989, pursuant to 40 CFR 1506.9.

EIS No. 890228, Final, COE, OH, Swan Creek Local Flood Protection Project, Implementation, Heatherdale-Lemond Drive Area, Lucus County, OH, Due: September 25, 1989, Contact: William Bulter (716) 876-5454.

EIS No. 890229, Draft, FHW, CO., CO-82 Improvement, East of Basalt to 7th and Main Streets in Aspen, Funding and Section 404 Permit, Pitkin County, CO, Due: October 10, 1989, Contact: Leon Witman (303) 969-6730.

EIS No. 890230, Draft, AFS, NV, South Twin Lodge Mining and Development Proposal, Approval of Plan of Operations, Arc Dome Recommended Wilderness Area, Toiyabe Mountains, Toiyabe National Forest, Nye County, NV, Due: October 23, 1989, Contact: Maureen Joplin (702) 331-6444.

EIS No. 890231, Final, SCS, NY, Virgil Creek Watershed Flood Prevention Plan, Funding and Implementation, Town of Dryden, Town of Harford and Village of Dryden, Tomkins and Cortland Counties, NY, Due: September 25, 1989, Contact: Charles Terrell (202) 447-4925.

EIS No. 890232, Final, UMT, CA, Muni Metro System Turnaround Project, Facilities Construction, Embarcadero, Clay Street to Brannon, Funding, City and County of San Francisco, CA, Due: September 25, 1989, Contact: Carmen Clark (415) 974-7317.

EIS No. 890233, Draft, BOP, IL, Pekin Federal Correctional Institution, Construction and Operation, Tazewell County, IL, Due: October 10, 1989, Contact: William J. Patrick (202) 272-6871.

EIS No. 890234, Draft, COE, NC, Core Creek Bridge Replacement, Atlantic Intercoastal Waterway Bridge, Implementation, Carteret County, NC, Due: October 10, 1989, Contact: Coleman Long (919) 251-4751.

EIS No. 890235, Final, FHW, MD, MD-100 Extension, US 29 to I-95, Funding and 404 Permit, Howard County, MD, Due: September 25, 1989, Contact: Herman Rodrigo (301) 962-4010.

EIS No. 890236, Final, FAA, CO, New Denver Airport Development, Construction and Operation Plan for Replacement of the Stapleton International Airport, Approval and Funding, Denver County, CO, Due: September 25, 1989, Contact: Dennis G. Ossenkop (206) 431-2646.

EIS No. 890237, DSuppl, MMS, SEV, Mid 1987—Mid 1992 Outer Continental Shelf (OCS) Oil and Gas Lease Sales, 5 Year Program, Cumulative Impacts of OCS Development on Migratory Species, Lease Offerings, Offshore the Alaska and Pacific Regions, AK, WA, CA and OR, Due: October 17, 1989, Contact: Debra Purvis (703) 787-1674.

EIS No. 890238, Final, AFS, OR, Tepee Butte Fire Recovery Project, Implementation, August thru September 1988 Tepee Butte Fire Damage Recovery Land Management Plan, Hells Canyon National Recreation Area, Wallowa-Whitman National Forest, Wallowa County, OR, Due: September 25, 1989, Contact: Steven Howes (503) 523-9401.

EIS No. 890239, Final, FHW, AK, Glenn Highway Improvement, Village of Eklutna to Parks Highway, Funding and Section 404/10 Permit, Muncipality of Anchorage, Matanuska-Susitna Borough, AK, Due: September 25, 1989, Contact: Tom Neunaber (907) 586-7428.

Amended Notices

EIS No. 890219, Draft, CGD, FL, Miracle Parkway Everest Parkway Improvement and Midpoint Bridge Construction, Over the Caloosahatchee River, U.S. Coast Guard Approval and Permit, Cape Coral to Fort Myers, Lee County, FL, Due: September 25, 1989, Contact: Brodie Rich (305) 536-4103. Published FR 08-11-89—Notice was published with incorrect agency.

Dated: August 22, 1989.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 89-20103 Filed 8-24-89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL ELECTION COMMISSION

[Notice 1989-14]

Filing Dates for Texas Special Runoff Election

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for Texas special runoff election.

SUMMARY: Texas has scheduled a special runoff election on September 12, 1989, in the 12th Congressional District to fill the seat that was held by Representative Jim Wright.

FOR FURTHER INFORMATION CONTACT: Ms. Bobby Werfel, Public Information Office, 999 E St., NW., Washington, DC 20463, Telephone: (202) 376-3120; Toll Free (800) 424-9530.

SUPPLEMENTARY INFORMATION: Principal campaign committees of candidates who participate in the Texas Special Runoff Election must file reports according to the schedule in the following chart. Party committees and PACs that make contributions or expenditures in connection with the Special Runoff Election during the coverage dates listed in the charts must file the appropriate reports. Monthly filers, however, do not file Special Pre- and Post-Election reports.

CALENDAR OF REPORTING DATES FOR TEXAS SPECIAL RUNOFF ELECTION

Report	Period covered [1]	Reg./ Cert. mailing date [2]	Filing date
Pre-election	07/24/89–08/23/89	08/28/89	08/31/89
Post-election	08/24/89–10/02/89	10/12/89	10/12/89
Year-end	10/03/89–12/31/89	01/31/90	01/31/90

[1] The period begins with the close of the last report filed by the committee. If the committee has filed no previous reports, the period begins with the date of the committee's first activity.
[2] Reports sent by registered or certified mail must be postmarked by the mailing date. Otherwise, they must be received by the filing date.

Dated: August 21, 1989.

Danny L. McDonald,

Chairman, Federal Election Commission.

[FR Doc. 89–20066 Filed 8–24–89; 8:45 am]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Lloyd/Netumar Association Agreement Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 212–009938–008.

Title: Lloyd/Netumar Association Agreement.

Parties: Compania de Navegacao Lloyd Brasileiro, Companhia de Navegacao Maritima Netumar.

Synopsis: The proposed modification would permit the parties to charter space from one another.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: August 21, 1989.

[FR Doc. 89–20028 Filed 8–24–89; 8:45am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Draper Holding Co.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 15, 1989.

A. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Draper Holding Company,* Draper, South Dakota; to acquire Dave Moore Insurance Company, Vivian, South Dakota, and thereby engage in insurance activities in a town with a population of less than 5,000 pursuant to § 225.25(b)(8)(iii) of the Board's Regulation Y. These activities would be conducted in Vivian, South Dakota, and immediate environs.

Board of Governors of the Federal Reserve System, August 21, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89–20051 Filed 8–24–89; 8:45 am]

BILLING CODE 6210–01–M

FirstBank Holding Company Employee Stock Ownership Plan; Change in Bank Control Notice; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notice are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice 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 notice or to the offices of the Board of Governors. Comments must be received not later than September 8, 1989.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *FirstBank Holding Company Employee Stock Ownership Plan,*

Lakewood, Colorado; to acquire an additional 3.9 percent of the voting shares of FirstBank Holding Company of Colorado, Lakewood, Colorado, for a total of 24.9 percent, and thereby indirectly acquire FirstBank of Westland, National Association, Lakewood, Colorado; FirstBank of Vail, Vail, Colorado; FirstBank of Wheat Ridge, National Association, Wheat Ridge, Colorado; FirstBank of Minturn, Minturn, Colorado; FirstBank of North Longmont, National Association, Longmont, Colorado; FirstBank of Boulder, National Association, Boulder, Colorado; FirstBank of Castle Rock, National Association, Castle Rock, Colorado; FirstBank of Academy Park, Lakewood, Colorado; FirstBank of South Longmont, National Association, Longmont, Colorado; FirstBank of West Arvada, National Association, Arvada, Colorado; FirstBank of Colorado, National Association, Littleton, Colorado; FirstBank of Villa Italia, National Association, Lakewood, Colorado; FirstBank of Avon, Avon, Colorado; FirstBank of Tech Center, National Association, Englewood, Colorado; FirstBank of Aurora, National Association, Aurora, Colorado; FirstBank of Denver, National Association, Denver, Colorado; FirstBank of Lakewood, National Association, Lakewood, Colorado; FirstBank of Silverthorne, National Association, Silverthorne, Colorado; FirstBank of Arapahoe County, National Association, Littleton, Colorado; FirstBank at Arapahoe/Yosemite, Englewood, Colorado; FirstBank at Wadsworth/Coal Mine, National Association, Littleton, Colorado; Breckenridge FirstBank, National Association, Breckenridge, Colorado; FirstBank at 88th/Wadsworth, National Association, Westminster, Colorado; FirstBank of Cherry Creek, National Association, Denver, Colorado; FirstBank of Republic Plaza, National Association, Denver, Colorado; FirstBank of West Vail, Vail, Colorado; FirstBank at Arapahoe/Holly, National Association, Littleton, Colorado; FirstBank of Green Mountain, National Association, Lakewood, Colorado; FirstBank at Buckley/Quincy, National Association, Aurora, Colorado; FirstBank at Chambers/Mississippi, National Association, Aurora, Colorado; FirstBank at 9th/Corona, National Association, Denver, Colorado; FirstBank of Edgewater, National Association, Edgewater, Colorado; FirstBank of Erie, Erie, Colorado; FirstBank of Littleton, Littleton, Colorado.

Board of Governors of the Federal Reserve System, August 21, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-20053 Filed 8-24-89; 8:45 am]

BILLING CODE 6210-01-M

Green Top, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than September 11, 1989.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Green Top, Inc.*, Central City, Nebraska, and its subsidiaries, Shelby Insurance, Inc., Central City, Nebraska, and Clarke, Inc., Central City, Nebraska; to acquire Midlands Bancorp, Inc., Papillion, Nebraska, and thereby indirectly acquire Bank of the Midlands, Papillion, Nebraska.

B. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Ford Bank Group, Inc.*, Lubbock, Texas; to acquire 100 percent of the voting shares of First Borger Bancshares, Inc., Borger, Texas, and thereby indirectly acquire First National Bank of Borger, Borger, Texas.

2. *Ford Bank Group, Inc.*, Lubbock, Texas; to acquire 100 percent of the voting shares of First Canyon Bancorporation, Inc., Canyon, Texas, and First Canyon Bancshares, Inc., Canyon, Texas, and thereby indirectly acquire The First National Bank in Canyon, Canyon, Texas.

3. *Ford Bank Group, Inc.*, Lubbock, Texas; to acquire 100 percent of the voting shares of Permian Financial Corporation, Crane, Texas, and thereby indirectly acquire First State Bank, Crane, Texas.

4. *New Borger Bancorporation*, Lubbock, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of First Borger Bancshares, Inc., Borger, Texas, and thereby indirectly acquire First National Bank of Borger, Borger, Texas.

5. *New Canyon Bancorporation, Inc.*, Lubbock, Texas; to acquire 100 percent of the voting shares of First Canyon Bancorporation, Inc., Canyon, Texas, and First Canyon Bancshares, Inc., Canyon, Texas, and thereby indirectly acquire The First National Bank in Canyon, Canyon, Texas.

Board of Governors of the Federal Reserve System, August 21, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-20052 Filed 8-24-89; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

On Fridays, the Department of Health and Human Services, Office of the Secretary publishes a list of information collections it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those information collections recently submitted to OMB.

1. Social Security Client Satisfaction Survey—0990-0171—revision—This survey of Social Security beneficiaries will obtain information on client satisfaction with Social Security services in order to determine the effects of staff reductions and improvement initiatives on clients. The information will be used to identify areas where improvements in service delivery are necessary. Respondents: Individuals; Annual Number of Respondents: 640; Frequency of Response: one time; Average Burden per Response: 22 minutes; Estimated Total Annual Burden: 235 hours.

OMB Desk Officer: Shannah Koss-McCallum

Copies of the information collection pacakges listed above can be obtained by calling the OS Reports Clearance Officer on (202) 245–6511. Written comments and recommendations for the proposed information collection should be sent directly to the OMB desk officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503.

Dated: August 17, 1989.

James F. Trickett,

Deputy Assistant Secretary for Management and Acquisition.

[FR Doc. 89–20151 Filed 8–24–89; 8:45 am]

BILLING CODE 4150–04–M

Alcohol, Drug Abuse and Mental Health Administration

Substance Abuse Prevention Technical Assistance Workshops

AGENCY: Office for Substance Abuse Prevention (OSAP), ADAMHA, HHS.

ACTION: Notice of Technical Assistance Workshops.

SUMMARY: This notice sets forth the schedule and proposed agenda of three (3) technical assistance workshops to assist prospective applicants in responding to the Office for Substance Abuse Prevention's grant announcements: Drug and Alcohol Abuse Prevention—High Risk Youth Demonstration Grants; Model Projects for Pregnant and Postpartum Women, and their Infants; and the Substance Abuse Conference grant.

Name: Office of Substance Abuse Prevention Technical Assistance Workshops.

Locations: San Francisco, CA September 28–29, 1989, Baltimore, MD—October 2–3, 1989, Kansas City, MO October 5–6.

Workshop sites to be in registration information.

Time: Each workshop will begin on Day 1 at 1:00 p.m. and will end on Day 2 at 12:00 p.m.

Agenda Highlights include:

Day 1—Overview of the three Grant Announcements Grant Submission Review/Award Process General Principles of Prevention/Early Intervention Lessons learned on High Risk Youth and Resiliency Factors

Day 2—Technical/Practical Aspects of the Grant Application Process including: completing forms, program narrative, budget justification, approach, method, management, and evaluation

Status of Workshops: They are open to prospective OSAP grant applicants.

To receive a workshop registration form and grant kit contact: National Clearinghouse for Alcohol and Drug Information (NCADI), PO Box 2345, Rockville, MD 20852, Telephone: (301) 468–2600.

For more information about the technical assistance workshops contact: OSAP, Division of Demonstrations and Evaluation, Rockwall II, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–4564/443–0353.

Purpose: In cooperation with the State Alcohol and Drug Authorities, the Office for Substance Abuse Prevention, Division of Demonstration/Evaluation and the Division of Prevention Implementation want to provide general assistance to prospective applicants in responding to the OSAP grant announcements.

Dated: August 21, 1989.

Joseph R. Leone,

Associate Administrator for Management, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 89–20073 Filed 8–24–89; 8:45 am]

BILLING CODE 4160–20–M

Family Support Administration

Forms Submitted to the Office of Management and Budget for Clearance

The Family Support Administration (FSA) will publish on Fridays information collection packages submitted to the Office of Management and Budget (OMB) for clearance, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). Following is the package submitted for expedited clearance to OMB since the last publication on August 11, 1989. (Call the Reports Clearance Officer on 202–252–5604 for copies of package)

Survey of Job Programs, for Indians (American Indians & Alaska Natives)—FSA–105—New—The information received on this form will be used to compile a compendium for Congressional reference. FSA will maintain the data for related studies and to answer any further inquiries from Congress or other interested parties regarding the application of JOBS programs specifically directed to Indians.

Respondents: Individuals or households; Number of Respondents: 506; Frequency of Response: One-time; Average Burden per Response: 1 hour; Estimated Annual Burden: 506 hours.

OMB Desk Clearance Officer: Justin Kopca.

Consideration will be given to comments and suggestions received within 15 days of publication. Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3201, 725 17th Street, NW., Washington, DC 20503.

Dated: August 20, 1989.

Naomi B. Marr,

Associate Administrator, Office of Management and Information Systems.

BILLING CODE 4150–04–M

"DRAFT" FOR COMMENT ONLY

This is a two part survey consisting of 20 questions. The purpose of the survey is to determine the effectiveness of education, training, and employment programs available to American Indians and Alaskan Natives living on or near reservations/villages.

SURVEY OF JOBS PROGRAMS FOR INDIANS (FSA Form 105)
INSTRUCTIONS

- Identify all employment, training, and education programs that are currently available to Indians living on or near the reservation/village and answer questions related to each program.

- Part II of the Survey is for individual program evaluations. We have provided four copies of this section. However, if you have more than four programs to be evaluated, please make additional copies of Part II for your use.

- If additional space is needed for remarks/comments or to respond to any question, please use the back of the survey or attach additional sheets as necessary to explain circumstances. Be sure to clearly reference the question/item number on any additional sheets.

- When asked to rate the overall effectiveness of a program and related activities, please circle the number which best describes your opinion, assuming 5 as the highest and 1 as the lowest rating.

- **Use the enclosed Business Reply Envelope to return the survey** to the following address before **September 15, 1989** or as soon as possible thereafter:

Department of Health and Human Services
Family Support Administration
Office of Family Assistance
Attn: DPE/Indian Survey
370 L'Enfant Promenade, S.W.
Washington, D.C. 20447

" DRAFT" FOR COMMENT ONLY

SURVEY OF JOBS PROGRAMS FOR INDIANS[1]
(American Indians & Alaskan Natives)

Instructions: This is a two part survey consisting of 20 questions. If additional space is needed to respond to any question, please use the back of this form or attach additional sheets which clearly reference the item number. **Please use the enclosed Business Reply Envelope to return the survey** before September 15, 1989 or as soon as possible thereafter to: Department of Health and Human Services, Family Support Administration, Office of Family Assistance, Attn: DPE/Indian Survey, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447.

I. IDENTIFICATION & GENERAL INFORMATION

1. Description: [ ] Tribe [ ] Consortium [ ] Village
2. Name:_____
3. Contact/Name of Person Completing Form:_____
4. Telephone Number:_____ Survey Date:_____

5. Total Number of Education, Training or Employment Programs Available..... ==========
6. Number of Programs Available by Type: a) Education..... _____
   b) Training..... _____
   c) Employment..... _____

7. How would you rate the degree of coordination between the employment, training, and education programs that are available to Indians? Circle the number which best describes your opinion, assuming 5 as the highest and 1 as the lowest rating: 5 4 3 2 1
   Remarks/Comments:_____

8. Support Services (child care, transportation, substance abuse, etc.)
   a) How would you rate the overall availability of support services which are needed to assist Indians in participating in employment, training, and education programs or in obtaining permanent employment? Circle the number which best describes your opinion, assuming 5 as the highest and 1 as the lowest rating: 5 4 3 2 1
   Remarks/Comments:_____

   b) Specify how the support services situation could be improved or what additional services are needed to meet the education, employment, and training needs of Indians:
   _____

9. Identify sustainable job markets which exist on or near the reservation/village:_____

10. Specify suggestions for improving or restructuring programs to more effectively meet the needs of Indians:_____

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[1] Public reporting burden for this collection of information is estimated to average one 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 Department of Health & Human Services, Family Support Administration, Attn: DPE/Indian Survey, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

"DRAFT" FOR COMMENT ONLY

Instructions: Please make as many copies of this page as needed to complete one for each employment, training, and education program that is available to Indians. Briefly answer questions as they relate to the individual program. If additional space is needed to respond to any question, please use the back of this form or attach additional sheets which clearly reference the item number.

II. INDIVIDUAL PROGRAM EVALUATION

#_____ PROGRAM NAME:_____

1. Identify Funding Agency for this program (e.g., DHHS, Bureau of Indian Affairs, State JTPA, etc.)
   a. Agency Name:_____
   b. Amount Funded for current fiscal year: $_____

2. Indicate the type of program: [ ] Employment [ ] Training [ ] Education

3. Is this program available on or near the reservation/village? [ ]Yes [ ]No

4. Is there specific eligibility criteria for participation in this program: [ ] No [ ]Yes, specify
_____
_____
_____
_____
_____

5. Does this program serve both Indian and non-Indian program applicants? [ ]Yes [ ]No

6. Does this program offer priority or preference to Indians? [ ]Yes [ ]No

7. What was your employment placement rate in this program for the last two years? 1988:_____
1987:_____

8. Program Effectiveness
   a) Rate the overall effectiveness of this program in meeting the education, training, or employment needs of Indians living on or near the reservation/village. Circle the number which best describes your opinion, assuming 5 as the highest and 1 as the lowest rating:
   5 4 3 2 1
   Remarks/Comments:_____
   _____
   _____

   b) If the program is not effective, explain why you believe it does not meet the education, training, employment, or supportive service needs of Indians living on or near the reservation/village:_____
   _____
   _____
   _____
   _____

9. Specify suggestions to improve or restructure this program to effectively meet the needs of Indians:_____
_____
_____
_____
_____

10. Other Remarks/Comments:_____
_____
_____
_____
_____
_____

FSA Form 105

[FR Doc. 89-20084 Filed 8-24-89; 8:45 am]
BILLING CODE 4150-04-C

Forms Submitted to the Office of Management and Budget for Clearance

The Family Support Administration (FSA) will publish on Fridays information collection packages submitted to the Office of Management and Budget (OMB) for clearance, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). Following are the packages submitted to OMB since the last publication on August 11, 1989.

(Call the FSA, Reports Clearance Officer on 202–252–5604 for copies of package)

1. Worksheet for Integrated AFDC, Food Stamp and Medicaid Quality Control Reviews—FSA–4340—0970–0072

The integrated worksheet serves to document the findings of State quality control reviewers who review the correctness of a sample of eligibility decisions made by the States for the AFDC, Food Stamp and Medicaid programs. The findings are used to identify areas where corrective action is needed. Respondents: State or local governments; Number of Respondents: 52,662; Frequency of Response: 1; Average Burden per Response: 11.0236 hours; Estimated Annual Burden: 580,525 hours.

2. Annual Statistical Report on Children in Foster Homes and Children in Families Receiving AFDC Payment In Excess of the Poverty Income Level—FSA–4125—0970–0004

The information collected by the use of this form is provided by State public assistance agencies. It is used in the Title I formula for computing entitlements to the States for educationally deprived children. Respondents: State or local governments; Number of Respondents: 52; Frequency of Response: 1; Average Burden per Response: 6 hours; Estimated Annual Burden: 312 hours.

OMB Desk Clearance Officer: Justin Kopca.

Consideration will be given to comments and suggestions received within 60 days of publication. Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3201, 725 17th Street, NW., Washington, DC 20503.

Dated: August 14, 1989.

Sylvia E. Vela,

Deputy Associate Administrator for Office of Management and Information Systems, FSA.

[FR Doc. 89–19969 Filed 8–24–89; 8:45 am]

BILLING CODE 4150–04–M

Health Care Financing Administration

[BERC 636–N]

Medicare Program; Employers and Duplicative Medicare Benefits; Clarification

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: General notice.

SUMMARY: On December 6, 1988, we published in the **Federal Register** (53 FR 49233) a notice that announced the national average actuarial value of additional Medicare Part A benefits available in 1989, as required by section 421 of the Medicare Catastrophic Coverage Act of 1988 (MCCA). The national average actuarial value of the Medicare Part A benefits added or increased by MCCA was $61 as of July 1, 1988. For 1989, the national average actuarial value is $65. The notice also contained guidelines to be used by employers to compute the actuarial value of duplicative benefits. As a result of inquiries from employers, insurers and others, we are providing clarification and further interpretation of our guidelines with regard to the requirement that employers must maintain levels of effort under their health benefit plans in cases where part A benefits expanded under MCCA duplicate benefits under the employers' health plans. We also are correcting and clarifying several items included in the original notice of December 6, 1988.

DATE: The effective date for the Maintenance of Effort Provision with regard to Part A duplicative benefits is January 1, 1989. The effective date for this clarification is also January 1, 1989.

FOR FURTHER INFORMATION, CONTACT: Kenneth Leong (for actuarial values and guidelines) (301) 966–7908. Morton Marcus (for all other information) (301) 966–4477.

SUPPLEMENTARY INFORMATION:

I. Background

On December 6, 1988, we published in the **Federal Register** (53 FR 49233) a notice implementing section 421, commonly referred to as the Maintenance of Effort (MOE) Provision, of the Medicare Catastrophic Coverage Act of 1988 (MCCA). Section 421 requires employers that provide health benefits to employees and retired former employees to determine the extent to which the new Medicare benefirs available under MCCA duplicate benefits available under their health benefit plans, and provide additional, non-duplicative benefits and/or refunds under certain conditions. (The term "retiree" as used in this notice refers to both Medicare eligible retired former employees and Medicare eligible current employees. The MOE provision does not apply to most employees and their Medicare eligible dependents, since Medicare is secondary payer for such individuals, except in limited situations.)

Since the publication of the December 6, 1988 notice, we have received numerous telephone and written inquiries from employers, insurers, attorneys, benefit consultants, and others seeking clarification and further interpretation of the HCFA guidelines. The questions indicate that some provisions of the notice may be subject to differing interpretations.

Using a question and answer format, we address a number of areas that inquirers said were not clear in the notice published December 6, 1988. This clarifying information will be useful to employers with MOE responsibilities. Where applicable, we have cross referred to our December 6, 1988 notice. (In the future we will publish a **Federal Register** notice dealing with duplicative Part B benefits in accordance with section 421 of MCCA.)

II. Questions and Answers

Question 1: May an employer that is paying the Part B premium for its retirees as of July 1, 1988 consider its payment of the $4 per month catastrophic coverage premium as an "additional benefit"? (Top of column 1, p. 49234.)

Answer: The fact that an employer was paying the Part B premium prior to July 1, 1988 would not in itself preclude the employer from counting its payment of the $4 per month increase as an "additional benefit." There may be other factors, however, which lead retirees to believe that it is already the employer's obligation to pay the $4 per month catastrophic coverage premium, and that therefore the employer cannot consider payment of the $4 as an additional benefit which counts toward satisfying its MOE obligation. This could be the case, for example, if, prior to July 1, 1988, the employer had conveyed to its retirees, either implicitly or explicitly, that it would purchase Part B coverage for them. If, based on the nature of the communication or agreement between the employer and retirees, the retirees had a reasonable basis to expect the

employer to bear the $4 per month premium increase, the employer would not be permitted to treat it as an "additional benefit." The question of whether or not the employer had committed itself to pay the $4 premium increase in a particular case depends on the factual situation, and would normally be settled by negotiation between the employer and retirees.

Question 2: Are dependents eligible to receive additional benefits and/or refunds if they are receiving duplicative benefits? (1st paragraph of SUMMARY, p. 49233.)

Answer: The law specifies that employers are to provide "employees" and "retired former employees" with additional benefits and/or refunds which are equivalent in actuarial value to any duplicative part A benefits they were providing their employees on July 1, 1988, the date of enactment of MCCA. The law does not mention the Medicare-eligible spouses and other dependents of employees and retirees. Nevertheless, duplicative part A benefits provided to a dependent constitute an employer benefit for the retiree and must be taken into account when computing additional benefits and/or refunds for the retiree. Therefore, if an employer decides to provide additional benefits instead of a refund, such benefits must be provided to dependents; and an employer that decides to provide cash refunds only must make an appropriate refund to retirees for dependents covered under the employer plan.

Example

Assuming a $65 refund amount, with the employer contributing 100 percent toward retiree and dependent health care benefits, the payout would work as follows:

100 retirees	at $65×100=	$6,500
Each retiree has one Medicare eligible dependent	at $65×100=	6,500
Total		13,000

In this example, the total payout pool amounts to $13,000, taking into consideration each retiree's Medicare-eligible dependent. Because the law is clear that the retiree receives the benefit, the employer must refund to each retiree $130, i.e., $65×2.

Question 3: Are employers precluded from increasing the cost of plan benefits to retirees if the retirees were not notified of such cost increase before July 1, 1988, the date of enactment of MCCA? (First column, last paragraph, p. 49234.)

Answer: With regard to MOE, an employer that did not notify its retirees of an increase in the cost of plan benefits may increase the cost only if, and to the extent that, such action is in response to increased costs to the employer of providing health plan benefits that were already being provided, and it does not have the effect of enabling the employer to circumvent its MOE obligation to provide additional benefits and/or refunds. The employer's reason for increasing the cost of plan benefits to retirees should be documented. If an employer has annually increased premiums to keep up with inflation, such an historic practice would serve as evidence that the employer did not intend to circumvent the MOE provision. When an employer cannot reasonably justify an increase in plan costs, the employer has not complied with its obligation to provide additional benefits and/or refunds.

Question 4: How does the employer determine if the duplicative Part A benefits it provided under its health plan had an actuarial value as of July 1, 1988 of at least 50 percent of the national average actuarial value of the benefits added or increased by MCCA? (Section B, first paragraph, p. 49233, and third column, p. 49235.)

Answer: The national average actuarial value of the Medicare benefits added or increased by MCCA was $61 as of July 1, 1988. Fifty percent of that amount is $30.50. The employer is responsible for paying cash refunds and/or additional benefits if, as of July 1, 1988, the duplicative Part A benefits it furnished the retirees and Medicare-eligible dependents enrolled in the employer's plan had an average actuarial value (on a per capita basis) at least equal to $30.50. If the actuarial value of the duplicative Part A benefits provided by the employer's plan equals or exceeds $30.50 on a per capita basis, the employer must then subtract from that value the average amount each retiree contributed toward the benefits package for his own benefits and any amount each retiree contributed toward his Medicare-eligible dependent's benefits. If the remaining amount is at least equal to $30.50, the employer is responsible for paying additional benefits and/or refunds.

Example

a. An employer determines that $60 is the average actuarial value of its duplicative Part A benefits on a per capita basis for each Medicare-eligible retiree and dependent enrolled in the plan. The average retiree contribution to the benefit package for his own and any dependent benefits is $15. The employer is therefore paying $45 toward the plan's duplicative part A benefits for retirees. Since this amount is more than $30.50, the employer has met the 50 percent test, and is responsible for paying cash refunds and/or providing additional benefits.

b. Assume, in the above example, that the average retiree contributes 60 percent of the cost of the health benefits the employer provides for the retiree and for the retiree's Medicare-eligible dependent. The employer contributes the remaining 40 percent, or $24 (40% of $60=$24). The employer is not responsible for paying any additional benefits and/or refunds, because $24 is lower than the threshold $30.50 level.

Question 5: How does an employer calculate the amount of cash refund for each individual when the retiree contributes a different amount toward his own health benefits plan than he does for his or her Medicare-eligible dependent?

Answer: Although there may be differences in the amount contributed by retirees for themselves and their dependents, the employer should determine the average per capita contribution of the retirees and Medicare-eligible dependents and subtract such amount from the average actuarial value of the duplicative Part A benefits (see previous answer). The remainder is what the employer should pay the retiree on behalf of each eligible individual.

Example

The employer chooses the national average actuarial value of $61 (1988) as the value of its duplicative Part A benefits. (a) If neither the retiree nor the Medicare-eligible dependent contributes toward the cost of the employer health plan, the employer is required to pay $65 per eligible individual in 1989. (b) If retirees and their Medicare-eligible dependents together, on the average, contribute 20 percent of the cost of the health benefits plan, the employer should pay $52 ($65×80 percent) per eligible individual.

Question 6: An employer provides a health plan which includes duplicative Part A benefits. Both the employer and employee contribute to the cost of the employer plan. The employer calculates the actual value of the Part A duplicative benefits under its health plan and this amount is greater than the national average actuarial value of the Part A duplicative benefits ($61). The employer elects the national average actuarial value, i.e., $61, as the value of its duplicative benefits. To determine if the employer is subject to the MOE provision, must the employer subtract the employee contribution from the actual value of the duplicative benefits, or may the employer subtract the employee contribution from the national average actuarial value?

Answer: Once the employer elects the national average actuarial value of duplicative part A benefits as the value of its plan's duplicative benefits, then

the national average actuarial value becomes the basis from which employee contributions must be subtracted. For example, an employer determines the actuarial value of its duplicative part A benefits to be $100 per individual enrolled in the plan and, as a result, chooses the lower value, the national average actuarial value, as the value of its duplicative benefits. The average contribution rate for retirees and Medicare-eligible dependents is 50 percent. The employer must take 50 percent of $61 (not 50 percent of $100) and subtract that amount, i.e., $30.50, from the national average actuarial value. Thus, in this example, the employer is subject to MOE because it is providing duplicative part A benefits that have an actuarial value equivalent at least to 50 percent of the national average actuarial value of the benefits added or increased by MCCA.

Question 7: How does an employer determine the amount of refund when the retiree and/or dependent is not entitled to Medicare throughout 1989, or where Medicare is not primary payer throughout 1989?

Answer: Following are examples that illustrate how an employer should determine the amount of refund in this type of situation:

Situation	Employer responsibility
1. Retiree is not eligible for Medicare throughout 1989. Dependent is Medicare-eligible.	Employer is responsible to provide additional benefits to dependent, or pay refund to retiree, because the law stipulates that the employer should pay the retiree.
2. Retiree dies after July 1, 1988, but before January 1, 1989, leaving Medicare-eligible dependent.	Employer is responsible to provide additional benefits and/or refunds to dependent.
3. Medicare-eligible dependent dies after July 1, 1988, but before January 1, 1989.	Employer not responsible to pay refund.
4. Retiree or Medicare-eligible dependent dies in 1989.	Employer responsible to provide additional benefits up to date of death of retiree or dependent or to refund prorated amount to the surviving retiree or dependent. Employer MOE obligation for duplicative benefits continues unchanged with respect to the surviving retiree or dependent. If retiree dies before additional benefits and/or refunds are provided, employer responsible to pay refund to surviving insured dependent unless State law requires a different disposition.
5. Retiree dies prior to July 1, 1988 Medicare-eligible dependent is receiving health benefits from employer as of July 1, 1988 and through 1989.	Employer responsible to provide additional benefits and/or refunds to dependent.
6. Medicare becomes secondary payer for an individual in 1989.	Employer responsible to provide additional benefits or prorated refunds only during period in which Medicare is primary payer.

Question 8: Is an employer required to provide MOE benefits to retirees/dependents who were not entitled to Medicare on July 1, 1988, but become eligible for Medicare sometime between August 1, 1988 and December 1, 1989?

Answer: Yes, an employer is responsible for full refunds/additional benefits if the retiree/dependent becomes Medicare-eligible by January 1, 1989. The employer is responsible for a prorated amount if the retiree/dependent becomes Medicare-eligible between February 1, 1989 and December 1, 1989.

Question 9: Is an employer required to provide MOE benefits to employees hired after July 1, 1988?

Answer: No.

Question 10: Is an employer required to provide MOE benefits to its former employees who are under 65 and entitled to Medicare based on disability?

Answer: Yes. The law specifies that employers must provide their "employees" and "retired former employees" with additional benefits and/or refunds. Disabled Medicare-eligible individuals for whom Medicare is primary payer and who were receiving health benefits from their former employer as of July 1, 1988 are entitled to MOE additional benefits and/or refunds. They are deemed to be "retired former employees" for MOE purposes. (Note, however, that disabled employees are not entitled to MOE refunds or additional benefits when Medicare is secondary payer for such individuals. (See section II.D.3., column 3, p. 49234.))

Question 11: Is the MOE provision applicable to all HMOs, or just to risk-based HMOs as discussed in the notice? (Section II.G., column 1, p. 49236.)

Answer: The discussion regarding MOE applicability to the HMOs in our December 6, 1988 notice dealt solely with risk-based HMOs. This was an oversight on our part. Employer responsibility under MOE is not confined to HMOs with a Medicare risk contract. An employer that contracts with an HMO, whether or not the HMO has a contract with Medicare, is responsible for determining the value of the duplicative benefits provided to its retirees by the HMO. The employer is expected to negotiate with the HMO for the provision of additional benefits and/or refunds to affected retirees.

Question 12: Does the law place any administrative sanctions on employers that fail to comply with the MOE provision? Are there any reporting or recordkeeping requirements?

Answer: The MOE provision is silent regarding administrative penalties on employers that fail to comply with the provision, and specific reporting or recordkeeping requirements. We anticipate that employee associations, retiree associations, labor unions and other employee groups will take an active interest in employer compliance, and that disputes that may arise between employers and retirees with respect to MOE will be resolved through negotiations between the parties.

Question 13: What are the components that constitute the national average actuarial value of $65 in 1989? Such information could be very helpful to employers to calculate the cost of the duplicative benefits.

Answer: The components that constitute the national average actuarial value of $65 in 1989 are as follows:

Inpatient hospital	$53.00
Skilled nursing	12.00
Total	65.00

The above component costs are determined as follows:

Inpatient hospital:	
Deductible change	19.70
Copayment elimination	22.70
Unlimited Days	10.60
Total	53.00
Skilled nursing:	
Coinsurance change	7.20
Eliminating prior hospitalization and providing 150 days of care	4.80
Total	12.00

III. Clarification of Previous Published Information

We are republishing portions of our notice published December 6, 1988 (53 FR 49233) to further clarify several items of information. On page 49233, column 3, in the last paragraph we incorrectly included the words "national average" in the fourth line. As corrected, the

sentence reads: "If an employer provides only additional benefits, the benefits must be equal in value at least to the 1989 actuarial value of the duplicative part A benefits that were provided as of July 1, 1988." Additional benefits and/or refunds must total at least the actuarial value of the duplicative Part A benefits (see section 421(a)(1) of MCCA).

In the last sentence on page 49234, column 1, third full paragraph, we asserted that each employee and retired former employee will receive an equal refund, using the computation methodology contained in the previous sentence. However, the discussion does not take into account individuals with Medicare-eligible dependents. For example, a retiree whose spouse is Medicare-eligible and enrolled in the plan would receive double the refund of an employee who is single. To clarify this paragraph, in the second to last sentence, substitute "Medicare eligible employees, retired former employees and dependents" for "employees and retired former employees." As revised, the sentence reads: "The amount refunded to each individual should be determined by dividing the actuarial value of the duplicative benefits by the total number of Medicare-eligible employees, retired former employees and dependents enrolled in the plan." Also, the last sentence of that paragraph should be revised to read as follows: "Thus, each employee and retired former employee will receive an equal refund for each Medicare eligible individual covered by the employer's plan under the employee/retiree's enrollment."

The second bullet point on page 49234 at column 3 under "2. Part B" should be revised to read "Payment for home intravenous drug therapy services" instead of "Payment for home intravenous drug therapy and associated items and services." This correction conforms it to the term used in section 1861(jj) of the Social Security Act as amended by section 203(b) of MCCA. This same wording should be used in the next to the last bullet in the middle column on page 49235. That is, delete "Coverage for home intravenous drugs and associated items and services (including supplies, equipment, and nursing and pharmacy services)", and replace with "Coverage for home intravenous drug therapy services." (Note that this item does not include the drugs themselves. Section 1861(jj)(2) of the Social Security Act.)

On page 49235, column 3, there is a typographical error. The major heading after the bullet point should read "F. Determining the Actuarial Value of Duplicative Benefits" instead of "D. Determining the Actuarial Value of Duplicative Benefits."

On page 49236, column 1, in line 7, first full paragraph, the word "above" should be replaced by "in section IV below." As corrected, the sentence reads "If a collective bargaining agreement provides that certain company paid health benefits are vested upon retirement of the employee, the employer is not required to provide additional benefits beyond the time periods stated in section IV below, i.e., until the later of 12/31/89 or the date of the expiration of the agreement for duplicative Part A benefits and until the later of 12/31/90 or the date of the expiration of the agreement for duplicative Part B benefits." While the time periods for providing additional benefits and/or refunds are addressed earlier in the notice, we feel that the discussion in section IV is more explicit.

(Section 421 of Pub. L. 100-360, as amended (42 U.S.C. 1395(b) Note))

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare-Hospital Insurance; and No. 13.774, Medicare-Supplementary Medical Insurance)

Dated: June 9, 1989.

Louis B. Hays,

Acting Administrator, Health Care Financing Administration.

[FR Doc. 89-20087 Filed 8-24-89; 8:45 am]

BILLING CODE 4120-01-M

Food and Drug Administration

[Docket No. 89M-0302]

Wesley-Jessen; Premarket Approval of AQUAFLEX® (Tetrafilcon A) Hydrophilic Contact Lenses

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Wesley-Jessen, Chicago, IL, for premarket approval, under the Medical Device Amendments of 1976, of the spherical AQUAFLEX® (tetrafilcon A) Hydrophilic Contact Lenses for daily wear. The lenses are to be manufactured under an agreement with CooperVision, Inc., San Jose, CA, which has authorized Wesley-Jessen to incorporate information contained in its approved premarket approval application for the AQUAFLEX® (tetrafilcon A) Hydrophilic Contact Lenses. FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of April 26, 1989, of the approval of the application.

DATES: Petitions for administrative review by September 25, 1989.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David M. Whipple, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1080.

SUPPLEMENTARY INFORMATION: On December 16, 1988, Wesley-Jessen, Chicago, IL 60610, submitted to CDRH an application for premarket approval of the spherical AQUAFLEX® (tetrafilcon A) Hydrophilic Contact Lenses. The lenses are indicated for daily wear use for the correction of visual acuity in not-aphakic patients with nondiseased eyes that are myopic or hyperopic. The lenses may be worn by persons who may exhibit astigmatism of 2.50 diopters (D) or less that does not interfere with visual acuity. The lenses are indicated in a power range of -20.00 D to +9.75 D and are to be disinfected using either a heat or chemical disinfection system. The application includes authorization from CooperVision, Inc., San Jose, CA 95134, to incorporate information contained in its approved premarket approval applications for the AQUAFLEX® (tetrafilcon A) Hydrophilic Contact Lenses.

On April 26, 1989, CDRH approved the application by letter to the applicant from the Acting Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact David M. Whipple (HFZ-460), address above. The labeling of the AQUAFLEX® (tetrafilcon A) Hydrophilic Contact Lenses states that the lens is to be used only with certain solutions for disinfection and other purposes. The restrictive labeling informs new users that they must avoid using certain products, such as solutions

intended for use with hard contact lenses only.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before September 25, 1989, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: August 14, 1989.

Walter E. Gundaker,

Acting Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 89–20080 Filed 8–24–89; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 89M–0313]

Sola/Barnes–Hind; Premarket Approval of Fluorocon™–60 (Paflufocon B) Rigid Gas Permeable Contact Lens (Clear and Tinted)

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Sola/Barnes–Hind, sunnyvale, CA, for premarket approval, under the Medical Device Amendments of 1976, of the spherical Fluorocon™–60 (paflufocon B) Rigid Gas Permeable Contact Lens (Clear and Tinted) for daily wear. The lens is to be manufactured under an agreement with Paragon Optical, Mesa, AZ, which has authorized Sola/Barnes–Hind to incorporate information contained in its approved premarket approval application and related supplements for the FluoroPerm (paflufocon A), FluoroPerm 60 (paflufocon B) and FluoroPerm 30 (paflufocon C) Rigid Gas Permeable Contact Lenses. FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of June 23, 1989, of the approval of the application.

DATES: Petitions for administrative review by September 25, 1989.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David M. Whipple, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301–427–1080.

SUPPLEMENTARY INFORMATION: On March 20, 1989, Sola/Barnes–Hind, Sunnyvale, CA 94086–5200, submitted to CDRH an application for premarket approval of the spherical Fluorocon™–60 (paflufocon B) Rigid Gas Permeable Contact Lens (Clear and Tinted). The lens is indicated for daily wear for the correction of visual acuity in not-aphakic persons with nondiseased eyes that are myopic or hyperopic. The lens may be worn by persons who may exhibit astigmatism of 4.00 diopters (D) or less that does not interfere with visual acuity. The lens is indicated in a power range of −20.00 D to +12.00 D and is to be disinfected using a chemical disinfection system. The lens is available in untinted (clear) and blue or green tints. The tinted lens contains one or both of the color additives, D&C Green No. 6 and D&C Yellow No. 10, in accordance with the color additive listing provisions of 21 CFR 74.3206 and 74.3710. The application includes authorization from Paragon Optical, Mesa, AZ 85204, to incorporate information contained in its approved premarket approval application and related supplements for the FluoroPerm (paflufocon A), FluoroPerm 60 (paflufocon B) and FluoroPerm 30 (paflufocon C) Rigid Gas Permeable Contact Lenses.

On June 23, 1989, CDRH approved the application by a letter to the applicant from the Acting Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from the office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact David M. Whipple (HFZ–460), address above. The labeling of the spherical Fluorocon™–60 (paflufocon B) Rigid Gas Permeable Contact Lens (Clear and Tinted) states that the lens is to be used only with certain solutions for disinfection and other purposes. The restrictive labeling informs new users that they must avoid using certain products, such as solutions intended for use with hard contact lenses only.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing

the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before September 25, 1989, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: August 14, 1989.

Walter E. Gundaker,

Acting Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 89–20079 Filed 8–24–89; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 89N–0332]

Evaluation of Incentives for Development of Orphan Medical Foods; Announcement of Study; Request for Scientific Data and Information

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the Life Sciences Research Office (LSRO) of the Federation of American Societies for Experimental Biology (FASEB) is conducting a study to evaluate incentives for development of orphan medical foods. FASEB is inviting submission of scientific data and information on this topic. The purpose of the information request is to obtain public comment on needs and incentives for, and barriers to, development and use of orphan medical foods. In addition, interested persons and organizations with questions regarding this study are invited to communicate with the LSRO contact person identified below.

DATES: Scientific data and information should be received by September 25, 1989.

ADDRESSES: Scientific data and information to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, and the Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20814. Two copies of the information should be submitted to each office.

FOR FURTHER INFORMATION CONTACT: Kenneth D. Fisher, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20814, 301–530–7030.

SUPPLEMENTARY INFORMATION: FDA has a contract (223–88–2124) with FASEB concerning the analysis of scientific issues in food and cosmetic safety. The objective of this contract is to provide information to FDA on general and specific issues of scientific fact associated with the safety of foods and cosmetics.

An orphan medical product is one which is required for the treatment of a rare medical condition and, consequently, has very limited marketability. A medical food is defined as "a food which is formulated to be consumed or administered enterally under the supervision of a physician and which is intended for the specific dietary management of a disease or condition for which distinctive nutritional requirements, based on recognized scientific principles, are established by medical evaluation." (the Orphan Drug Amendments of 1988 (21 U.S.C. 360ee(b))). An orphan medical food, then, is a medical food used in the dietary management of a rare medical condition.

FDA is announcing that it has asked LSRO of FASEB, as a task under the contract, to determine the need for incentives useful in, and barriers to, the development of medical food products with orphan status. Such guidance should include identification of human diseases and disorders that may benefit from orphan medical foods; criteria for defining orphan status; identification of incentives to enhance development of orphan medical foods; the scope of research and development efforts necessary to permit routine use of such foods; the impact of barriers to product development; and a comparison between development of these products in the United States and in other countries.

This notice also invites submission of other information that should be considered in the development of orphan medical foods. Two copies of any ge scientific data and information should be submitted to both LSRO of FASEB and the Dockets Management Branch (addresses above). The deadline for receipt of such submissions is September 25, 1989. Pursuant to its contract with FDA, FASEB will provide the agency with a scientific reprot on these issues concerning orphan medical foods.

Dated: August 21, 1989.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89–20078 Filed 8–24–89; 8:45 am]

BILLING CODE 4160–01–M

National Institutes of Health

National Cancer Institute; Opportunity for a Cooperative Research and Development Agreement (CRADA) To Develop and Maintain a Human Tissue Bank

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The National Cancer Institute (NCI) desires to enter into a Cooperative Research and Development Agreement (CRADA) to develop, maintain and use a bank of human tumor tissue with associated clinical follow-up information. The bank will be used to study the utility of selected oncogene markers in the diagnosis and prognosis of human cancer. The commercial organization will support all aspects of (a) tumor tissue procurement, (b) frozen tissue storage, (c) computerized retrieval of associated clinical data, and (d) case reviews by a board certified pathologist. The NCI will provide putative markers in the form of molecular probes or antibodies. The commercial organization will then work together with NCI's Oncogene Working Group to measure the level of the marker in portions of the specimens derived from the tumor bank and compare the clinical outcome or treatment response with the level of the marker.

It is anticipated that all interventions which may arise from this CRADA will be jointly owned and licensed on a royalty-bearing basis exclusively to the company with which the CRADA is made. The CRADA will be executed for a five-year period with the possibility of renewal for another five-year period.

Nothing in this CRADA will prohibit or prevent the company from dealing with scientists who are not parties to this project per se. For example, a nonparticipating scientist may wish the company to screen markers furnished by his/her laboratory on a fee-for-service basis, said markers to remain the property of the scientist and/or organization which submits them. However, such ancillary non-CRADA activity may not interfere with the parties' carrying out the CRADA expeditiously.

SUPPLEMENTARY INFORMATION: This opportunity is available until October 10, 1989. For additional information contact: Alan S. Rabson, M.D., Director, Division of Cancer Biology and Diagnosis, National Cancer Institute, Building 31, Room 3A03, Bethesda, Maryland 20892–3100 (301) 496–4346. Late response will not be considered. Respondents may be provided an additional opportunity to furnish additional information if the NCI finds this necessary.

Applicants will be judged according to the following criteria: (1) Full-time board-certified pathologist on company staff; (2) full-time molecular biologist on company staff; (3) full-time biostatistician experienced in compiling tumor bank data on company staff; (4) management and logistic capabilities suited to this CRADA; (5) facilities for storage of tissue and extraction of RNA and DNA; (6) fully equipped and staffed immunohistology laboratory; (7) network of potentially participating academic collaborators established; (8) demonstrated scientific credibility, commitment to publications, and academic excellence demonstrated; (9) commitment and ability to develop rapidly newly validated probes to the level of a product which benefits the oncology patient.

Dated: August 18, 1989.

William F. Raub,

Acting Director, National Institutes of Health.

[FR Doc. 89–20104 Filed 8–24–89; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Meeting of Board of Scientific Counselors, Division of Cancer Biology and Diagnosis

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, Division of Cancer Biology and Diagnosis, National Cancer Institute, October 27, 1989. The meeting will be held in Building 31C, Conference Room 7, National Institutes of Health, Bethesda, Maryland 20892.

The entire meeting will be open to the public on October 27 from 8:30 a.m. to adjournment for concept review of proposed projects and administrative details. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will provide summary minutes of the meeting and roster of committee members.

Dr. Ihor J. Masnyk, Deputy Director, Division of Cancer Biology and Diagnosis, National Cancer Institute, Building 31, Room 3A03, National Institutes of Health, Bethesda, Maryland 20892 (301/496–3251) will provide substantive program information.

Dated: August 21, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89–20105 Filed 8–24–89; 8:45 am]

BILLING CODE 4140–01–M

Programs for Support of Minorities in Biomedical Research; Meetings

Notice is hereby given that the National Institutes of Health (NIH) will hold the fourth and fifth of a series of five regional public hearings to be conducted under the auspices of the Office of the Director, NIH, on "Programs for Support of Minorities in Biomedical Research." The purpose of the hearings is two-fold:

(1) To provide current information concerning the activities of the NIH by describing in broad terms existing programs offered by NIH, and

(2) To solicit through public testimony the views of biomedical researchers, university faculty and administrators, students, representatives of professional societies, and other interested parties regarding the nature and scope of programs to attract and support minorities in biomedical research.

The fourth hearing will be held on Sunday, September 24, 1989 from 10 a.m. to 4 p.m. in the Doubletree Suite Hotel, Phoenix Gateway Center, Phoenix, Arizona, preceding the annual meeting of the Hispanic Association of Colleges and Universities. The fifth hearing will be held on October 9, 1989, from 9 a.m. to 4 p.m. at the Anchorage Hilton Hotel, Anchorage, Alaska, in conjunction with the National Indian Education Association Annual Meeting.

Following presentations by senior NIH staff, a panel composed of NIH program administrators will spend the remainder of each day receiving testimony from public witnesses. Each witness will be limited to a maximum of ten minutes. Attendance and the number of presentations will be limited to the time and space available. Consequently, all individuals wishing to attend or to present a statement at either of these public hearings should notify, in writing, William H. Pitlick, Ph.D., Executive Secretary, National Institutes of Health, Shannon Building, Room 252, Bethesda, Maryland, 20892. Those planning to make a presentation should file a one-page summary of their remarks with Dr. Pitlick by September 15, 1989. A copy of the full text should be submitted for the record at the time of the meeting. Additional information may be obtained by calling Ms. Loretta Beuchert, Office of Extramural Research, National Institutes of Health, at (301) 496–9743.

Dated: August 18, 1989.

William F. Raub,

Acting Director, National Institutes of Health.

[FR Doc. 89–20106 Filed 8–24–89 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

National Toxicology Program; Board of Scientific Counselors Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting on September 20, 1989, of the National Toxicology Program (NTP) Board of Scientific Counselors, Reproductive and Developmental Toxicology Program Review Subcommittee. The meeting will be held at the National Institute of Environmental Health Sciences, Building 101, South Campus, Conference Room B204, 111 Alexander Drive, Research Triangle Park, North Carolina.

The meeting is from 8:15 a.m. to 5:30 p.m., and will be open to the public. The primary agenda topics are reviews of the research efforts and reproductive and developmental toxicity contracts of the staffs at the National Institute of Environmental Health Sciences (NIEHS) and the National Institute for Occupational Safety and Health (NIOSH).

The Executive Secretary, Dr. Larry Hart, Office of the Director, National Toxicology Program, P.O. Box 12233, Research Triangle Park, North Carolina 27709, Telephone (919) 541–3971, FTS 629–3971, will furnish the final agenda. The roster of Subcommittee members and other program information will be available prior to and at the meeting, and summary minutes will be available subsequent to the meeting.

Dated: August 22, 1989.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 89-20107 Filed 8-24-89; 8:45 am]

BILLING CODE 4140-01-M

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following requests have been submitted to OMB since the list was last published on Friday, August 11, 1989.

Call the PHS Reports Clearance Officer on 202-245-2100 for copies of package.

1. Survey and Instrument for Assessing the Impact of the 1990 Medicare Legislation on Mammography Usage in the NCI Mammography Consortium—NEW. Starting January 1, 1990, Medicare will pay $50.00 towards the cost of biennial screening mammograms for covered females age 65 and over. This request is for the pretesting and fielding of surveys to assess mammography usage before and after this benefit takes effect, in order to determine its impact and to assess other barriers to mammography use which may exist in this population. Respondents: Individuals or households; Number of Respondents: 5,359; Number of Responses per Respondent: 1; Average Burden per Response: .283 hours; Estimated Annual Burden: 1,517 hours.

2. HRSA Competing Training Grant Application—Revision—0915-0060. The Health Resources and Services Administration uses this information to determine the eligibility of applicants for awards, to calculate the amount of each award, and to judge the relative merit of applications. The purpose of this revision is to add one new program as user of the application: Retention Programs for Health Professions Schools with Individuals from Disadvantaged Backgrounds Grant Program. Respondents: Nonprofit institutions; Number of Respondents: 275; Number of Responses per Respondent: 1; Average Burden per Response: 56.26 hours; Estimated Annual Burden: 15,472 hours.

3. National Survey of Uses of Animals in Research (CONCEPT)—NEW. The National Institutes of Health is requesting concept approval for a national survey of who uses animals in research, education, and testing; how many are used, and for what purposes; their sources and care; and how legal requirements governing animal use and care are met. This information will enable Federal agencies which conduct, support, or regulate research involving animals to identify and allocate scarce resources and review policies on laboratory animals. Respondents: State or local governments; businesses or other for-profit; Federal agencies or employees; non-profit institutions; small businesses or organizations. Annual Reporting Burden: Since this is a concept clearance, definitive burden estimates are not yet available. These estimates will be provided when the study design and questionnaire are final and the final clearance request is submitted.

4. Labeling of Weight Control Foods—0910-0218. Obesity is a major health problem in the United States. These regulations provide for labeling to enable those persons who need to control their weight to identify and evaluate particular foods which may help them to attain and maintain desired weight within the limits of a balanced and nutritious diet program. Respondents: Businesses or other for-profit; Number of Respondents: 82; Number of Responses per Respondent 18.3; Average Burden per Response; 200 hours; Estimated Annual Burden 300,025.

OMB Desk Officer: Shannah Koss-McCallum.

Written comments and recommendations for the proposed information collections should be sent directly to the OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503.

Dated: August 22, 1989.

James M. Friedman,

Acting Deputy Assistant Secretary for Health (Planning and Evaluation).

[FR Doc. 89-20086 Filed 8-24-89; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Montana; Notice of Butte District Grazing Advisory Board Meeting

[MT-070-09-4050-91]

AGENCY: Bureau of Land Management, Butte District Office.

ACTION: Notice of meeting.

SUMMARY: A meeting of the Butte District Grazing Advisory Board will be held Thursday, September 21 in the conference room of the Dillon Resource Area office, 730 N. Montana Street in Dillon, Montana. The meeting will begin at 8 a.m. On the agenda will be a review of proposed range projects throughout the district and discussion of the district's weed program. At about 9 a.m., the board will depart on a field tour in conjunction with the Butte District Advisory Council of points of interest in the Dillon Resource Area.

The meeting and the field tour are open to the public although transportation will not be provided on the field tour for members of the public. Interested persons may make oral statements to the board or file written statements for the board's consideration. Anyone wishing to make oral statements should make prior arrangements with the district manager. Summary minutes of the meeting will be maintained in the district office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: Orval L. Hadley, Acting District Manager, Butte District, Bureau of Land Management, Box 3388, Butte, Montana 59702.

Dated: August 17, 1989.

Orval L. Hadley,

Acting District Manager.

[FR Doc. 89-20024 Filed 8-24-89; 8:45 am]

BILLING CODE 4310-DN-M

Montana; Notice of Butte District Advisory Council Meeting

[MT-070-09-4050-91]

AGENCY: Bureau of Land Management, Butte District Office.

ACTION: Notice of meeting.

SUMMARY: A meeting of the Butte District Advisory Council will be held Wednesday and Thursday, September 20 and 21. The meeting will begin at 1:00 p.m. on September 20 in the Butte District conference room, 106 North Parkmont (Industrial Park), Butte, Montana. The agenda will include; 1) strategic goals for BLM in Montana, 2) rights-of-way procedures, 3) the bureau's Recreation 2000 program in the Butte district, 4) the weed program, including a cooperative weed free hay area in Madison County and 5) council topics. On September 21 the council will go on a field tour in conjunction with the Butte District Grazing Advisory Board of various points of interest in the Dillon Resource Area. The field tour will depart at 9:00 a.m. from the Dillon

Resource Area office, 730 N. Montana Street in Dillon, Montana.

The meeting and the field tour are open to the public although transportation will not be provided on the field tour for members of the public. Interested persons may make oral statements to the council or file written statements for the council's consideration. Anyone wishing to make oral statements should make prior arrangements with the district manager. Summary minutes of the meeting will be maintained in the district office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: Orval L. Hadley, Acting District Manager, Butte District, Bureau of Land Management, Box 3388, Butte, Montana 59702.

Dated: August 17, 1989.

Orval L. Hadley,

Acting District Manager.

[FR Doc. 89-20025 Filed 8-24-89; 8:45 am]

BILLING CODE 4310-DN-M

[NM-060-4410-90]

Intent To Prepare Resource Management Plan and Invitation To Participate in Identification of Issues and Planning Criteria

AGENCY: Bureau of Land Management, Roswell District, New Mexico.

ACTION: Notice of intent to prepare resource management plan.

SUMMARY: The BLM, Roswell Resource Area, Roswell, New Mexico, is initiating the preparation of a Resource Management Plan (RMP) which will include an Environmental Impact Statement (EIS). The plan will guide and control future management actions on approximately 1.5 million acres of public land and 2.4 million acres of subsurface, mineral resources managed by the BLM's Roswell Resource Area. The Code of Federal Regulations, title 43, subpart 1600, will be followed for this planning effort. The public is invited to participate in the planning process, beginning with the identification of issues and planning criteria in April 1991.

DATE: Comments relating to the identification of issues and planning criteria will be accepted until September 1991.

ADDRESS: Send comments to Pat Kelley, RMP Team Leader, Bureau of Land Management, Roswell Resource Area, P.O. Drawer 1857, Roswell, New Mexico 88202.

FOR FURTHER INFORMATION CONTACT: Phil Kirk, Area Manager or Pat Kelley, RMP Team Leader, Roswell Resource Area, (505) 624-1790.

SUPPLEMENTARY INFORMATION: The planning area includes the public land and Federal mineral ownership in Quay, Guadalupe, Curry, De Baca, Roosevelt, Lincoln and Chaves Counties in southeastern New Mexico. Anticipated issues to be addressed during development of the RMP include, but are not limited to, the following: (1) Lands in the Roswell Resource Area which could be transferred to other than BLM administration or may require further study, and which lands would be beneficial to BLM programs if acquired; (2) Public land which requires special management practices to protect or enhance significant scenic, riparian, natural, cultural, plant, wildlife, or other values; (3) Public land which requires that legal access be acquired, and on which land should vehicular access be provided.

Management concerns and opportunities include but are not limited to, (1) How the on-going oil and gas activities and operations should be managed; (2) What types of recreation opportunities, settings, and activities should be provided; (3) How the wildlife habitat will be managed; and (4) What the future management of Fort Stanton should be. These preliminary issues, management concerns, and management opportunities are not final. They may be further refined, or additional issues identified through active public participation. The RMP will be developed by an Interdisciplinary Team.

The team will include specialists representing Range, Oil & Gas, Wildlife, Recreation, Archaeology, Lands, Surface Protection, Soils & Watershed, Fire Management, and Non-Energy Minerals. A comprehensive public participation plan has been prepared. It is intended to involve interested or affected parties early and continuously throughout the planning process. The plan emphasizes localized one-to-one contacts, media coverage, direct mailings, and continued coordination with local, State, and other Federal agencies. Meetings to determine the scope of the RMP and to obtain input on the issues will tentatively be held in Roswell, Capitan, and other locations as necessary in April 1990. A scoping package will be issued in early March 1990, giving the times and location for these meetings.

A second set of public meetings will be held in April 1991 for final public input on the issues and planning criteria. Meeting dates and locations will be announced in the planning newsletter which will be issued on at least a bi-yearly basis.

An individual may protest approval of a Proposed Plan only with respect to those items submitted in writing to the Area Manager during the planning process.

Complete records of all phases of the planning process will be available for public review at the Roswell Resource Area located in the Federal Building, 5th and Richardson, Roswell, New Mexico throughout development of the RMP.

A Draft and Proposed Plan including a Draft and Final EIS will be published. This will be followed at the completion of this project by the publication of a Record of Decision and Approved Plan.

Larry L. Woodard,

State Director.

Dated: August 16, 1989.

[FR Doc. 89-19958 Filed 8-24-89; 8:45 am]

BILLING CODE 4310-FB-M

[ID 942-09-4730-12]

Idaho: Filing of Plats of Survey

The plat of survey of the following described land, will be officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 10:00 a.m., September 28, 1989.

The plat representing the dependent resurvey of a portion of the subdivisional lines, the survey of a portion of the subdivisional lines and the survey of Little Banks Island and other small islands in the Snake River, T. 9 N., R. 5 W., Boise Meridian, Idaho, Group No. 675, was accepted August 14, 1989.

This survey was executed to meet certain administrative needs of this Bureau.

All inquiries about this land should be sent to the Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Dated: August 18, 1989.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 89-20026 Filed 8-24-89; 8:45 am]

BILLING CODE 4310-GG-M

DEPARTMENT OF INTERIOR

[NM-060-09-4340-90]

Roswell District Multiple Use Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Roswell District Multiple Use Advisory Board Meeting.

SUMMARY: This notice sets forth the schedule and agenda of a forthcoming meeting of the Roswell District Multiple Use Advisory Board.

DATE: Tuesday, September 26, 1989, beginning at 10 a.m. A public comment period will be held following conclusion of the agenda.

Location: BLM Roswell District Office, 1717 West Second Street, Roswell, NM 88201

FOR FURTHER INFORMATION CONTACT: David L. Mari, Associate District Manager, or Terry Keim, Public Affairs Specialist, Bureau of Land Management, P.O. Box 1397, Roswell, NM 88201, (505) 622-9042.

SUPPLEMENTARY INFORMATION: The proposed agenda will include: (1) Roswell RMP; (2) Automated Potash Map; (3) Black River Exchange; (4) Hazardous Materials Update; (5) Bottomless Lakes Overflow. The meeting is open to the public. Interested persons may make oral statements to the Council during the public comment period, or may file written statements. Anyone wishing to make an oral statement should notify the Associate District Manager by September 20, 1989. Summary minutes will be maintained in the District Office and will be available for public inspection during regular business hours within 30 days following the meeting. Copies will be available for the cost of duplication.

Herbert L. Hubbard,

Acting District Manager.

[FR Doc. 89-20133 Filed 8-24-89; 8:45 am]

BILLING CODE 4310-FB-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management (BLM)

[AZ-020-09-4212-12; A 20346-X]

Realty Action; Exchange of Public Land in Navajo and Apache Counties, AZ

The Phoenix District proposes to exchange public land in Navajo and Apache Counties, south of Interstate 40, to the state of Arizona under the federal/state exchange program.

In exchange, BLM will acquire lands in the Arizona Strip District in northern Coconino and Mohave Counties.

Portions or all public lands within the following townships, ranges and sections are being considered for disposal by exchange pursuant to Section 206 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1716.

Gila and Salt River Meridian, Arizona

(a) Navajo County

T. 11 N., R. 22 E., secs. 6, 12.
T. 12 N., R. 22 E., sec. 10.
T. 12 N., R. 23 E., sec. 20
T. 13 N., R. 21 E., secs. 4, 10.
T. 13 N., R. 22 E., secs. 18, 20, 28, 34.
T. 14 N., R. 21 E., secs. 4, 8, 10, 14, 20, 22, 26, 28, 34.
T. 14 N., R. 23 E., sec. 14.
T. 15 N., R. 16 E., secs. 20, 22, 24.
T. 15 N., R. 17 E., secs. 20, 22, 24.
T. 15 N., R. 18 E., secs. 20, 22, 24, 26.
T. 15 N., R. 19 E., secs. 4, 8, 18, 20, 22, 24, 26, 28, 30.
T. 15 N., R. 20 E., secs. 12, 20, 24, 26, 28, 30.
T. 15 N., R. 21 E., secs. 4, 6, 10, 18, 20, 22, 28, 30, 34.
T. 15 N., R. 22 E., secs. 2, 4, 8, 12.
T. 15 N., R. 23 E., secs. 6, 8.
T. 16 N., R. 17 E., sec. 6.
T. 16 N., R. 19 E., secs. 24, 26, 34.
T. 16 N., R. 20 E., secs. 4, 8, 12, 18, 24.
T. 16 N., R. 21 E., secs. 6, 8, 18, 20, 28, 30.
T. 16 N., R. 22 E., secs. 6, 8, 18, 20, 26, 28, 30, 32, 34, 36.
T. 17 N., R. 17 E., sec. 28.
T. 17 N., R. 20 E., secs. 6, 22, 24, 26, 28, 34.
T. 17 N., R. 21 E., secs. 4, 18, 20, 22, 26, 28, 30, 34.
T. 17 N., R. 23 E., secs. 4, 8, 12.
T. 18 N., R. 18 E., secs. 8, 20, 26, 30, 32.
T. 18 N., R. 21 E., secs. 22, 28.
T. 18 N., R. 22 E., secs. 12, 14, 20, 22.
T. 18 N., R. 23 E., secs. 6, 10, 12, 14, 22, 28, 34.

Containing 61,453.77 acres, more or less.

(b) Apache County

T. 18 N., R. 24 E., secs. 10, 12.
T. 18 N., R. 25 E., secs. 18, 30.
T. 19 N., R. 24 E., sec. 22.

Containing 2,627.52 acres, more or less.

Other realty actions published in the Federal Register for exchange of land in these counties are:

Navajo County

A 20346-O published October 20, 1988 affecting 6,358.11 acres.

A 20346-V published April 14, 1989 affecting 959.94 acres.

Apache County

A 23376 published July 6, 1988 affecting 117,430.26 acres.

Excluded from exchange will be lands in proximity to the Petrified National Park proposed for inclusion in the park.

Final determination on disposal will await completion of an environmental analysis.

Individual exchanges will be completed on an equal value basis as determined by appraisal.

All grazing lessees and other affected parties will be notified of pending exchanges.

Copies of the complete legal descriptions may be obtained from the Phoenix District Office, address shown below.

In accordance with the regulations of 43 CFR 2201.1(b), publication of this Notice will segregate the land in (a) and (b) above from appropriation under the public land laws, and the mining laws, but not the mineral leasing laws or Geothermal Steam Act.

The segregation of the above-mentioned land shall terminate upon issuance of a document conveying such land or upon publication in the Federal Register of a notice of termination of the segregation; or the expiration of two years from the date of publication, whichever occurs first.

For a period of forty-five (45) days, interested parties may submit comments to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

Dated: August 18, 1989.

Henri R. Bisson,

District Manager.

[FR Doc. 89-20132 Filed 8-24-89; 8:45 am]

BILLING CODE 4310-32-M

[AZ-050-4333-12]

Arizona; Yuma District Resource Management Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Corrections and supplement to notice of intent to prepare Category I amendment to the Yuma District Resource Management Plan, Yuma District, Arizona.

This notice corrects and supplements a Federal Register Notice printed in Vol. 54, No. 136, July 18, 1989, p. 30113.

The corrections, which pertain to the changes in the Land Ownership Adjustment and Recreation sections of the Yuma District RMP, are as follows—(a) the changes in the Land Ownership Adjustment section will allow for the disposal through sale or exchange of approximately 3,635 acres of public land not previously identified for disposal, instead of the 4,317.5 acres originally identified in the notice of intent; and (b) the changes in the Recreation section will allow for classification of approximately 610 acres as limited for off-road vehicle use to designated roads and trails, instead of the 560 acres originally identified in the notice of intent.

As a result of the corrections, the lands proposed to be available for disposal through sale or exchange are limited to sections 15, 17, 20, 21, 22, 23, 26, 28, and 29 of T. 4 N., R. 19 W., G&SRM.

The supplement pertains to additional changes in the Recreation section of the

Yuma District RMP. These new changes will allow for withdrawal of the La Posa Long-Term Visitor Area (LTVA) from entry for exploration and development of locatable minerals.

The La Posa LTVA (located south of Quartzsite, Arizona) covers approximately 10,920 acres in sections 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 14, 15, 16, and 17 of T. 3 N., R. 19 W., and sections 26, 27, 28, 32, 33, 34, 35, and 36 of T. 4 N., R. 19 W., G&SRM. Final acreage and boundaries for this area will be determined at a later date.

A public meeting on the proposed amendment will be held in Quartzsite during the 30-day public comment period.

Dated: August 17, 1989.

Herman L. Kast,

District Manager.

[FR Doc. 89-20065 Filed 8-24-89; 8:45 am]

BILLING CODE 4333-12-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Establishment of the Advisory Committee for the U.S. Trade and Development Program

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the establishment of the Advisory Committee for the U.S. Trade and Development Program.

The purpose of the committee is to provide a forum through which TDP and others, including representatives from the private sector, can exchange information, review strategies, and explore areas of mutual interest to assist TDP in being an effective agency for export promotion.

It has been determined by TDP that the committee is necessary and that establishment of the committee is in the public interest.

It is suggested that those who wish more specific information concerning the advisory committee contact Ms. Priscilla Rabb, Director, TDP, Rm 309, S.A.-16, Washington, DC 20523.

Dated: August 11, 1989.

Priscilla Rabb,

Director, TDP.

[FR Doc. 89-20130 Filed 8-24-89; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

Intent to Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

A. 1. Parent corporation and address of principal office: Grand Metropolitan Incorporated, 100 Paragon Drive, Montvale, NJ 07645.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(i) The Pillsbury Company ("Pillsbury")—Incorporated in the State of Delaware; and

(ii) Alpo Petfoods, Inc.—Incorporated in the Commonwealth of Pennsylvania

B. 1. Parent corporation. Kaybee & Associates, Inc., 6427 Fallengate Drive, Spring, Texas 77373.

2. Kaybee Operations, Inc. DBA Kaybee Enterprises, 6427 Fallengate Drive, Spring, Texas. and Kaybee Products, Inc. 6427 Fallengate Drive, Spring, Texas 77373.

3. All are Texas Corporations.

C. 1. Parent corporation and address of principal office: Sara Lee Corporation, Three First National Plaza, Chicago, Illinois 60602-4260.

2. Wholly-owned subsidiaries which will participate in the operations, the address of their respective principal offices and their states of incorporation.

Name	State of incorporation
Adams-Millis Corporation, 224 North Elm Street, High Point, North Carolina 27261-2650.	North Carolina.
Silver Knit Sales Inc., 350 5th Avenue, 38th Floor, New York, New York 10118.	North Carolina.
Aris Isotoner Inc. 417 Fifth Avenue, New York, New York 10016.	Delaware
Bali Company, 3330 Healy Drive, Winston-Salem, North Carolina 27103.	Delaware
Bil Mar Foods, Inc., 8300 96th Avenue, Zeeland, Michigan 49464.	Delaware
Bil Mar Farms, Inc., 8300 96th Avenue, Zeeland, Michigan 49464.	Delaware.
Booth Fisheries Corporation, 107 Frederick Street, Greenville, South Carolina 29607.	Delaware.
Bryan Foods, Inc., 1 Churchill Road, P.O. Box 1177, West Point, Mississippi 39773.	Mississippi.
Champion Products Inc., 3141 Monroe Avenue, Rochester, New York 14618.	New York.
Pensic Corporation, 73 Cook Drive, Rochester, New York 14623.	Delaware
Circle T Foods Company, Inc., 4560 Leston, Dallas, Texas 75247.	Texas
Coach Leatherware Company, Inc., 300 Chubb Avenue, Lyndhurst, New Jersey 07071.	New Jersey.
Coach Leatherware New York, Inc., 516 West 34th Street, New York, New York 10001.	New York.
Coach Stores, Inc., 516 West 34th Street, New York, New York 10001.	Delaware.
Country Commons Inc., 500 Waukegan Road, Deerfield, Illinois 60015.	Delaware.
Droste U.S.A. Limited, Park 80 West Plaza One, Garden State Parkway at 80, Saddlebrook, New Jersey 07662.	Delaware
The Fuller Brush Company, 5635 Hanes Mill Road, Winston-Salem, North Carolina 27106.	Connecticut.
Gibbon Packing, Inc., Post Office Box 730, East Highway 30, Gibbon, Nebraska 68840.	Nebraska.
Hanes Menswear, Inc., 3334 Healy Drive, Winston-Salem, North Carolina 27103.	Delaware.
Hygrade Food Products Corporation, 40 Oak Hollow, Suite 355, Southfield, Michigan 48034.	New York.
Jimmy Dean Manufacturing Company, Jimmy Dean Drive, P.O. Box 467, Osceola, Iowa 50213.	Delaware.
Kiwi Brands Inc., Route 662 North, Douglassville, Pennsylvania 19518.	Delaware.
L'eggs Brands, Inc., P.O. Box 2495, 5660 University Parkway, Winston-Salem, North Carolina 27105.	North Carolina.
Ozark Salad Company, Inc., 100 N. Youngman, Baxter Springs, Kansas 66713.	Delaware.
PYA/Monarch, Inc., 107 Frederick Street, P.O. Box 1328, Greenville, South Carolina 29602.	Delaware.
Rice Hosiery Corporation, 550 Fairfield Road, High Point, North Carolina 27261.	North Carolina.
Sara Lee Knit Products, Inc., 3334 Healy Drive, Winston-Salem, North Carolina 27103.	Delaware.

Name	State of incorporation
Schloss & Kahn, Inc., US Highway 80 & Newcomb Avenue, Montgomery, Alabama 36195.	Delaware.
Seitz Foods, Inc., Box 247, St. Joseph, Missouri 64502.	Delaware.
Synergy Enterprises, inc., 220 Second Avenue South, Franklin, Tennessee 37064.	Tennessee.
Wolferman's Inc., One Muffin Lane, North Kansas City, Missouri 64116.	Delaware.

[FR Doc. 89-20092 Filed 8-24-89; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 31412]

Washington Corporations; Control Exemption for Western Transport Crane and Rigging, Inc. and Montana Rail Link, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Commission exempts from the prior approval requirements of 49 U.S.C. 11343 Washington Corporations' acquisition of common control of Western Transport Crane and Rigging, Inc. and Montana Rail Link, Inc.

DATES: This exemption will be effective on September 25, 1989. Petitions to stay must be filed by September 5, 1989. Petitions for reconsideration must be filed by September 14, 1989.

ADDRESSES: Send pleadings referring to Finance Docket No. 31412 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representatives: Kevin M. Sheys, Weiner, McCaffrey, Brodsky, & Kaplan, P.C., 1350 New York Avenue, NW., Washington, DC 20005-4797.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245, [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. Telephone: (202) 289-4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 275-1721.

Decided: August 18, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners André, Lamboley, and Phillips. Commissioners Lamboley concurred in the result with a separate expression.

Noreta R. McGee,

Secretary.

[FR Doc. 89-20093 Filed 8-24-89; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging a Final Judgment by Consent Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act; Champion International Corp.

Notice is hereby given that on August 15, 1989, a proposed Consent Decree in *United States of America* v. *Champion International Corporation,* Civil Action No. CV-89-127-M-CCL, was lodged with the United States District Court for the District of Montana.

The proposed consent decree requires Champion International Corporation to implement the December 1988 Record of Decision of the United States Environmental Protection Agency (EPA) to address the release and threatened release of hazardous substances at the Champion Lumber Mill, U.S. Highway 2, Libby, Montana. The remedy to be conducted by Champion includes clean up of contaminated soils and shallow groundwater, and study of the deep groundwater contamination at the site for possible future clean up. The decree also requires Champion to pay $585,000 toward the federal government's past costs incurred in connection with the site, and to pay all future oversight costs to be incurred by the United States at the site.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty days from the date of publication of this notice. Comments should be addressed to the Acting Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC, 20530, and should refer to *United States* v. *Champion International Corporation,* Civil Action No. CV-89-127-M-CCL, DOJ Ref. No. 90-11-3-379. The proposed Consent Decree may be examined at the office of the United States Attorney, District of Montana, Room 564, Federal Building, 301 S. Park Avenue, Helena, Montana, or at the office of the Lincoln County Sanitarian, 418 Mineral Avenue, Libby, Montana. Copies of the Consent Decree may also be examined and obtained in person at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1517, Tenth and Pennsylvania Avenue, NW., Washington, DC. A copy of the proposed Consent Decree may be obtained by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Box 7611, Ben Franklin Station, Washington, DC 20044. When requesting a copy, please present or enclose a check in the amount of $5.40 (ten cents per page reproduction costs) payable to the Treasurer of the United States.

Donald A Carr,

Acting Assistant Attorney General Land and Natural Resources Division.

[FR Doc. 89-20069 Filed 8-24-89; 8:45 am]
BILLING CODE 4410-01-7

Lodging of Consent Decree Pursuant to the Clean Water Act; Gardinier, Inc., et al.

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Gardinier, Inc., et al.,* Civil Action No. 89-1120-CIV-T-10B, was lodged with the United States District Court for the Middle District of Florida, Tampa Division, on August 11, 1989. This agreement resolves a judicial enforcement action brought by the United States against the defendants which alleged violations of the Clean Water Act arising from the discharge of a hazardous substance into the Alafia River near Tampa Bay.

The proposed consent decree provides for payment of $40,000 in civil penalties in settlement of the action.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Gardinier, Inc., et al.,* D.J. Ref. 90-5-1-1-3319.

The proposed consent decree maybe examined at the office of the United States Attorney, Middle District of Florida, Robert Timberlake Bldg., Rm. 410, 500 Zack Street, Tampa, Florida 33602. Copies of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed consent decree may be

obtained in person or by mail from the Environmental Enforcement Section of the Department of Justice. In requesting a copy, please enclose a check in the amount of sixty (60) cents (10 cents per page reproduction cost) payable to the Treasurer of the United States.

Donald A. Carr,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89-20070 Filed 8-24-89; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Final Consent Decree Pursuant to the Clean Water Act; City of Neptune Beach, FL, and the State of Florida

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on the 14th day of August, 1989, a proposed final consent decree in *United States* v. *City of Neptune Beach, Florida, and the State of Florida*, (M.D. Fla.), was lodged with the United States District Court for the Middle District of Florida. The complaint sought the imposition of injunctive relief and civil penalties against the City of Neptune Beach ("City") and the State of Florida for violations of sections 301 and 402 of the Clean Water Act, 33 U.S.C. 1311 and 1342.

The proposed consent decree imposes a permanent injunction against future violations of the Clean Water Act, and establishes a court-ordered compliance schedule to require the City to complete the necessary construction and improvements to bring its discharges within the terms and limitations of a valid National Pollution Elimination System ("NPDES" permit). It also imposes a civil penalty of $18,300.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Acting Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *City of Neptune Beach, Florida, and the State of Florida*, D.J. Ref. 90-5-1-1-3199.

The proposed consent decree may be examined at the Office of the United States Attorney, 409 Post Office Building, 311 West Monroe Street, Jacksonville, Florida 32201 and at the U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30364. Copies of the consent decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1647, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. Copies of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

In requesting a copy, please enclose a check in the amount of $1.90 (10 cents per page reproduction cost) payable to the "Treasurer of the United States".

Donald A. Carr,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89-20071 Filed 8-24-89; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Final Consent Decree Pursuant to the Clean Water Act; City of Wildwood, FL, and the State of Florida

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on the 14th day of August, 1989, a proposed final consent decree in *United States* v. *City of Wildwood, Florida, and the State of Florida*, (M.D. Fla.), was lodged with the United States District Court for the Middle District of Florida. The complaint sought the imposition of injunctive relief and civil penalties against the City of Wildwood ("City") and the State of Florida for violations of sections 301 and 402 of the Clean Water Act, 33 U.S.C. § 1311 and 1342.

The proposed consent decree imposes a permanent injunction against future violations of the Clean Water Act, and establishes a court-ordered compliance schedule to require the City to complete the necessary construction and improvements to bring its discharges within the terms and limitations of a valid National Pollution Elimination System ("NPDES") permit. It also imposes a civil penalty of $12,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Acting Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *City of Wildwood, Florida, and the State of Florida*, D.J. Ref. 90-5-1-1-3255.

The proposed consent decree may be examined at the Office of the United States Attorney, 409 Post Office Building, 311 West Monroe Street, Jacksonville, Florida 32201 and at the U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30364. Copies of the consent decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1647, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. Copies of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

In requesting a copy, please enclose a check in the amount of $1.80 (10 cents per page reproduction cost) payable to the "Treasurer of the United States".

Donald A. Carr,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89-20072 Filed 8-24-89; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

National Cooperative Research Act of 1984; OSF/Open Software Foundation, Inc.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301, *et seq.* ("the Act"), Open Software Foundation, Inc. ("OSF") has filed an additional written notification simultaneously with the Attorney General and the Federal Trade Commission on May 3, 1989, disclosing changes in its membership. The additional notification was filed for the purpose of extending the protections of section 4 of the Act limiting recovery of antitrust plaintiffs to actual damages under specific circumstances.

On August 8, 1988, OSF and the Open Software Foundation Research Institute, Inc. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice (the "Department") published a notice in the Federal Register pursuant to section 6(b) of the Act on September 7, 1988, 53 FR 34594. On November 4, 1988, February 2, 1989, and July 28, 1989, OSF filed additional written notifications. The Department published notices in the Federal Register in response to the November 4, 1988 and February 2, 1989 additional notifications on November 25, 1988 (53 FR 47773), and February 23, 1989 (54 FR 7893). The Department will publish a notice in the Federal Register in response to the July 28, 1989 additional notification.

The identities of the new, non-voting

members of OSF as of April 28, 1989 are as follows:

Massachusetts Institute of Technology	02/01/89.
Carnegie Mellon University	02/02/89.
Synthesis Software Solutions, Inc.	02/02/89.
Fraunhofer Inst. for Info. & Data Process	02/07/89.
GMD-Gesellschaft fur Mathematik & Datenv	02/10/89.
Kontron Elektronik GmbH	02/13/89.
Boeing Computer Services	02/15/89.
VDMA FG BIT	02/15/89.
Berkeley Computer Science Dept	02/16/89.
Visix Software, Inc	02/16/89.
Quantum GmbH	02/17/89.
Sony Corporation	02/21/89.
Sumitomo Electric Industries Ltd	02/21/89.
Univ. of Wisconsin, Madison, CS Dept	03/01/89.
McDonnell Douglas CAD/CAM/CALS Program	03/02/89.
Tektronix, Inc	03/02/89.
University of Illinois, CS Dept	03/02/89.
University of Utah, CS Dept	03/02/89.
Integrated Solutions, Inc	03/06/89.
The Santa Cruz Operation	03/06/89.
U.S. D.O.T. Transportation Systems Center	03/06/89.
Zentrum fur Graphische Datenverarbeitung	03/06/89.
SMT Goupil	03/07/89.
University of Washington	03/10/89.
Electronic & Telecommunications Rsch	03/13/89.
Brown University, CS Dept	03/16/89.
Ricoh Company Ltd	03/16/89.
Clemson University, CS Dept	03/21/89.
University of Calgary, CS Dept	03/21/89.
University of Massachusetts—CS Dept	03/24/89.
iXoS Software GmbH	03/28/89.
Univ. of Milan—Computer Science Dept	03/31/89.
SAP AG	04/07/89.
Edinburgh University	04/10/89.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 89-20067 Filed 8-24-89; 8:45 am]

BILLING CODE 4410-01-M

National Cooperative Research Act of 1984; OSF/Open Software Foundation, Inc.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301, *et seq.* ("the Act"), Open Software Foundation, Inc. ("OSF") has filed an additional written notification simultaneously with the Attorney General and the Federal Trade Commission on July 28, 1989, disclosing changes in its membership. The additional notification was filed for the purpose of extending the protections of section 4 of the Act limiting recovery of antitrust plantiffs to actual damages under specific circumstances.

On August 8, 1988, OSF and the Open Software Foundation Research Institute, Inc. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice (the "Department") published a notice in the **Federal Register** pursuant to section 6(b) of the Act on September 7, 1988, 53 FR 34594. On November 4, 1988, February 2, 1989, and May 3, 1989, OSF filed additional written notifications. The Department published notices in the **Federal Register** in response to the November 4, 1988 and February 2, 1989 additional notifications on November 25, 1988 (53 FR 47773), and February 23, 1989 (54 FR 7893). The Department will publish a notice in the **Federal Register** in response to the May 3, 1989 additional notification.

The identities of the new, non-voting members of OSF are as follows:

University of Lowell, CS Dept.	4/16/89.
ASCII Corporation	4/22/89.
Cadence Design Systems, Inc.	4/22/89.
Mannesmann AG	4/22/89.
Motorola, Inc.	4/27/89.
Integrated Computer Solutions	4/30/89.
Eureka Software Factory	5/03/89.
Rutherford Appleton Laboratory	5/04/89.
ANSA	5/05/89.
INESC	5/09/89.
IRIT	5/09/89.
North Carolina State University	5/09/89.
Sybase, Inc.	5/09/89.
UCLA Computer Science Dept	5/09/89.
Electronic Research & Service Org	5/10/89.
Cranfield Information Technology Inst.	5/17/89.
Harvard Univ.—Div. of Applied Sciences	5/17/89.
ARIX Corporation	6/05/89.
Baan Information Systems b.v.	6/05/89.
Centre Universitarie D'Informatique	6/05/89.
Defense Intelligence Agency	6/05/89.
EMULEX Corporation	6/05/89.
Yokogawa Electric Corporation	6/05/89.
Mamram Computer Training Center	6/15/89.
Atlantic Richfield Company	6/19/89.
Dansk Data Elektronik A/S	6/20/89.
Fox Chase Cancer Center	6/20/89.
Uppsala University Computing Center	6/20/89.
Korea Advance Institute Science/Technol	6/23/89.
Alliant Computer Systems Company	6/28/89.
Hellas Institute of Computer Science	6/30/89.
Michigan State University	7/06/89.
University of Virginia	7/11/89.
Fraunhofer—Institute IAO	7/25/89.
KnowledgeSet Corporation	7/25/89.
Royal Insitute of Technology	7/27/89.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 89-20068 Filed 8-24-89; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is

received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S-3504, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

VOLUME I:

NEW JERSEY:
NJ89-2 (January 6, 1989) p.613
pp.614-619
NJ89-3 (January 6, 1989) p.633
pp.634-638
NJ89-4 (January 6, 1989) p.657
pp.658-661

NEW YORK:
NY89-2 (January 6, 1989) p.638
pp.687-689
NY89-3 (January 6, 1989) p.701
p.702
NY89-4 (January 6, 1989) p.709
p.710
NY89-5 (January 6, 1989) p.717
p.718
NY89-6 (January 6, 1989) p.727
pp.729,733
NY89-7 (January 6, 1989) p.737
pp.738-740
NY89-8 (January 6, 1989) p.755
pp.756-758
NY89-9 (January 6, 1989) p.767
p.768
NY89-11 (January 6, 1989). p.781
pp.782,784
NY89-12 (January 6, 1989). p.789
p.790
NY89-13 (January 6, 1989). p.799
p.801
NY89-14 (January 6, 1989). p.807
p.808
NY89-17 (January 6, 1989). p.817
pp.818,820

VOLUME II:

INDIANA:
IN89-6 (January 6, 1989) p.313
pp.314-324

MISSOURI:
MO89-2 (January 6, 1989). p.647
pp.648-652
MO89-9 (January 6, 1989). p.693
pp.694-696
MO89-11 (January 6, 1989). p.707
pp.708-711

WISCONSIN:
WI89-1 (January 6, 1989) p.1137
p.1138
WI89-2 (January 6, 1989) p.1141
p.1142
WI89-5 (January 6, 1989) p.1153
p.1154
WI89-9 (January 6, 1989) p.1183
p.1184
WI89-11 (January 6, 1989). p.1199
p.1200
WI89-12 (January 6, 1989). p.1203
p.1204
WI89-13 (January 6, 1989). p.1207
p.1208
WI89-14 (January 6, 1989). p.1211
p.1212
WI89-15 (January 6, 1989). p.1215
p.1216
WI89-16 (January 6, 1989). p.1219
p.1220

VOLUME III:

IDAHO:
ID89-1 (January 6, 1989) p.145
pp.146-147
ID89-2 (January 6, 1989) p.157
p.158

OREGON:
OR89-1 (January 6, 1989) p.307
pp.308-310

WASHINGTON:
WA89-5 (January 6, 1989). p.411
p.412
WA89-9 (January 6, 1989). p.427
pp.428-429

WYOMING:
WY89-2 (January 6, 1989). p.411
pp.442-448

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered off for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 18th day of August 1989.

Robert V. Setera,

Acting Director, Division of Wage Determinations.

[FR Doc. 89-19865 Filed 8-24-89; 8:45 am]

BILLING CODE 4510-27-M

Employment and Training Administration

Indian and Native American Programs; Final Total Allocations, Allocation Formulas, and Formula Rationales for Job Training Partnership Act Program Year 1989 Title IV-A, Regular Program, and Calendar Year 1989 (Program Year 1988) Summer Youth Employment and Training Program

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration of the Department of Labor is publishing the final Native American allocations, allocation formulas and formula rationales for the Program Year 1989 (July 1, 1989-June 30, 1990) Title IV-A regular program funded under the Job Training Partnership Act and for the Calendar Year 1989 Summer Youth Employment and Training Program funded under Title II-B of the Job Training Partnership Act.

FOR FURTHER INFORMATION CONTACT: Mr. Carmelo J. Milici. Telephone: (202) 535-0507.

SUPPLEMENTARY INFORMATION: Pursuant to section 162 of the Job Training Partnership Act (JTPA), the Employment and Training Administration (ETA) of the Department of Labor (DOL) publishes the final allocations,

allocation formulas and rationales for those formulas for Native American grantees to be funded under JTPA, Title IV–A, Section 401 and JTPA Title II–B. The total amounts to be allocated are $58,996,000 for the Program Year 1989 JTPA, Title IV–A, Section 401 regular program, and $13,058,321 for the Calendar Year 1989 JTPA, Title II–B, Summer Youth Employment and Training Program (SYETP).

This information, along with individual grantee planning estimates, was published in the Federal Register as a proposal on December 6, 1988. 53 FR 49250.

Written comments were invited from the public. One was received regarding the inadvertent omissions of a Title II–B planning estimate of $2,370.00 for one grantee. The inclusion of this amount in the final allocations resulted in a minor reduction in the final Title II–B allocations to all eligible grantees. Certain grantees gained or lost all or part of their proposed allocations as a result of the grantee designation process for Program Years 1989/90. The planning estimates published as a Notice in the Federal Register of December 6, 1989 have been changed to account for the above conditions and are published here as final allocations.

The formula for JTPA, Title IV–A, Section 401 provides that 25 percent of the funding will be based on the number of unemployed Native Americans in the grantee's area, and 75 percent will be based on the number of poverty-level Native Americans in the grantee's area.

The formula for allocating the JTPA, Title II–B, SYETP funds divides the funds among eligible recipients based on the proportion that the number of Native American youths in a recipient's area bears to the total number of Native American youths in all eligible recipients' areas.

The rationale for the above formulas is that the number of poverty-level persons, unemployed persons and youth among the Native American population is indicative of the need for training and employment funds.

Statistics on poverty-level persons, unemployed persons and youth among Native Americans used in the above programs are derived from the Decennial Census of the population, 1980.

Signed at Washington, DC, this 10th day of August 1989.

Roberts T. Jones,

Assistant Secretary of Labor.

U.S. Department of Labor—Employment and Training Administration PY 1989 Title IV–A and PY 1988 II–B (Summer 1989) Final Allocations for Native American Grantees—June 23, 1989

	PY 1989 IV–A			PY 1988 II–B		
	Total	Program	Cost pool	Total	Program	Cost pool
Poarch Band of Creek Indians, Route 3, Box 243A, Atmore, Alabama 36502, Grant Number: 99–7–0648–55–104–02	384,452	307,562	76,890	2,370	1,896	474
Aleutian/Pribilof Islands Assoc. Inc., 1689 C Street, Suite 205, Anchorage, Alaska 99501, Grant Number: 99–7–0117–55–071–02	45,853	36,682	9,171	34,978	27,982	6,996
Assoc. of Village Council Presidents, P.O. Box 848, Bethel, Alaska 99559 Grant Number: 99–7–2713–55–135–02	545,040	436,032	109,008	262,857	210,286	52,571
Bristol Bay Native Association, P.O. Box 310, Dillingham, Alaska 99576, Grant Number: 99–7–0116–55–070–02	135,110	108,088	27,022	79,815	63,852	15,963
Central Council of Tlingit and Haida Indians Tr, 320 W. Willoughby, Suite 300, Juneau, Alaska 99801, Grant Number: 99–7–0114–55–068–02	210,978	168,782	42,196	169,488	135,590	33,898
Cook Inlet Tribal Council, 670 West Fireweed Lane, Anchorage, Alaska 99503, Grant Number: 99–7–3402–55–188–02	350,125	280,100	70,025	202,191	161,753	40,438
Kawerak Incorporated, P.O. Box 948, Nome, Alaska 99762, Grant Number: 99–7–0123–55–073–02	212,885	170,308	42,577	92,896	74,317	18,579
Kenaitze Indian Tribe, P.O. Box 988, Kenai, Alaska 99611, Grant Number: 99–7–0089–55–057–02	29,043	23,234	5,809	17,631	14,105	3,526
Kodiak Area Native Association, 402 Center Avenue, Kodiak, Alaska 99615, Grant Number: 99–7–0115–55–069–02	61,558	49,245	12,311	33,746	26,997	6,749
Maniilaq Manpower, P.O. Box 725, Kotzebue, Alaska 99752, Grant Number: 99–7–0124–55–074–02	167,053	133,642	33,411	89,483	71,586	17,897
Metlakatla Indian Community, P.O. Box 8, Metlakatla, Alaska 99926, Grant Number: 99–7–0064–55–053–02	15,157	12,126	3,031	18,390	14,712	3,678
North Pacific Rim, 3300 C Street, Anchorage, Alaska 99503, Grant Number: 99–7–0118–55–072–02	55,595	44,476	11,119	26,352	21,082	5,270
Tanana Chiefs Conference, Inc., 201 First Avenue—Doyon Bldg., Fairbanks, Alaska 99701, Grant Number: 99–7–3109–55–150–02	371,420	297,136	74,284	217,452	173,962	43,490
Affiliation of Arizona Ind. Cntrs. Inc., 333 West Indian School Road, Suite 210, Phoenix, Arizona 85013, Grant Number: 99–7–0268–55–089–02	245,680	196,544	49,136	0	0	0
American Indian Assoc. of Tucson, P.O. Box 7246, Tucson, Arizona 85725, Grant Number: 99–7–0492–55–096–02	320,585	256,468	64,117	0	0	0
Colorado River Indian Tribes, Route 1, Box 23–B, Parker, Arizona 85344, Grant Number: 99–7–0498–55–097–02	78,516	62,813	15,703	31,471	25,177	6,294
Gila River Indian Community, Box 97, Sacaton, Arizona 85247, Grant Number: 99–7–0054–55–049–02	469,469	375,575	93,894	135,552	108,442	27,110
Hopi Tribal Council, Box 123, Kykotsmovi, Arizona 86039, Grant Number: 99–7–0057–55–050–02	367,883	294,306	73,577	107,873	86,298	21,575
Indian Dev. Dist. of Arizona, Inc., 4560 North 19th Ave., Suite 200, Phoenix, Arizona 85015, Grant Number: 99–7–0053–55–048–02	107,287	85,830	21,457	43,983	35,186	8,797
Native Americans for Community Action, 2717 North Steves Boulevard, Suite 11, Flagstaff, Arizona 86004, Grant Number: 99–7–1777–55–119–02	109,356	87,485	21,871	0	0	0
Navajo Tribe of Indians, P.O. Box 1889, Window Rock, Arizona 86515, Grant Number: 99–7–0059–55–052–02	6,520,025	5,216,020	1,304,005	2,378,704	1,902,963	475,741
Pasqua Yaqui Tribe, 7474 S. Camino De Oeste, Tucson, Arizona 85746, Grant Number: 99–7–3289–55–160–02	36,862	29,490	7,372	9,384	7,507	1,877
Phoenix Indian Center, Inc., 333 West Indian School Road, Suite 200, Phoenix, Arizona 85013, Grant Number: 99–7–0195–55–084–02	674,521	539,617	134,904	0	0	0
Salt River Pima-Maricopa Ind. Commun., Route 1, Box 216, Scottsdale, Arizona 85256, Grant Number: 99–7–0476–55–094–02	91,782	73,426	18,356	47,111	37,689	9,422

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	PY 1989 IV-A			PY 1988 II-B		
	Total	Program	Cost pool	Total	Program	Cost pool
San Carlos Apache Tribe, P.O. Box'O', San Carlos, Arizona 85550, Grant Number: 99-7-0173-55-081-02	299,431	239,545	59,886	118,584	94,867	23,717
Tohono O'Odham Nation, P.O. Box 837, Sells, Arizona 85634, Grant Number: 99-7-0181-55-083-02	409,211	327,369	81,842	126,253	102,602	25,651
White Mountain Apache Tribe, P.O. Box 700, White River, Arizona 85941, Grant Number: 99-7-0174-55-186-02	318,024	254,419	63,605	132,993	106,394	26,599
Am. Indian Center of Arkansas, Inc., 2 Van Circle, Suite 7, Little Rock, Arkansas 72207, Grant Number: 99-7-1778-55-120-02	445,452	356,361	89,090	0	0	0
California Indian Manpower CSRT., 4153 Northgate Boulevard, Sacramento, California 95834, Grant Number: 99-7-2058-55-181-02	2,908,780	2,327,024	581,756	154,700	123,760	30,940
Candelaria American Indian Council, 2635 Wagon Wheel Road, Oxnard, California 93030, Grant Number: 99-7-0086-55-066-02	440,863	352,690	88,173	0	0	0
Hoopa Valley Business Council, P.O. Box 815, Hoopa, California 95546-0815, Grant Number: 99-7-1142-55-114-02	49,524	39,619	9,905	22,845	18,276	4,569
Indian Center of San Jose, Inc., 935 the Alameda, San Jose, California 95126 Grant Number: 99-7-0499-55-098-02	226,295	181,036	45,259	0	0	0
Indian Human Resources Center, 4040 30th Street, Suite A, San Diego, California 92104, Grant Number: 99-7-2441-55-134-02	431,594	345,275	86,319	0	0	0
Northern Calif. Ind. Dev. Council, Inc., 241 F Street, Eureka, California 95501, Grant Number: 99-7-0686-55-015-02	310,876	248,701	62,175	15,546	12,437	3,109
Southern California Indian Center, Inc., 12755 Brookhurst Street, P.O. Box 2550, Garden Grove, California 92642-2550, Grant Number: 99-7-0170-55-172-02	1,905,900	1,524,720	381,180	0	0	0
Tule River Tribe, Dept. of Health, Safety & Welfare, P.O. Box 589, Porterville, California 93258, Grant Number: 99-7-3219-55-153-02	127,869	102,295	25,574	4,266	3,413	853
United Indian Nations, 1404 Franklin Street, Suite 202, Oakland, California 94612 Grant Number: 99-7-2310-55-133-02	614,563	491,650	122,913	0	0	0
Ya-Ka-Ama Indian Educ. and Dev., Inc., 6215 Eastside Road, Forestville, California 95436, Grant Number: 99-7-0082-55-065-02	126,584	101,267	25,317	0	0	0
Denver Indian Center, Inc., 4407 Morrison Road, Denver, Colorado 80219, Grant Number: 99-7-0076-55-062-02	590,353	472,282	118,071	0	0	0
Southern Ute Indian Tribe, P.O. Box 800, Ignacio, Colorado 81137, Grant Number: 99-7-2714-55-136-02	54,615	43,692	10,923	15,451	12,361	3,090
Ute Mountain Ute Tribe, P.O. Box 30, Towaoc, Colorado 81334, Grant Number: 99-7-1143-55-115-02	65,850	52,680	13,170	18,674	14,939	3,735
American Indians for Development, Inc., P.O. Box 117, Meriden, Connecticut 06450 Grant Number: 99-7-0361-55-091-02	183,860	147,088	36,772	0	0	0
Nanticoke Indian Association, Inc., Rt. 4, Box 107A, Millsboro, Delaware 19966, Grant Number: 99-9-3518-55-019-02	37,974	30,379	7,595	0	0	0
Fla. Governors Council on Ind. Affairs, 521 E. College Avenue, Tallahassee, Florida 32301, Grant Number: 99-7-0692-55-107-02	1,166,402	933,122	233,280	0	0	0
Miccosukee Corporation, P.O. Box 440021, Tamiami Station, Miami, Florida 33144, Grant Number: 99-7-0052-55-047-02	116,961	93,569	23,392	40,192	32,154	8,038
Seminole Tribe of Florida, JTPA Department, 6073 Stirling Road, Hollywood, Florida 33024, Grant Number: 99-7-0004-55-009-02	65,872	52,698	13,174	7,868	6,294	1,574
Alu Like, Inc., 1024 Mapunapuna Street, Honolulu, Hawaii 96819-4417, Grant Number: 99-7-1179-55-116-02	2,426,082	1,940,866	485,216	2,086,556	1,669,245	417,311
American Indian Services Corporation, 1405 North King Street, Suite 302, Honolulu, Hawaii 96817, Grant Number: 99-7-3404-55-189-02	85,540	68,432	17,108	0	0	0
Kootenai Tribe of Indians, P.O. Box 1269, Bonners Ferry, Idaho 83805, Grant Number: 99-7-3334-55-161-02	31,596	25,277	6,319	1,327	1,062	265
Nez Perce Tribe, P.O. Box 365, Lapwai, Idaho 83540-0305, Grant Number: 99-7-0065-55-054-02	79,036	63,229	15,807	12,418	9,934	2,484
Shoshone-Bannock Tribes, Fort Hall Business Council, P.O. Box 306, Fort Hall, Idaho 83203, Grant Number: 99-7-1780-55-121-02	234,683	187,746	46,937	40,286	32,229	8,057
American Indian Business Association, 4753 North Broadway, Suite 700, Chicago, Illinois 60640, Grant Number: 99-7-0809-55-109-02	1,063,617	850,894	212,723	0	0	0
Mid America All Indian Center, Inc., 650 N. Seneca, Wichita, Kansas 67203, Grant Number: 99-7-0168-55-078-02	158,591	126,873	31,718	0	0	0
United Tribes of Kansas and S.E. Neb., P.O. Box 29, Horton, Kansas 66439, Grant Number: 99-7-0178-55-082-02	484,971	387,977	96,994	9,858	7,886	1,972
Inter-Tribal Council of Louisiana, Inc., 5425 Galeria Drive—Suite A, Baton Rouge, Louisiana 70816, Grant Number: 99-7-0026-55-026-02	439,485	351,588	87,897	5,498	4,398	1,100
Central Maine Indian Association, Inc., 157 Ark Street, Suite 3C, P.O. Box 2280, Bangor, Maine 04401, Grant Number: 99-7-2719-55-182-02	89,498	71,598	17,900	0	0	0
Tribal Governors, Inc., 93 Main Street, Orono, Maine 04473, Grant Number: 99-7-0001-55-167-02	102,956	82,365	20,591	27,584	22,067	5,517
Baltimore American Indian Center, 113 So. Broadway, Baltimore, Maryland 21231, Grant Number: 99-7-3405-55-192-02	349,608	279,686	69,922	0	0	0
Area formerly assigned to Boston Indian Council—Grantee to be designated, Grant Number: xx-x-xxxx-xx-xxx-xx	232,970	186,376	46,594	0	0	0
Mashpee-Wampahoag Indian Tribal Council, P.O. Box 1048, Mashpee, Massachusetts 02649, Grant Number: 99-7-0408-55-093-02	81,252	65,002	16,250	0	0	0
Grand Rapids Inter-Tribal Council, 45 Lexington Ave. N.W., Grand Rapids, Michigan 49504, Grant Number: 99-7-0694-55-108-02	116,280	93,024	23,256	0	0	0
Grand Traverse Band of Ottawa and Chippewa Ind., Route 1, Box 135, Suttons Bay, Michigan 49682, Grant Number: 99-7-2721-55-137-02	53,872	43,098	10,774	2,465	1,972	493

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	PY 1989 IV-A			PY 1988 II-B		
	Total	Program	Cost pool	Total	Program	Cost pool
Inter-Tribal Council of Michigan, Inc., 405 East Easterday Avenue, Sault Ste. Marie, Michigan 49783, Grant Number: 99-7-0172-55-080-02	64,535	51,628	12,907	30,618	24,494	6,124
Michigan Indian Employment and Training Service, 2405 East Mount Hope, Lansing, Michigan 48910, Grant Number: 99-7-1144-55-179-02	777,630	622,104	155,526	0	0	0
North American Indian Assoc. of Detroit, 22720 Plymouth Road, Detroit, Michigan 48122, Grant Number: 99-7-0695-55-176-02	391,793	313,434	78,359	0	0	0
Potawatomi Indian Nation, 53237 Townhall Road, Dowagiac, Michigan 49047, Grant Number: 99-7-3339-55-164-02	148,827	119,062	29,765	0	0	0
Sault Ste. Marie Tribe of Chippewa Indians, 2151 Shunk Road, Sault Ste. Marie, Michigan 49783, Grant Number: 99-7-0507-55-100-02	228,887	183,110	45,777	42,941	34,353	8,588
Southeastern Michigan Indians, Inc., 22620 Ryan Road, P.O. Box 861, Warren, Michigan 48090, Grant Number: 99-7-3220-55-154-02	63,073	50,458	12,615	0	0	0
American Indian Fellowship Assn., 8 East Fourth Street, Duluth, Minnesota 55806, Grant Number: 99-7-0254-55-087-02	132,945	106,356	26,589	2,085	1,668	417
American Indian Opportunities Ctr., 2495-18th Avenue South, Minneapolis, Minnesota 55404, Grant Number: 99-7-3221-55-155-02	511,075	408,860	102,215	0	0	0
Bois Forte R.B.C., P.O. Box 16, Nett Lake, Minnesota 55772, Grant Number: 99-7-0010-55-014-02	37,964	30,371	7,593	9,005	7,204	1,801
Fond Du Lac R.B.C., 105 University Road, Cloquet, Minnesota 55720, Grant Number: 99-7-0009-55-013-02	38,799	31,039	7,760	6,446	5,157	1,289
Leech Lake R.B.C., Route 3 Box 100, Cass Lake, Minnesota 56633, Grant Number: 99-7-0012-55-017-02	175,402	140,322	35,080	49,197	39,358	9,839
Mille Lacs Band of Chippewa Indians, Star Route-Box 194, Onamia, Minnesota 56359, Grant Number: 99-7-0008-55-012-02	32,020	25,616	6,404	8,910	7,128	1,782
Minneapolis American Indian Center, 1530 East Franklin Avenue, Minneapolis, Minnesota 55404, Grant Number: 99-7-0204-55-085-02	299,245	239,396	59,849	12,418	9,934	2,484
Red Lake Tribal Council, P.O. Box 310, Red Lake, Minnesota 56671, Grant Number: 99-7-0017-55-020-02	140,449	112,359	28,090	63,416	50,733	12,683
White Earth R.B.C., Box 418, White Earth, Minnesota 56591, Grant Number: 99-7-0011-55-016-02	157,219	125,775	31,444	50,619	40,495	10,124
Mississippi Band of Choctaw Indians, Route 7, Box 21, Philadelphia, Mississippi 39350, Grant Number: 99-7-0005-55-010-02	304,495	243,596	60,899	52,230	41,784	10,446
Region VII American Indian Council, Inc., 310 Armour Road, Suite 205, North Kansas City, Missouri 64116, Grant Number: 99-7-0967-55-177-02	564,167	451,334	112,833	0	0	0
Assiniboine and Sioux Tribes, Fort Peck Indian Reservation, P.O. Box 1027, Poplar, Montana 59255, Grant Number: 99-7-0033-55-031-02	210,085	168,068	42,017	77,160	61,728	15,432
Blackfeet Tribal Business Council, P.O. Box 1090, Browning, Montana 59417, Grant Number: 99-7-0006-55-011-02	243,696	194,957	48,739	92,706	74,165	18,541
Chippewa Cree Tribe, Rocky Boys Reserv., Rocky Boy Route—P.O. Box 578, Box Elder, Montana 59521, Grant Number: 99-7-0035-55-033-02	98,065	78,452	19,613	29,859	23,887	5,972
Confederated Salish & Kootenai Tribes, P.O. Box 278, Pablo, Montana 59855, Grant Number: 99-7-0031-55-030-02	246,561	197,249	49,312	72,800	58,240	14,560
Crow Indian Tribe, P.O. Box 159, Crow Agency, Montana 59022, Grant Number: 99-7-0030-55-029-02	207,081	165,665	41,416	81,426	65,141	16,285
Fort Belknap Indian Community, P.O. Box 249, Harlem, Montana 59526, Grant Number: 99-7-0032-55-168-02	79,058	63,246	15,812	36,590	29,272	7,318
Montana United Indian Association, P.O. Box 6043, Helena, Montana 59601, Grant Number: 99-7-0074-55-060-02	425,177	340,142	85,035	0	0	0
Northern Cheyenne Tribe, P.O. Box 368, Lame Deer, Montana 59043, Grant Number: 99-7-0034-55-060-02	164,096	131,277	32,819	54,600	43,680	10,920
Indian Center, Inc., 1100 Military Road, Lincoln, Nebraska 68508, Grant Number: 99-7-2722-55-183-02	169,227	135,382	33,845	0	0	0
Nebraska Indian Inter-Tribal Dev. Corp., Route 1—Box 66-A, Winnebago, Nebraska 68071, Grant Number: 99-7-0087-55-171-02	306,929	245,543	61,386	55,074	44,059	11,015
Inter-Tribal Council of Nevada, 806 Holman Way, Sparks, Nevada 89431, Grant Number: 99-7-0058-55-051-02	329,426	263,541	65,885	69,388	55,510	13,878
Las Vegas Indian Center, Inc., 2300 West Bonanza Road, Las Vegas, Nevada 89106, Grant Number: 99-7-0687-55-105-02	92,191	73,753	18,438	0	0	0
Shoshone Paiute Tribes, P.O. Box 219, Owyhee, Nevada 89832, Grant Number: 99-7-2723-55-138-02	162,332	129,866	32,466	19,338	15,470	3,868
Powhatan Renape Nation, Rankokus Reservation—P.O. Box 225, Rankokus, New Jersey 08073, Grant Number: 99-7-3222-55-156-02	291,671	233,337	58,334	0	0	0
Alamo Navajo School Board, P.O. Box 907, Magdalena, New Mexico 87825, Grant Number: 99-7-2724-55-139-02	76,239	60,991	15,248	17,916	14,333	3,583
All Indian Pueblo Council, Inc., 3939 San Pedro, NE, P.O. Box 3256, Albuquerque, New Mexico 87190, Grant Number: 99-7-3341-55-165-02	125,582	100,466	25,116	64,811	51,849	12,962
Eight Northern Indian Pueblo Council, P.O Box 969, San Juan Pueblo, New Mexico 87566, Grant Number: 99-7-3223-55-157-02	78,818	63,054	15,764	39,365	31,492	7,873
Five Sandoval Indian Pueblos, Inc., P.O. Box 580, Bernalillo, New Mexico 87004, Grant Number: 99-7-3336-55-162-02	118,193	94,554	23,639	68,629	54,903	13,726
Jicarilla Apache Tribe, P.O. Box 507, Dulce, New Mexico, 87528-0507, Grant Number: 99-7-2725-55-140-02	53,175	42,540	10,635	31,376	25,101	6,275
Mescalero Apache Tribe, P.O. Box 176, Mescalero, New Mexico 88340, Grant Number: 99-7-3100-55-149-02	74,254	59,403	14,851	30,523	24,418	6,105
National Indian Youth Council, 318 Elm Street SE, Albuquerque, New Mexico 87102, Grant Number: 99-7-0077-55-063-02	701,631	564,505	141,126	0	0	0

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	PY 1989 IV-A			PY 1988 II-B		
	Total	Program	Cost pool	Total	Program	Cost pool
Pueblo of Acoma, P.O. Box 469, Pueblo of Acoma, New Mexico 87034, Grant Number: 99-7-2199-55-126-02	99,677	79,742	19,935	41,614	33,291	8,323
Pueblo of Laguna, P.O. Box 194, Laguna, New Mexico 87026, Grant Number: 99-7-1583-55-117-02	74,812	59,850	14,962	58,297	46,638	11,659
Pueblo of Taos, P.O. Box 1846, Taos, New Mexico 87571, Grant Number: 99-7-2200-55-129-02	32,085	25,668	6,417	12,702	10,162	2,540
Pueblo of Zuni, Zuni Tribal Council, P.O. Box 339, Zuni, New Mexico 87327, Grant Number: 99-7-0021-55-023-02	286,114	228,891	57,223	128,822	103,058	25,764
Ramah Navajo School Board, Inc., Drawer G, Pine Hill, New Mexico 87357, Grant Number: 99-7-0146-55-075-02	91,358	73,086	18,272	23,508	18,806	4,702
Santa Clara Indian Pueblo, P.O. Box 580, Espanola, New Mexico 87532, Grant Number: 99-7-3224-55-158-02	19,128	15,302	3,826	5,688	4,550	1,138
Santo Domingo Tribe, P.O. Box 99, Santo Domingo, New Mexico 87052, Grant Number: 99-7-1781-55-122-02	124,548	99,638	24,910	41,614	33,291	8,323
American Indian Community House, Inc., 842 Broadway, 8th Floor, New York City, New York 10003-4889, Grant Number: 99-7-0348-55-090-02	763,833	611,066	152,767	3,128	2,502	626
Native American Cultural Center, Inc., 2115 East Main Street, Rochester, New York 14609, Grant Number: 99-7-3407-55-191-02	280,499	224,400	56,100	7,299	5,839	1,460
Native American Community Services of Erie, 1047 Grant Street (Rear)—P.O. Box 86, Buffalo, New York 14207-0086, Grant Number: 99-7-0689-55-106-02	227,487	181,990	45,497	10,238	8,190	2,048
St. Regis Mohawk Tribe, Community Building, Hogansburg, New York 13655, Grant Number: 99-7-0522-55-103-02	162,268	129,814	32,454	27,774	22,219	5,555
Seneca Nation of Indians, 1490 Route 438, Irving, New York 14081, Grant Number: 99-7-0169-55-079-02	301,742	241,394	60,348	54,695	43,756	10,939
Cumberland County Assoc. for Ind. People, 102 Indian Drive, Fayetteville, North Carolina 28301, Grant Number: 99-7-1782-55-123-02	123,498	98,798	24,700	0	0	0
Eastern Band of Cherokee Indians, P.O. Box 455, Cherokee, North Carolina 28719, Grant Number: 99-7-0003-55-008-02	232,763	186,210	46,553	87,208	69,766	17,422
Guilford Native American Assoc., P.O. Box 5623, 400 Prescott Street, Greensboro, North Carolina 27435-0623, Grant Number: 99-7-2727-55-142-02	93,871	75,097	18,774	0	0	0
Haliwa-Saponi Tribe, Inc., P.O. Box 99, Hollister, North Carolina 27844, Grant Number: 99-9-3514-55-015-02	65,425	52,340	13,085	0	0	0
Lumbee Reg. Dev. Assoc., P.O. Box 68, Pembroke, North Carolina 28372-0068, Grant Number: 99-7-067-5-055-02	1,268,699	1,014,959	253,740	0	0	0
Metrolina Native American Assn., 6407 Idlewild Road—Suite 103, Charlotte, North Carolina 28212, Grant Number: 99-7-2726-55-141-02	95,941	76,753	19,188	0	0	0
North Carolina Comm. of Ind. Affairs, P.O. Box 27228, Raleigh, North Carolina 27611-7228, Grant Number: 99-7-0070-55-057-02	312,757	250,206	62,551	0	0	0
Devils Lake Sioux Tribe, P.O. Box 300, Fort Totten, North Dakota 58335, Grant Number: 99-7-0037-55-034-02	116,885	93,508	23,377	38,770	31,016	7,754
Standing Rock Sioux, Box D, Fort Yates, North Dakota 58538, Grant Number: 99-7-0046-55-041-02	244,610	195,688	48,922	94,223	75,378	18,845
Three Affiliated Tribes, Box 597, New Town, North Dakota 58763 Grant Number: 99-7-0062-55-170-02	165,319	132,255	33,064	56,022	44,818	11,204
Turtle Mountain Band of Chippewa Ind., P.O. Box 900, Belcourt, North Dakota 58316 Grant Number: 99-7-0075-55-061-02	332,405	265,924	66,481	109,484	87,587	21,897
United Tribes—Ed. Tech, Cntr., 3315 University Drive, Bismarck, North Dakota 58504 Grant Number: 99-7-0206-55-173-02	167,685	134,148	33,537	0	0	0
North American Indian Cultural Centers, 1062 Triplette Boulevard, Akron, Ohio 44306, Grant Number: 99-7-3349-55-166-02	709,287	567,430	141,857	0	0	0
Caddo Tribe of Oklahoma, P.O. Box 487, Binger, Oklahoma, 73009, Grant Number: 99-7-1783-55-124-02	27,314	21,851	5,463	12,418	9,934	2,484
Central Tribes of the Shawnee Area, Inc., 624 North Broadway, Shawnee, Oklahoma 74801, Grant Number: 99-7-0038-55-035-02	79,131	63,305	15,826	49,481	39,585	9,896
Cherokee Nation of Oklahoma, P.O. Box 948, Tahlequah, Oklahoma 74465, Grant Number: 99-7-0027-55-027-02	1,382,457	1,105,966	276,491	742,883	594,306	148,577
Cheyenne-Arapaho Tribes, P.O. Box 67, Concho, Oklahoma 73022, Grant Number: 99-7-0048-55-043-02	207,428	165,942	41,486	92,990	74,392	18,598
Chickasaw Nation of Oklahoma, 520 East Arlington, P.O. Box 1548, Ada, Oklahoma 74820, Grant Number: 99-7-0042-55-038-02	370,645	296,516	74,129	190,057	152,046	38,011
Choctaw Nation of Oklahoma, Drawer 1210, Durant, Oklahoma 74702-1210, Grant Number: 99-7-0041-55-037-02	754,840	603,872	150,968	333,857	267,086	66,771
Citizens Band Potawatomi Ind. of Okla., 1901 South Gordon Cooper Drive, Shawnee, Oklahoma 74801, Grant Number: 99-7-2202-55-131-02	187,064	149,651	37,413	156,027	124,822	31,205
Comanche Tribe of Oklahoma, P.O. Box 908, Lawton, Oklahoma 73502, Grant Number: 99-7-3150-55-151-02	153,948	123,158	30,790	120,196	96,157	24,039
Creek Nation of Oklahoma, P.O. Box 580, Okmulgee, Oklahoma 74447, Grant Number: 99-7-0025-55-025-02	562,493	449,994	112,499	359,071	287,257	71,814
Four Tribes Consortium of Oklahoma, P.O. Box 1193, Anadarko, Oklahoma 73005, Grant Number: 99-7-2728-55-143-02	70,563	56,450	14,113	37,253	29,802	7,451
Inter-Tribal Council of N.E. Oklahoma, P.O. Box 1308, Miami, Oklahoma 74355, Grant Number: 99-7-1135-55-110-02	49,313	39,450	9,863	36,210	28,968	7,242
Kiowa Tribe of Oklahoma, P.O. Box 369, Carnegie, Oklahoma 73015, Grant Number: 99-7-0047-55-042-02	199,885	159,908	39,977	85,976	68,781	17,195

U.S. DEPARTMENT OF LABOR—EMPLOYMENT AND TRAINING ADMINISTRATION PY 1989 TITLE IV-A AND PY 1988 II-B (SUMMER 1989)
FINAL ALLOCATIONS FOR NATIVE AMERICAN GRANTEES—JUNE 23, 1989—Continued

	PY 1989 IV-A			PY 1988 II-B		
	Total	Program	Cost pool	Total	Program	Cost pool
Oklahoma Tribal Assistance Program, Inc., 1806 East 15th Street, P.O. Box 2841, Tulsa, Oklahoma 74101, Grant Number: 99-7-0072-55-058-02	326,329	261,063	65,266	197,262	157,810	39,452
Osage Tribal Council, P.O. Box 147—Osage Agency Campus, Pawhuska, Oklahoma 74056, Grant Number: 99-7-0022-55-024-02	99,629	79,703	19,926	77,066	61,653	15,413
OTOE-Missouria Indian Tribe of Okla., P.O. Box 99, Red Rock, Oklahoma 74651, Grant Number: 99-7-2730-55-145-02	13,587	10,870	2,717	21,044	16,835	4,209
Pawnees Tribe of Oklahoma, P.O. Box 470, Pawnee, Oklahoma 74058, Grant Number: 99-7-1785-55-126-02	22,492	17,994	4,498	16,399	13,119	3,280
Ponca Tribe of Oklahoma, White Eagle—Box 2, Ponca City, Oklahoma 74601, Grant Number: 99-7-0029-55-028-02	53,033	42,426	10,607	48,439	38,751	9,688
Seminole Nation of Oklahoma, P.O. Box 1498, Wewoka, Oklahoma 74884, Grant Number: 99-7-0051-55-046-02	141,976	113,581	28,395	67,492	53,994	13,498
Tonkawa Tribe of Oklahoma, P.O. Box 70, Tonkawa, Oklahoma 74653, Grant Number: 99-7-1136-55-111-02	41,887	33,510	8,377	47,491	37,993	9,498
United Urban Indian Council, 1501 Classen Blvd., Suite 100, Oklahoma City, Oklahoma 73106-5435, Grant Number: 99-7-2731-55-146-02	293,995	235,196	58,799	221,528	177,222	44,306
Confed. Tribes of Siletz Indians, P.O. Box 549, Siletz, Oregon 97380, Grant Number: 99-7-3153-55-152-02	585,902	468,722	117,180	13,934	11,147	2,787
Confed. Tribes of the Umatilla Ind. Res., P.O. Box 638, Pendleton, Oregon 97801, Grant Number: 99-7-3065-55-148-02	43,466	34,773	8,693	16,494	13,195	3,299
Confederate Tribes of Warm Springs, P.O. Box C—Tenino Road, Warm Springs, Oregon 97761, Grant Number: 99-7-0256-55-088-02	91,728	73,382	18,346	42,846	34,277	8,569
Organization of Forgotten Americans, P.O. Box 1257, 4509 South 6th Street, Rm. 206, Klamath Falls, Oregon 97601-0276, Grant Number: 99-7-2732-55-147-02	426,622	341,298	85,324	4,171	3,337	834
Council of Three Rivers, 200 Charles Street, Pittsburgh, Pennsylvania 15238, Grant Number: 99-7-0642-55-175-02	677,339	541,871	135,468	0	0	0
United Am. Indians of the Del. Valley, 225 Chestnut Street, Philadelphia, Pennsylvania 19106, Grant Number: 99-7-0477-55-095-02	193,645	154,916	38,729	0	0	0
Rhode Island Indian Council, 444 Friendship St., Providence, Rhode Island 02907, Grant Number: 99-7-0510-55-101-02	141,406	113,125	28,281	0	0	0
Catawba Indian Nation, 1480 Hopewell Road, Rock Hill, South Carolina 29730, Grant Number: 99-9-3516-55-017-02	258,661	206,929	51,732	11,565	9,252	2,313
Cheyenne River Sioux Tribe, P.O. Box 768, Eagle Butte, South Dakota 57625, Grant Number: 99-7-0039-55-036-02	221,306	177,045	44,261	83,322	66,658	16,664
Lower Brule Sioux Tribe, P.O. Box 187, Lower Brule, South Dakota 57548, Grant Number: 99-7-0073-55-059-02	56,084	44,867	11,217	14,598	11,678	2,920
Oglala Sioux Tribe, P.O. Box G, Pine Ridge, South Dakota 57770, Grant Number: 99-7-0043-55-039-02	698,422	558,738	139,684	228,922	183,138	45,784
Rosebud Sioux Tribe, Box 430, Rosebud, South Dakota 57570, Grant Number: 99-7-0044-55-040-02	413,698	330,958	82,740	116,404	93,123	23,281
Sisseton-Wahpeton Sioux Tribe, P.O. Box 509, Agency Village, South Dakota 57262, Grant Number: 99-7-0045-55-169-02	161,127	128,902	32,225	49,292	39,434	9,858
United Sioux Tribes Dev. Corp., P.O. Box 1193, Pierre, South Dakota 57501, Grant Number: 99-7-0165-55-077-02	684,412	547,530	136,882	64,269	51,415	12,854
Native American Indian Association, 211 Union Street, Suite 404, Stahlman Building, Nashville, Tennessee 37201, Grant Number: 99-9-3515-55-016-02	329,888	263,910	65,978	0	0	0
Alabama-Coushatta Indian Tribal Council, Route 3—Box 645, Livingston, Texas 77351, Grant Number: 99-7-1784-55-125-02	641,216	512,973	128,243	5,403	4,322	1,081
Dallas Inter-Tribal Center, 209 East Jefferson Blvd., Dallas, Texas 75203-2690, Grant Number: 99-7-0078-55-064-02	263,150	210,520	52,630	0	0	0
Tigua Indian Tribe, P.O. Box 17579—Ysleta Station, El Paso, Texas 79917, Grant Number: 99-7-2099-55-127-02	437,991	350,393	87,598	11,849	9,479	2,370
Indian Center Employment Services, Inc., 144 North Pinewood Circle, Layton, Utah 84041, Grant Number: 99-9-3517-55-018-02	402,059	321,647	80,412	0	0	0
Ute Indian Tribe, P.O. Box 190, Fort Duchesne, Utah 84026, Grant Number: 99-7-0049-55-044-02	72,258	57,806	14,452	35,736	28,589	7,147
Abenaki Self-Help Assn./N.H. Ind. Counc., Box 276, Swanton, Vermont 05488, Grant Number: 99-7-3064-55-185-02	107,069	85,655	21,414	0	0	0
Mattaponi Pamunkey Monacan Consortium, Route 2—P.O. Box 280, West Point, Virginia 23181, Grant Number: 99-7-3227-55-159-02	232,367	185,894	46,473	1,611	1,289	322
American Indian Community Center, East 801 Second Ave., Spokane, Washington 99202 Grant Number: 99-7-1138-55-112-02	690,872	552,698	138,174	119,722	95,778	23,944
Colville Confederated Tribes, P.O. Box 150, Nespelem, Washington 99155, Grant Number: 99-7-1726-55-118-02	195,968	156,790	39,198	50,714	40,571	10,143
Lummi Indian Business Council, 2616 Kwina Road, Bellingham, Washington 98226, Grant Number: 99-7-2204-55-338-02	43,001	34,401	8,600	20,096	16,077	4,019
N.W. Inter-Tribal Council, P.O. Box 115, Neah Bay, Washington 98357, Grant Number: 99-7-0069-55-056-02	44,620	35,696	8,924	33,177	26,542	6,635
Puyallup Tribe, 2002 East 28th St., Tacoma, Washington 98404, Grant Number: 99-7-1137-55-178-02	158,231	126,585	31,646	20,191	16,153	4,038
Seattle Indian Center, 611 12th Avenue South—Suite 300, Seattle, Washington 98144, Grant Number: 99-7-0511-55-102-02	414,513	331,610	82,903	0	0	0
Western Wash. Ind. Empl. and Trng. Prog., 4505 Pacific Highway East, Suite C-5, Tacoma, Washington 98424, Grant Number: 99-7-1933-55-180-02	833,851	667,081	166,770	132,424	105,939	26,485

U.S. DEPARTMENT OF LABOR—EMPLOYMENT AND TRAINING ADMINISTRATION PY 1989 TITLE IV–A AND PY 1988 II–B (SUMMER 1989) FINAL ALLOCATIONS FOR NATIVE AMERICAN GRANTEES—JUNE 23, 1989—Continued

	PY 1989 IV–A			PY 1988 II–B		
	Total	Program	Cost pool	Total	Program	Cost pool
Lac Courte Oreilles Tribal Governing Board, Route 2, Box 2700, Hayward, Wisconsin 54843, Grant Number: 99–7–0018–55–021–02	93,936	75,149	18,787	25,878	20,702	5,176
Lac du Flambeau Band of Lake Superior Chippewa, P.O. Box 67, Lac du Flambeau, Wisconsin 54538, Grant Number: 99–7–1139–55–113–02	45,227	36,182	9,045	19,906	15,925	3,981
Menominee Indian Tribe, P.O. Box 397, Keshena, Wisconsin 54135–0397, Grant Number: 99–7–0013–55–018–02	71,747	57,398	14,349	48,533	38,826	9,707
Milwaukee Area Am. Ind. Manpower Counc., 3121 W. Wisconsin Ave., Milwaukee, Wisconsin 53208, Grant Number: 99–7–0227–55–086–02	222,408	177,926	44,482	0	0	0
Oneida Tribe of Indians of Wis., Inc., P.O. Box 365, Oneida, Wisconsin 54115–0365, Grant Number: 99–7–0015–55–019–02	197,165	157,732	39,433	32,134	25,707	6,427
Stockbridge-Munsee Community, Route 1, Bowler, Wisconsin 54416, Grant Number: 99–7–0500–55–099–02	59,926	47,941	11,985	9,574	7,659	1,915
Wisconsin Indian Consortium, P.O. Box 181, Odanah, Wisconsin 54861, Grant Number: 99–7–2207–55–132–02	88,094	70,475	17,619	27,016	21,613	5,403
Wisconsin-Winnebago Business Committee, P.O. Box 311, Tomah, Wisconsin 54660, Grant Number: 99–7–0019–55–022–02	191,268	153,014	38,254	15,356	12,285	3,071
Shoshone/Arapahoe Tribes, P.O. Box 920, Fort Washakie, Wyoming 82514, Grant Number: 99–7–0050–55–045–02	215,497	172,398	43,099	72,421	57,937	14,484
National Total	58,996,000	47,196,803	11,799,197	13,058,321	10,446,655	2,611,666

[FR Doc. 89–20119 Filed 8–24–89; 8:45 am]
BILLING CODE 4510–30–M

Labor Surplus Area Classifications Under Executive Orders 12073 and 10582; Addition to the List of Labor Surplus Areas

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

DATE: The addition to the list of labor surplus areas is effective June 1, 1989.

SUMMARY: The purpose of this notice is to announce an addition to the list of labor surplus areas.

FOR FURTHER INFORMATION CONTACT: William J. McGarrity, Labor Economist, Employment and Training Administration, 200 Constitution Avenue, NW., Room N4470, Attention: TEESS, Washington, DC 20210. Telephone: 202–535–0185.

SUPPLEMENTARY INFORMATION: Executive Order 12073 requires executive agencies to emphasize procurement set-asides in labor surplus areas. The Secretary of Labor is responsible under that Order for classifying and designating areas as labor surplus areas. Executive agencies should refer to Federal Acquisition Regulation Part 20 (48 CFR Part 20) in order to assess the impact of the labor surplus area program on particular procurements.

Under Executive Order 10582 executive agencies may reject bids or offers of foreign materials in favor of the lowest offer by a domestic supplier, provided that the domestic supplier undertakes to produce substantially all of the materials in areas of substantial unemployment as defined by the Secretary of Labor. The preference given to domestic suppliers under Executive Order 10582 has been modified by Executive Order 12260. Federal Acquisition Regulation Part 25 (48 CFR part 25) implements Executive Order 12260. Executive agencies should refer to Federal Acquisition Regulation Part 25 in procurements involving foreign businesses or products in order to assess its impact on the particular procurements.

The Department of Labor regulations implementing Executive Orders 12073 and 10582 are set forth at 20 CFR part 654, Subparts A and B. Subpart A requires the Assistant Secretary of Labor to classify jurisdictions as labor surplus areas pursuant to the criteria specified in the regulations and to publish annually a list of labor surplus areas. Pursuant to those regulations the Assistant Secretary of Labor published the annual list of labor surplus areas on October 6, 1988 (53 FR 39367).

Subpart B of part 654 states that an area of substantial unemployment for purposes of Executive Order 10582 is any area classified as a labor surplus area under Subpart A. Thus, labor surplus areas under Executive Order 12073 are also areas of substantial unemployment under Executive Order 10582.

The area described below has been classified by the Assistant Secretary of Labor as a labor surplus area pursuant to 20 CFR 654.5(b) (48 FR 15615 April 12, 1983) and is effective June 1, 1989.

The list of labor surplus areas is published for the use of all Federal agencies in directing procurement activities and locating new plants or facilities.

Signed at Washington, DC on May 31, 1989.

Roberts T. Jones,

Assistant Secretary of Labor.

ADDITION TO THE ANNUAL LIST OF LABOR SURPLUS AREAS

[June 1, 1989]

Labor surplus area	Civil jurisdiction included
Georgia:	
Pickens County	Pickens County.

[FR Doc. 89–20120 Filed 8–24–89; 8:45 am]
BILLING CODE 4510–30–M

Pension and Welfare Benefits Administration

Advisory Council on Employee Welfare and Pension Benefits Plans; Work Group Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Work Group on Enforcement of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 9:00 a.m., Tuesday, September 12, 1989, in Suite N–3437, U.S. Department of Labor Building, Third and Constitution Avenue, NW., Washington, DC 20210.

This seven member work group was formed by the Advisory Council to study issues relating to enforcement for employee welfare plans covered by ERISA.

The purpose of the meeting will be to organize the Work Group, set its agenda for the year, discuss the October 1988-March 1989 Semiannual Report of the Labor Department's Inspector General to Congress concerning the ERISA enforcement plan, and to accept comments on the Report from the organizations described below which have been invited to participate.

The agenda will include the following items:

1. Organization of the Work Group;
2. Discussion of the Work Group's purpose and agenda for the year;
3. Work Group Members' statements regarding the Inspector General's Semiannual Report;
4. Comments by representatives of the Office of the Inspector General (invited);
5. Comments by representatives of the Pension and Welfare Benefit Administration;
6. Comments by representatives of the Office of the Solicitor of Labor;
7. Comments by representatives of the U.S. Department of Justice (invited);
8. Comments by representatives of the American Institute of Certified Public Accountants;
9. Statements from the Public;
10. Adjourn.

The work group will also take testimony and or submissions from employee representatives, employer representatives and other interested individuals and groups regarding the subject matter.

Individuals, or representatives of organizations, wishing to address the work group should submit written requests on or before September 7, 1989 to William E. Morrow, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N-5677, 200 Constitution Avenue, NW., Washington, DC 20210. Oral presentations will be limited to ten minutes, but witnesses may submit an extended statement for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies or such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before September 7, 1989.

Signed at Washington, DC this 21st day of August, 1989.

Ann L. Combs,

Deputy Assistant Secretary for Policy, Pension and Welfare Benefits Administration.

[FR Doc. 89-20049 Filed 8-24-89; 8:45 am]

BILLING CODE 4510-29-M

Advisory Council on Employee Welfare and Pension Benefits Plans; Work Group Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Work Group on Access to Health Care of the Advisory Council on Employee Welfare and Pension Benefits Plans will be held at 10:00 a.m., Monday, September 11, 1989, in Suite S-4215, Department of Labor Building, Third and Constitution Avenue, NW., Washington, DC 20210.

This six member work group was reconstituted by the Advisory Council to continue to study issues relating to access to health care, and is a carry over from a similar work group that was initially formed by the Advisory Council in 1988 to pursue this subject.

In 1988, the prior work group held hearings on March 24, 1988, July 13, 1988 and September 9, 1988—at which testimony was received from governmental and labor-management witnesses concerning universal health access legislation at the federal and state level—and subsequently identified three initial areas of concern that pertain to regulatory governance under ERISA: (1) The scope of federal preemption under mandatory employer health plan legislation, (2) potential governmental jurisdictional conflicts and duplication with respect to the enforcement of access to health care legislation, and (3) the continued appropriateness of ERISA benefit claim dispute procedures with respect to health benefit claims arising directly from mandated statutory provisions. In the latter part of 1988 the Work Group prepared and submitted to the Advisory Council a preliminary discussion paper with respect to issues arising under (1), the scope of federal preemption under mandatory employer health plan legislation.

At its September 11, 1989 meeting, the Access to Health Care Work Group will resume its endeavor to identify issues and options for solutions in connection with the three areas of concern outlined above. Also, the work group will attempt to determine whether areas of concern in addition to the three outlined above require their study. Finally, the work group will attempt to formalize its agenda and procedure for the remainder of 1989 and 1990.

Individuals, or representatives of organizations, wishing to address the work group should submit written requests on or before September 6, 1989 to William E. Morrow, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N-5677, 200 Constitution Avenue, NW., Washington, DC 20210. Oral presentations will be limited to ten minutes, but witnesses may submit an extended statement for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before September 6, 1989.

Signed at Washington, DC this 21st day of August, 1989.

Ann L. Combs,

Deputy Assistant Secretary for Policy, Pension and Welfare Benefits Administration.

[FR Doc. 89-20050 Filed 8-24-89; 8:45 am]

BILLING CODE 4510-29-M

LEGAL SERVICES CORPORATION

Request for Comments on a Grant Award to SUPPORT

AGENCY: Legal Services Corporation.

ACTION: The Legal Services Corporation (LSC) announces its intention to award a one-time, non-recurring grant of $50,000 in fiscal year 1989 to SUPPORT. The purpose for making this grant is to provide legal services in child support cases pending in the Allegheny County Family Division courts. These services will be provided to client eligible residents residing in or near Allegheny County, Pennsylvania.

DATE: All comments and recommendations must be received by the Office of Field Services of LSC on or before September 25, 1989.

FOR FURTHER INFORMATION CONTACT: Victoria O'Brien, Counsel to the Director, or Charles T. Moses, Associate Director, Legal Services Corporation, Office of Field Services, 400 Virginia Ave., SW., Washington, DC 20024-2751, (202) 863-1837.

SUPPLEMENTARY INFORMATION: The Legal Services Corporation is the national independent organization charged with implementing the federally funded system of legal services for low-income people. It hereby announces its intention to award a grant in the amount of $50,000 to SUPPORT. The grantee will use this grant to finance the provision of legal services by law students supervised by a licensed attorney. These services will assist the client eligible population residing in or near Allegheny County, Pennsylvania with child support matters.

It is anticipated that the twelve month term of this grant will extend from September 25, 1989 to September 24, 1990.

Interested persons are invited to submit written comments and/or recommendations concerning the above to Victoria O'Brien or Charles T. Moses.

Dated: August 21, 1989.

Ellen J. Smead,

Acting Director, Office of Field Services.

[FR Doc. 89-19946 Filed 8-24-89; 8:45 am]

BILLING CODE 7050-01-M

THE MARTIN LUTHER KING, JR. FEDERAL HOLIDAY COMMISSION

Meeting

August 21, 1989.

AGENCY: The Martin Luther King, Jr. Federal Holiday Commission.

ACTION: Notice of meetings.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463 as amended, the Martin Luther King, Jr. Federal Holiday Commission announces two forthcoming meetings of the Commission.

DATES: September 19, 1989, 12 Noon to 3:00 p.m., November 28, 1989, 12 Noon to 3:00 p.m.

ADDRESS: Rayburn House Office Building, Room 2168, Independence Ave., SW., Washington, DC 20515.

FOR FURTHER INFORMATION CONTACT: Mr. Lloyd Davis, The Martin Luther King, Jr. Federal Holiday Commission, Washington, DC 20410 (202/755-1005).

Type of Meetings: Open

Agenda: Tuesday, September 19,

12:15 p.m.—Adoption of Minutes of Previous Meeting.

12:30 p.m.—Discussion of Critical Issues to be addressed by the Commission will include: (1) Swearing in new Commissioners; (2) Funding appropriation and donations; (3) Reports on Commission Conferences at the King Center in Atlanta; (4) 1990 Holiday Observance materials; and, (5) Distribution of 1989 Annual Report.

3:00 p.m.—Adjourn.

Agenda: Tuesday, November 28

12:15 p.m.—Adoption of Minutes of Previous Meeting.

12:30 p.m.—Discussion of Critical Issues to be addressed by the Commission will include: (1) Complete issues pending from the September 19 meeting; (2) Materials and Advisory assistance available to States, Cities, other public and private institutions and organizations; and, (3) Improving work of the King Commission.

3:00 p.m.—Adjourn.

Charles R. Sadler,

Acting Director.

FR Doc. 89-20023 Filed 8-24-89; 8:45 am]

BILLING CODE 4210-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Cancellation of Meeting of Humanities Panel

The meeting of the Humanities Panel scheduled for August 25, 1989, and published in the **Federal Register** on July 18, 1989, at page 30118, has been cancelled. The meeting was to review applications submitted to the Humanities Projects in Libraries and Archives Program, Division of General Programs for the August 1989 deadline. The meeting was to be held at the National Endowment for the Humanities, 1100 Pennsylvania Avenue NW., Washington, DC, Room 430 from 9 a.m. to 5:30 p.m.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 89-20027 Filed 8-24-89; 8:45 am]

BILLING CODE 7536-01-M

NATIONAL SCIENCE FOUNDATION

[OMB Number 3145-0058]

Postdoctoral Fellowships and Professional Development Awards in Science, Technology and Society

Objectives and Scope

The Program for Studies in Science, Technology, & Society (SSTS) is pleased to issue guidelines for postdoctoral fellowships and professional development awards. SSTS considers proposals for projects that examine the social, economic, intellectual and political contexts that govern the development and use of science and technology. Postdoctoral fellowships and professional development awards are made to scholars who wish to improve and expand their skills in historical, philosophical, ethical, normative, or social science studies of science, engineering and technology.

The major purpose of these awards is to link opportunities for original research to further training and study experiences. Proposals are expected to have both a research component and an educational plan which is developed in conjunction with a host scholar.

Two kinds of awards will be made: postdoctoral fellowships and professional development awards. Postdoctoral fellowships are intended for recent Ph.D.'s who specialize or wish to specialize in an area of science, technology and society studies [for instance, history and philosophy, ethics, sociology, psychology, or anthropology of science or technology). Professional development awards are intended to support established scholars from the field of science, technology and society studies to improve their understanding of science and technology *or* to support experienced scientists, social scientists and engineers wishing to develop or improve science or technology studies skills. Depending on recipients' backgrounds, these awards should (1) enhance methodological and technical skills in science, technology and society studies or in areas of natural or physical sciences, mathematics or engineering; (2) allow recipients to undertake original independent research; and (3) pursue special studies while working with a senior sponsoring scholar or scholars.

Eligibility

The research and educational activities proposed for the awards may be in any SSTS field. Projects in twentieth century science and technology, including science and technology policy, are especially encouraged. Projects examining social, economic, intellectual and political issues for science and engineering education are eligible. Specifically ineligible are studies in medicine and society which have a public health or clinical orientation.

To be eligible for fellowships or professional development awards in SSTS, applicants must be nationals of the United States, that is, citizens of the United States or native residents of a possession of the United States. Citizens of other countries who have applied for United States citizenship or who have permanent residency status are not eligible.

Applicants for postdoctoral fellowships must have been awarded their first doctoral degree within five years of the deadline for application or realistically expect to earn this degree by no later than one year after the deadline. Postdoctoral fellows must have earned the Ph.D. degree before tenure may begin. Persons with pre-doctoral degrees may be eligible for doctoral dissertation support through the Foundation's doctoral dissertation research support programs, explained in NSF publication 89-32.

Normally applicants for professional development awards must have at least five years of advanced teaching and/or research experience in science, social science or engineering, history,

philosophy, ethics, or the social study of science, engineering or technology. Scholars without Ph.D.'s who wish to be considered for professional development awards must demonstrate to the satisfaction of an external review panel that their training, professional status, and experience are equivalent to the requirement for the Ph.D., and that their credentials include at least five years of postdoctoral-level research experience and a record of publications or comparable professional accomplishment.

Project Sites

During the tenure of their awards, recipients must work in established and fiscally responsible nonprofit host institutions (U.S. or foreign). The institutions should clearly offer the opportunity to enhance the training and methodological sophistication of the award recipients or offer exceptional tutorial or collaborative relationships consistent with enhancement of research quality. Accessibility to laboratories and other research sites, or to relevant archival materials should also be taken into consideration in selecting institutional affiliations.

All arrangements for affiliations with senior scholars and institutions are the responsibility of the applicant. Applications must include letters from the host institutions, signed by authorized officials, affirming that the applicant will be welcome and will be provided with adequate space and basic services. Applicants must provide statements from the senior scholars with whom they plan to work, indicating a commitment to consultation and assistance in the applicant's research and learning program during the requested tenure period. Applicants who need assistance in identifying suitable hosts are encouraged to contact the SSTS Program to discuss possibilities. For information, write or call 202–357–9894.

Preference will be given to applicants who move to new institutions and research environments with which they have not been affiliated at the graduate or postgraduate level, or with which they will have been affiliated for no more than three months prior to the start of fellowship tenure. Applicants who wish to affiliate with institutions with which they have had prior association should have special justification for such arrangements in their proposals.

Preference among professional development applicants will be given those who affiliate with host scholars from disciplines different from the category in which they have their degree or equivalent. Thus, a natural scientist who affiliates with a philosopher would be preferred to one who affiliates with another natural scientist. Similarly, an historian who affiliates with an engineer would be preferred to one who affiliates with another historian.

Tenure, Stipends, and Allowances

Postdoctoral fellowships are generally awarded for one year of full-time research though the funds may be used over a two year period. Fellowships provide stipends of $24,000, payable at the rate of $2,000 per month; special allowances of $2,000 for supplies, special travel, publication expenses, and other research related costs; and separate institutional allowances of $2,000 (for domestic host institutions only). Institutional allowances will be paid directly to U.S. host institutions to partially defray administrative costs incurred in conjunction with the fellowships. No allowances for dependents are available.

Professional development awards may be used to support full or half-time activities for up to two years. Plans for less than half-time or for intermittent tenures should provide special justification. Total stipends will not exceed $36,000. Applicants are encouraged to supplement this support from sabbatical pay and other sources. Special allowances of $2,000 are available for supplies, special travel, publication expenses and other research related costs. Institutional allowances of $2,000 (for domestic host institutions only) will be paid directly to U.S. host institutions to defray costs incurred in conjunction with the awards. Up to $3,000 will be available for moving expenses if necessary.

Evaluation and Selection of Awardees

Evaluation criteria include: the merit of the educational program that is proposed; the degree of enhancement of the applicant's methodological skills and/or knowledge of science and technology; the significance and intrinsic merit of the proposed research; the perceived research competence and potential of the applicant; and the suitability and availability of the sponsoring senior scholar at the host institution. The nature and degree of cross-disciplinary interchange and interaction will be given significant weight, especially for professional development awards. Judicious selection of a research problem, logical organization of the learning program, clarity in project design and description, and lucid writing will weigh heavily in the evaluation process. Additional factors include: evidence of past research accomplishments (especially those documented through papers published in high-quality, peer-reviewed journals); suitability of the host institution; likely effect of the proposed project on the future research development of the applicant; and the potential impact of the project.

Awards will be made by the National Science Foundation on the basis of the recommendations of a panel of experts applying the above criteria, with due consideration of impact of the awards on studies in science, technology and society. Successful applicants will be notified by letter six months after the closing date.

Conditions of Appointment

Unless explained in the proposal and approved by NSF, postdoctoral fellows will be expected to devote full time to appropriate research and studies during the tenure of the Fellowship; recipients of professional development awards will generally be expected to devote at least half-time during their tenures. All recipients of awards are expected to pursue the program for which the award was granted. Major changes in the research or learning plan, in tenure, or in institutional affiliation will require prior Foundation approval. Under exceptional circumstances, with NSF concurrence, research sites or host institutions may be changed.

The annualized salaries of the recipients cannot be augmented by receipt of the award. Professional Development Award recipients may use sabbatical leave pay along with this award. Alternatively or additionally, institutions may supplement stipends for both fellows and professional development award recipients without prior permission from the Foundation, provided that such supplements accord with established institutional policies. Supplements may not be conditioned on any requirement for duties in addition to normal activities of the recipients and may involve teaching only to the extent that the recipients conduct or participate in seminars clearly related to their programs. In the context of these guidelines, funds that the institution has obtained from external (including Federal) sources may be considered institutional funds. When appropriate, NSF project grants may be used for supplementation to recipients of these awards for duties which are related to their award programs.

Within 90 days of the conclusion of the tenure of each award, a brief final report using NSF Form 98A must be submitted to SSTS.

Intellectual Property Rights

The National Science Foundation claims no rights to any inventions or writings that might result from these awards. Recipients should note their obligation to include an acknowledgement of NSF support (citing an award number) and a disclaimer of NSF responsibility for the impact of any inventions or writing that might result from these awards.

Privacy Act Notice

The application forms request certain information pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861 et seq.). The information concerning citizenship, field of study, and prior educational experience is used to determine eligibility for this competition. Personal data such as social security numbers are used in correlating application information and materials, and for distinguishing applicants with similar names. The remaining information assists reviewing panelists in evaluating qualifications for the awards. The information supplied will be used and disclused only in connection with the evaluation of projects, the selection of award recipients, and the administration of awards. It will be used for statistical reports in a form that will not allow identification of individual applicants. Other than these uses, the information will be held in confidence to the extent permitted by law.

Post-Project Review

Selected award recipients may be invited to participate in a special NSF-sponsored symposium focused on their activities under this program's support. They may be asked either to present papers or participate as discussants.

Application Procedures and Materials

To be eligible for consideration, as application must be complete. The signed original and all copies should be printed on only one side of the paper. Except as may be modified by this announcement, all applications should follow the standard NSF guidelines in "Grants for Research and Education in Science and Engineering," (GRESE, NSF 83–57, rev. March, 1989). Reproductions of all forms are acceptable. Except for the "Statement from Senior Advisor", all forms are contained in GRESE.

NSF should be sent ten (10) collated sets of the proposal containing (in the order listed below):

(a) The application cover page [Appendix III of GRESE]. In the upper left box, indicate for consideration by "SSTS Postdoctoral Fellowship Award", or "SSTS Professional Development Award", depending on which is being applied for. In the upper right box, indicate the number of this announcement, NSF 89– . In the box marked submitting organization, put "Individual Award". Complete the questions at the bottom of the form concerning drug-free work place, delinquency, etc. Applicants should sign the cover page in the space marked "Authorized Oraganizational Rep.";

(b) A project summary of 200 words or less written to stand alone;

(c) The proposal text containing a training/study and research plan. This section should not exceed eight (8) single-spaced typewritten pages. The text should include a discussion of the objectives, methods and significance of the research during the tenure period, and the studies in the host discipline or related disciplines that will be undertaken over the period of the award;

(d) A personal statement of no more than one single-spaced typewritten page. This statement should describe the applicant's career goals in the research areas covered by SSTS, and the role that the project, sponsoring senior scholar, and host institution will play in enhancing those goals;

(e) A Summary Proposal Budget [Appendix IV, GRESE]. Use the feft column. List number of Calendar Months and total stipend request under "Senior Personnel" A–1. List special allowance and, for Professional Development Awards, moving expenses under "Other Direct Costs" G–6. List the Institutional Allowance for domestic institutions under "Indirect Costs (I.);

(f) The statement, [Appendix I in this Announcement] from the senior scholar at the proposed host institution indicating agreement to work with the applicant if the award is made;

(g) A letter from the host institution, signed by an authorized official, affirming that if the award is made, the applicant will be provided with adequate space and basic services.

(h) Complete, up-to-date *curriculums vitae* for the applicant and the host scholar;

(i) If the applicant has received an NSF award in the past five years, a section entitled "Results from Prior NSF Support" is required, consisting of no more than a single additional page for each prior award. Each statement should include the award number, amount and duration of support, title of the project, summary of results, and list of publications acknowledging the NSF award;

(j) Postdoctoral applicants should provide a copy of their disseratation abstract, the date Ph.D was or is expected to be received, and a statement of the relationship (if any) of the proposed award to the applicant's dissertation work;

(k) A "Current and Pending Support" Statement [Appendix VI, GRESE];

(l) Three letters of recommendation may be attached. New Ph.D's should, in general, obtain one of these letters from their thesis adviser. A copy of the applicant's training/study and research plan should be provided to these referees;

(m) A copy of NSF Form 1225, "Information about Principal Investigators/Project Directors" [Appendix II, GRESE] should be clipped to the cover page of the original signed proposal.

Timetable

Proposal submission deadline: Proposals must be received in NSF by November 15 of each year.

Award announcement: During the following May.

Tenure may begin any time after June 1 of the award year and before June 1 of the following year.

Address

Send the original and 8 copies of the application to: Proposal Processing Unit, Room 223, National Science Foundation, 1800 G St. NW., Washington DC 20550.

Send one information copy directly to: Studies in Science, Technology and Society (SSTS) Program, Division of Instrumentation and Resources, Room 312, National Science Foundation, Washington DC 20550.

The Foundation welcomes proposals on behalf of all qualified scholars, and strongly encourages women, minorities and persons with disabilities to compete fully in the program described in this document. Facilitation Awards for Handicapped Scientists and Engineers (FAH) provide support for special assistance or equipment to enable investigators, students, or staff with disabilities to work on an NSF-supported project. See the FAH announcement (NSF 89–), or contact the FAH coordinator (202/357–7456).

In accordance with Federal statutes and regulations and NSF policies, race, color, age, sex, national origin, or disability shall not be used against,

deny benefits to, or exclude any person from participation in any program or activity receiving financial assistance from the National Science Foundation.

The foundation provides awards for research in the sciences and engineering. Award recipients are wholly responsible for the conduct of such research and preparation of the results for publication. The foundation, therefore, does not assume responsibility for such findings or their interpretation.

NSF has TDD (Telephonic Device for the Deaf) capability which enables individuals with hearing impairment to communicate with the Division of Personnel and Management for information relating to NSF programs, employment, or general information. This number is (202) 357–7492.

(Catalogue of Federal Domestic Assistance: 47.051 Biological, Behavioral and Social Sciences)

Appendix I—National Science Foundation, Studies in Science, Technology and Society; Information From Scholarly Advisor

_____ has applied for an NSF Postdoctoral or Professional Development Award in Science, Technology and Society and proposes to conduct a research and study project at your institution. Selection of award recipients will be based on the value of the educational and study program you will undertake with the applicant, the significance and intrinsic merit of the proposed project, the perceived research competence and potential of the applicant, and the suitability and availability of the sponsoring senior scholar and host institution. On an attached page, please briefly describe your qualifications and current research and explain how the applicant's project and the study plan which you have developed with the applicant would fit into your program. It would be helpful to describe other persons with whom the awardee would work both in research and study. Also needed is an abbreviated version of your *curriculum vitae* (limit publication list to the past five years).

Typed Name, Title and Institutional Affiliation:_____

Signature: _____

Please return this form to the applicant: Deadline for submission to NSF: November 15:

Rachelle D. Hollander,

Ronald J. Overmann,

Program Directors, Studies in Science, Technology and Society

[FR Doc. 89–20134 Filed 8–24–89; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Boston Edison Co. Pilgrim Nuclear Power Station; Environmental Assessment and Finding of No Significant Impact Relating to the Restart of Pilgrim Nuclear Power Station

Introduction

In April 1988 the Boston Edison Company, after discussion with NRC Region I officials, decided to keep the Pilgrim Nuclear Power Station shut down and to undertake a substantial corrective action program aimed at ensuring compliance with NRC requirements and enhancing overall plant operational safety. After substantial corrective actions had been taken, the Pilgrim plant resumed operation in December 1988, with the concurrence of the NRC.

Need for the Proposed Action

The restart of the facility was challenged in *Commonwealth of Massachusetts* v. *NRC*, NO. 88–2211 (1st. Cir.). In its decision upholding the restart, the Court concluded that the Pilgrim restart involved NRC action to reinstate the license. The Court went on to hold the NRC actions actions against other related challenges. The case did not raise, nor did the Court address, any National Environmental Protection Act (NEPA) related issued in connection with this matter.

Although the reinstatment action may well be considered part of an overall enforcement process, so that NEPA consideration is not required, the Commission has determined that it is desirable to document the absense of environmental impacts associated with the resumption of licensed operations at the Pilgrim facility.

Environmental Impacts of the Proposed Action

The environmental impacts associated with operation of the Pilgrim Station are thoroughly documented in the Final Environmental Statement (FES) issued by the NRC in connection with the issuance of the full power operating license for the Pilgrim Station in May 1972.

The FES discusses site characteristics, general plant design, and operating characteristics, as well as the environmental impacts of plant construction, the impacts of plant operation, and the impacts of postulated accidents. The FES also discusses a number of other NEPA considerations, including the need for power and alternatives to the facility. The environmental impacts of operation discussed in the FES include land use, water use including biological aquatic impacts, radiological impacts of routine operation, and fuel and solid radioactive waste transportation impacts.

The reinstatement of the license does not affect the site characteristics or basic plant design, although the licensee's corrective actions program included a number of plant improvements designed to enhance the safety of plant operation. These included a self initiated re-review of emergency planning; plant hardware improvements in accordance with the requirements of 10 CFR 50.62 (the Anticipated Transients Without Scram (ATWS) Rule); and significant improvements in containment integrity through the addition of a torus vent and an on-site emergency diesel generator as part of the Pilgrim Safety Enhancement Program (SEP). The SEP is a licensee initiated program which included several modifications, in addition to those identified, to enhance overall plant safety.

1. *Land Use and Water Use Impacts*

The reinstatement of the license does not affect land use in any way other than that addressed in the FES. Land use was evaluated in the FES and has not changed.

Water Use, including aquatic impacts, are discussed at length in the FES. The use of Cape Cod Bay waters for the resumed operation of the facility remains the same as when the plant was licensed in 1972. Operation of the facility produces thermal and other water discharges from the plant. These were evaluated in the FES. Discharges to Cape Cod Bay from resumed plant operation will be consistent with those previously evaluated.

2. *Radiological Impacts*

Routine operations affecting radiological impacts have significantly improved over the past few years as a result of improved effluent release systems and closer control of radioactive effluents as noted in NUREG/CR–2850 (Vol. 7) and NUREG/CR–2907 (Vol. 7). Plant restart does not adversely affect or change routine releases from the facility from those described in the FES. One area of further improvement, which was the subject of plant corrective actions during the shutdown, included plant health physics and improved effluent release controls. The improvements were noted in the most recent NRC report on the Safety Assessment of Licensee Performance (SALP) for Pilgrim, SALP Report No. 50–293/87–99, provided by letter to Boston Edison Company dated July 27, 1988.

Radiological impacts of plant accidents due to plant restart are not increased over those described in the FES. None of the previously analyzed postulated accidents are adversely affected by the resumption of operations at the facility. Indeed, as set forth in the NRC letters to the licensee dated August 21, 1987, and October 12, 1988, related to our assessment of the Pilgrim SEP, there have been significant improvements in plant safety features, procedures, and control. These improvements inlcude additional sources of water to the reactor pressure vessel, containment enhancements, a back-up nitrogen supply, and improvements in the Reactor Core Isolation Cooling System.

3. *Fuel and Solid Radioactive Waste Transportation Impacts*

Impacts associated with fuel and solid radioactive waste transportation are unchanged from those described in the FES except for spent fuel. Transportation impacts associated with spent fuel shipments from the facility are different from those described in the FES because of the modification in spent fuel processing capability in the United States since that time. Fuel is now stored on site until a permanent respository is established. The impacts associated with storage of fuel, however, were considered in the Environmental Assessment (EA) of August 17, 1978, issued in support of Amendment Number 33 to Facility Operating License No. DPR–35 for the Pilgrim Nuclear Power Station. This amendment authorized an increase in the spent fuel storage capacity at the site. The supporting EA concluded that the increased storage capacity will not significantly affect the quality of the human environment and that there will be no environmental impacts attributable to the proposed action other than those described in the FES.

Alternatives to the Proposed Action

The principal alternatives would be to deny restart of the plant. Since plant problems which lead to the shut down have been corrected, and since restart will be controlled through a carefully phased power ascension program with adequate hold points to assure safe resumption of full power operations, there is no safety or environmental reason to deny the phased restart. Power from the Pilgrim facility is still needed for Massachusetts and the New England area. Last summer (1988) the New England Power Pool called for five percent voltage reductions on 10 occasions. Eight of the reductions took place in eastern Massachusetts.

Alternatives Use of Resources

This action does not involve the use of resources not previously related to the operation of the plant.

Agencies and persons Consulted

This assessment was prepared entirely by the NRC staff. No other agencies nor persons were consulted.

Basis and Conclusion for not Preparing an Environmental Impact Statement

Based on this assessment, the staff concludes that there are no significant radiological or nonradiological impacts associated with the restart and operation to licensed power levels of the Pilgrim Station and that the restart and operation to licensed power levels will have no significant impact on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for this action.

Dated at Rockville, Maryland, this 18th day of August 1989.

For the Nuclear Regulatory Commission.

Daniel G. McDonald,

Acting Director, Project Directorate I–3, Division of Reactor Projects I/I, Office of Nuclear Reactor Regulation.

[FR Doc. 89–20117 Filed 8–24–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–247]

Consolidated Edison Co. of New York, Inc.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–26, issued to Consolidated Edison Company of New York, Inc. (the licensee), for operation of Indian Point Nuclear Generating Unit No. 2, located in Westchester County, New York. The application for amendment is dated June 20, 1989.

The proposed amendment would authorize expansion of the spent fuel pool storage capacity from its current 980 storage locations to 1,376 storage locations. The increase in storage capacity would be accomplished by replacing the existing free-standing and self supporting fuel storage racks with new high density, free-standing and self supporting fuel storage racks that incorporate a neutron absorber material. The licensee's proposal does not include plans for fuel assembly consolidation. This expansion of the spent fuel pool storage capacity will provide full core off load capability until approximately 2,007.

The proposed amendment would revise Technical Specification (TS) 3.8.B.4 to prohibit movement of fuel out of the reactor core until the reactor has been subcritical for at least 174 hours (a longer delay would be required by proposed TS Figure 3.8–1 if the Hudson River water temperature was above 70°F); add TS 3.8.C.2, which specifies a maximum spent fuel storage pit bulk temperature; modify TS 3.8.D.1 to reflect the analysis for the expanded spent fuel storage capacity; add TS 3.8.D.2, which specifies a minimum spent fuel storage pit boron concentration; relocate the refueling boron concentration requirements for the spent fuel storage pit from TS 5.4.3 to TS 3.8.D.3 with the other requirements for spent fuel storage pit boron concentration; add TS 3.8.E; revise the basis for TS 3.8 to reflect the above; revise TS Table 4.1–2 to reflect the above by requiring a monthly boron concentration sampling frequency for the spent fuel storage pit; and revise TS 5.4.2.B to include the increase in fuel initial enrichment to be stored in the spent fuel storage pit.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By September 25, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition

should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first pre-hearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene, which must include a list of the contentions that are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 325–6000 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Mr. Robert A. Capra: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mr. Brent L. Brandenburg, Esq., 4 Irving Place, New York, New York 10003.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards considerations in accordance with 10 CFR 50.91 and 50.92.

The Commission hereby provides notice that this is a proceeding on an application for a license amendment falling within the scope of section 134 of the Nuclear Waste Policy Act of 1982 (NWPA), 42 U.S.C. 10154. Under section 134 of the NWPA, the Commission, at the request of any party to the proceeding, must use hybrid hearing procedures with respect to "any matter which the Commission determines to be in controversy among the parties." The hybrid procedures in section 134 provide for oral argument on matters in controversy, preceded by discovery under the Commission's rules, and the designation, following argument, of only those factual issues that involve a genuine and substantial dispute, together with any remaining questions of law, to be resolved in an adjudicatory hearing. Actual adjudicatory hearings are to be held on only those issues found to meet the criteria of section 134 and set for hearing after oral argument.

The Commission's rules implementing section 134 of the NWPA are found in 10 CFR part 2, Subpart K, "Hybrid Hearing Procedures for Expansion of Spent Nuclear Fuel Storage Capacity at Civilian Nuclear Power Reactors" (published at 50 FR 41662, October 15, 1985) 10 CFR 2.1101 *et seq.* Under those rules, any party to the proceeding may invoke the hybrid hearing procedures by filing with the presiding officer a written request for oral argument under 10 CFR 2.1109. To be timely, the request must be filed within ten (10) days of an order granting a request for hearing or petition to intervene. (As outlined above, the Commission's rules in 10 CFR part 2, Subpart G, and § 2.714 in particular, continue to govern the filing of requests for a hearing or petitions to intervene, as well as the admission of contentions). The presiding officer shall grant a timely request for oral argument. The presiding officer may grant an untimely request for oral argument only upon showing of good cause by the requesting party for the failure to file on time and after providing the other parties an opportunity to respond to the untimely request. If the presiding officer grants a request for oral argument, any hearing held on the application shall be conducted in accordance with the hybrid hearing procedures. In essence, those procedures limit the time available for discovery and require that an oral argument be held to determine whether any contentions must be resolved in an adjudicatory hearing. If no party to the proceeding requests oral argument, or if all untimely requests for oral argument are denied, then the usual procedures in 10 CFR part 2, Subpart G apply.

For further details with respect to this action, see the application for amendment dated June 20, 1989, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the Local Public Document Room, White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Dated at Rockville, Maryland, this 16th day of August 1989.

For the Nuclear Regulatory Commission

Robert A. Capra,

Director Project Directorate I–1 Division of Reactor Projects I/II Office of Nuclear Reactor Regulation.

[FR Doc. 89–20118 Filed 8–24–89; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301–65]

Proposed Determination Under Section 304 of the Trade Act of 1974, as Amended, Regarding the Republic of Korea's Restrictions on Imports of Beef; Request for Public Comment

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of, and request for written comments on, proposed determination under section 304 of the

Trade Act of 1974 (the "Trade Act"), as amended, 19 U.S.C. 2414.

SUMMARY: Pursuant to section 304(a)(2) of the Trade Act, 19 U.S.C. 2414, as amended by section 1301 of the Omnibus Trade and Competitiveness Act of 1988, the United States Trade Representative ("USTR") is required to determine on or before September 28, 1989, whether United States' rights under a trade agreement are being denied by Korea's restrictions on the import of beef and whether the Korean practices at issue are injustifiable or unreasonable, and burden or restrict U.S. commerce, within the meaning of section 301(a)(1)(B) or 301(b)(1), 19 U.S.C. 2411(a)(1)(B) and 19 U.S.C. 2411(b)(1), respectively. The Trade Representative is also considering appropriate action (subject to the specific direction, if any, of the President) in response to Korea's practices. The USTR welcomes written comments regarding such determination or responsive action with respect to the subject Korean practices.

DATES: Written comments from interested persons are due September 25, 1989.

ADDRESS: Comments should be addressed to the Chairman, Section 301 Committee, Office of the United States Trade Representative, Room 223, 600 17th Street, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Gordana Earp, (202) 395–6813, or Les Glad, (202) 395–3077.

SUPPLEMENTARY INFORMATION: On February 16, 1988, the American Meat Institute (AMI) filed a petition under section 302(a) of the Trade Act of 1974, as amended, 19 U.S.C. 2412(a), alleging that the Government of the Republic of Korea maintains a restrictive import licensing system covering all bovine meat, including high-quality beef, and noting that on May 21, 1985, the Korean Government had banned the importation of beef. AMI maintained that this prohibition violates Article XI of the General Agreement on Tariffs and Trade (GATT), nullifies and impairs tariff concessions on beef made by Korea under the GATT, and is otherwise unjustifiable and unreasonable and burdens or restricts U.S. commerce.

On March 28, 1988, the Trade Representative initiated an investigation of these practices (53 FR 16995). On May 4, 1988, the GATT council of Representatives ("GATT Council") authorized establishment of a dispute settlement panel, under GATT Article XXIII:2, to examine the United States complaint regarding Korea's import restrictions on beef.

In July 1988 Korea announced a 14,500 MT quota for beef imports for the second half of 1988, during which period the value of U.S. beef exports to Korea was approximately $25.6 million. The 1989 quota was set at 50,000 MT. In the period January-May, 1989, the value of U.S. beef exports to Korea was approximately $41.1 million. (Source: U.S. Census data.)

On May 24, 1989, the GATT dispute settlement panel issued a report concluding that Korea's import restrictions on beef are contrary to the provisions of GATT Article XI:1, and not justified for balance-of-payments purposes in light of the continued improvement of the Korean balance-of-payments situation. The panel recommended prompt establishment of a timetable for phasing out Korea's restrictions on beef. At meetings of the GATT Council on June 21 and July 19, 1989, Korea declined to agree to adoption of the panel report. Adoption will be reviewed again in October. However, on August 21–22, 1989, bilateral consultations were held between representatives of the Governments of Korea and the United States, to discuss removal of Korea's import restrictions on beef.

Pursuant to 19 U.S.C. 2414, as amended by section 1301 of the Omnibus Trade and Competitiveness Act of 1988, the USTR is required to determine whether Korea's import restrictions deny "rights to which the United States is entitled" under the GATT and whether such practices are unjustifiable or unreasonable and burden or restrict U.S. commerce. This determination must be made no later than September 28, 1989, which is 18 months after the date of initiation of this investigation. (This notice amends a previous notice published at 54 FR 11105, which identified the determination date erroneously as September 18.)

In light of the GATT panel report on this matter, the Trade Representative proposes to determine that rights to which the United States is entitled under a trade agreement are violated by Korea's restrictions on imports of beef.

Public Comment

The public is invited to comment on this proposed determination and on appropriate action that should be taken in response to Korea's restrictions. The comments submitted will be considered in determining actionability under section 301 and in recommending any action under section 301 to the USTR. All written submissions must be filed in accordance with 15 U.S.C. part 2006.8. Submissions are to be made in twenty (20) copies, in English, by noon Monday, September 25, 1989 to Chairman, Section 301 Committee, Office of the U.S. Trade Representative, Room 222, 600 17th Street, NW., Washington, DC 20506.

A. Jane Bradley,

Chairman, Section 301 Committee.

[FR Doc. 89–20236 Filed 8–24–89; 8:45 am]

BILLING CODE 3190–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–27149; File No. SR–Phlx–89–39]

Self-Regulatory Organizations; Proposed Rule Change By the Philadelphia Stock Exchange, Inc. Relating to Tape Indications and Pre-Opening Procedures

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1), notice is hereby given that on June 26, 1989, the Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange"), pursuant to Rule 19b–4, hereby proposes to adopt an equity floor procedure advice respecting procedures governing the commencement of trading on the PHLX when an opening is arranged in an ITS security ahead of another market center. The text of the proposed floor procedure advice is as follows: Italics indicates additions.

Equity Floor Procedure Advice E–4 The "Three by Three" Requirement Applicable To Tape Indications and Pre-Openings

An appropriate tape indication must precede the initiation of an ITS Pre-Opening Administrative Message (PODADM). Requirements in this regard are as follows:

(i) the tape indication shall be submitted to the correction post and shall be legible as to ticker symbol, previous consolidated close, and price range of no more than 5 points.

(ii) the floor member initiating the tape indication must record the time the indication prints on the tape.

(iii) three minutes or longer after the tape indication has been disseminated, a POADM must be sent (if arranging an opening transaction at a price requiring a POADM). In which case the Pre-Opening process shall be conducted in accordance with ITS plan provisions and Exchange Rules.

(iv) three minutes after issuance of the Pre-Opening Admin. (or longer if required in the event of additional POADMs), the issue may be opened.

Fine Schedule (Violations compound daily only when they occur within one year of each other)

1st Occurrance—$100.00

2nd Occurrence—$500.00

3rd and Thereafter Occurrence—Sanction is Discretionary with Business Conduct Committee.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statements of the Purpose of, and Statutory Basis for the Proposed Rule Change

The purpose of the proposed rule change is to provide procedures governing the commencement of trading on PHLX when it arranges an opening in an ITS stock ahead of any other market. The rule provides what is called a "three by three" requirement because it generally provides for two separate waiting periods that are each a minimum of three minutes. First, the floor member seeking to open the stock before the primary market must initiate a tape indication specifying the stock to be opened, its previous night's close, and the price range in which it is anticipated to open. After a minimum of three minutes, an ITS pre-opening administrative message must be sent. Three minutes after that, the issue may be opened.

The only exception to these requirements is that, if a stock is to be opened within a specified range from the previous close (generally, 3/8 point for stocks trading above $15; 1/4 point for stocks below $15), an ITS administrative message need not be sent and only the first three minute waiting period need be observed.

The proposed rule change is based on Section 6(b)(5) of the Securities Exchange Act of 1934 in that it is designed to further promote the mechanism of a free and open market and to protect investors and the public interest.

B. Self-Regulatory Organizations Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days or such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or,

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of the publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 18, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-20099 Filed 8-24-89; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2353; Amdt. 7]

Texas; (And Contiguous Counties in the State of Oklahoma); Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended in accordance with the Notice of Amendment to the President's declaration, dated July 24, 1989, to include the counties of Blanco, Burnet, Comanche, Lamar, Mason, Red River, and Somervell, in the State of Texas, as a result of damages from severe storms, tornadoes, and flooding which occurred May 4 through June 15, 1989.

In addition, applications for economic injury from small businesses located in the contiguous counties of Comal, Gillespie, Hays, Hopkins, Kendall, Kimble, and Llano, in the State of Texas, and McCurtain County in the State of Oklahoma, may be filed until the specified date at the previously designated location.

Any counties contiguous to the above-named primary counties and not listed herein have previously been named as contiguous or primary counties for the same occurrence.

As the termination date for filing applications for physical damage closed on July 18, 1989, prior to the Notice of Amendment cited above, the termination date for filing applications for physical damage is extended to September 20, 1989, 30 days from the date of this action. The termination date for filing applications for economic injury remains the close of business on February 20, 1990.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: August 21, 1989.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 89-20015 Filed 8-24-89; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 1125]

Determination Under FAA 620(q); Subject: Assistance to Lebanon

Pursuant to the authority vested in me by Section 620(q) of the Foreign Assistance Act of 1961, as amended (the Act), Executive Order 12163, and the Department of State Delegation of Authority No. 145, I hereby determine that the furnishing of assistance under the Act to Lebanon is in the national interest of the United States.

This determination shall be reported to the Congress as required by law.

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

Dated: August 15, 1989.

Lawrence Eagleburger,

Acting Secretary of State.

[FR Doc. 89-20131 Filed 8-24-89; 8:45 am]

BILLING CODE 4710-10-M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. S-851]

American President Lines, Ltd.; Application for a Waiver

American President Lines, Ltd. (APL), by application dated August 14, 1989, requests an amendment of the waiver of the provisions of section 804(a) of the Merchant Marine Act, 1936, as amended (Act), as previously granted for foreign-flag feeder operations to the People's Republic of China (PRC).

APL's Existing Services

APL now performs four subsidized containership services. Its two transpacific services cover the range of former Trade Route (TR) 29 to/from California on up to 108 annual sailings (Line A) and to/from Oregon-Washington on up to 80 annual sailings (Line B). Former TR 29 includes ports in the Far East on the continent of Asia from the U.S.S.R. to Thailand, inclusive, Japan, Taiwan, Hong Kong, and the Philippines. APL's two extension services add authority to serve the ports of Southeast and South Asia and the Persian Gulf on up to 28 sailings to/from California (Line A Extension) and up to 80 sailings to/from Oregon-Washington (Line B Extension) annually. APL is permitted by its contract to provide any part of the service by transfer or relay of cargo between subsidized vessels at any foreign port on the authorized services.

APL performs its Line A and Line B services primarily with line-haul vessels making direct calls at most major foreign TR 29 ports, including Yokohama, Kobe, and Nagoya, Japan; Kaohsiung and Chi-lung, Taiwan; and Hong Kong, Korea and the Philippines are served by APL subsidized feeder vessels.

The APL Extension services are currently performed by a feeder network that includes five subsidized U.S.-flag APL owned vessels: four providing service on a relay basis to Singapore and Colombo via Kaohsiung, and one vessel to Masqat and Karachi via Fujayrah. The remaining feeder services in the area of the contractual service are with APL chartered foreign-flag vessels.

APL's Existing Waivers

APL has section 804 waiver authority to operate four foreign-flag vessels on weekly service between a foreign port on Line A or Line B as described in Appendix A of Contract MA/MSB-417, including Singapore, and Manila and Thailand.

APL also has waiver authority to operate 10 foreign-flag vessels in six feeder services in southern and southwestern Asia.

APL's waiver authority for the PRC permits APL to own or charter and operate two foreign-flag vessels of approximately 200 FEU capacity each, said vessels to be operated between a foreign port on Line A or Line B as described in Contract MA/MSB-417, including Singapore, and a port or ports in the People's Republic of China.

The Requested Waiver

The applicant requests the PRC waiver be amended to authorize APL to own or charter and operate six foreign-flag vessels of up to approximately 400 FEU capacity each, said vessels to be operated between a foreign port or ports on Line A or Line B as described in Appendix A of Contract MA/MSB-417, including Singapore, and a port or ports in the People's Republic of China.

This application may be inspected in the Office of the Secretary, Maritime Administration. Any person, firm, or corporation having any interest in such request within the meaning of section 804 of the Act and desiring to submit comments concerning the application must file written comments in triplicate with the Secretary, Maritime Administration, Room 7300, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Comments must be received no later than 5:00 p.m. on Sept. 11, 1989. This notice is published as a matter of discretion and publication should in no way be considered a favorable or unfavorable decision on the application, as filed or as may be amended. The Maritime Administrator will consider any comments submitted and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.804 (Operating-Differential Subsidies))

Dated: August 22, 1989.

By Order of the Maritime Administrator.

James E. Saari,

Secretary, Maritime Administration.

[FR Doc. 89-20075 Filed 8-24-89; 8:45 am]

BILLING CODE 4910-81-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to the Office of Management and Budget for Review

Date: August 21, 1989.

The Department of Treasury has submitted the following public information collection requirement(s) to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0129
Form Number: 1120-POL
Type of Review: Revision
Title: U.S. Income Tax Return for Certain Political Organizations
Description: Form 1120-POL is used by certain political organizations to report the tax imposed by section 527. The form is used to designate principal campaign committees that are subject to a lower rate of tax under section 527(h). IRS uses this information to determine whether the tax is being properly reported.
Respondents: Non-profit institutions, Small businesses or organizations
Estimated Number of Respondents: 6,527

Estimated Burden Hours Per Response/ Recordkeeping:
Recordkeeping 14 hours, 35 minutes;
Learning about the law or the form, 6 hours, 23 minutes;
Preparing the form, 15 hours, 17 minutes;
Copying, assembling, and sending the form to IRS, 2 hours, 25 minutes
Frequency of Response: Annually
Estimated Total Recordkeeping/ Reporting Burden: 252,530 hours
OMB Number: 1545–0203
Form Number: 5329
Type of Review: Revision
Title: Return for Additional Taxes Attributable to Qualified Retirement Plans (including IRAs), Annuities, and Modified Endowment Contracts
Description: This form is used to compute and collect taxes related to distributions from individual retirement arrangements (IRAs) and other qualified plans. These taxes are excess contributions to an IRA, premature distributions from an IRS, and other qualified retirement plans excess accumulations in an IRA and excess distributions from qualified retirement plans. The data is used to help verify that the correct amount of tax has been paid.
Respondents: Individuals or households
Estimated Number of Respondents: 1,291,321
Estimated Burden Hours Per Response/ Recordkeeping:
Recordkeeping, 2 hours, 31 minutes;
Learning about the law or the form, 47 minutes;
Preparing the form, 1 hour, 34 minutes;
Copying, assembling, and sending the form to IRS, 35 minutes
Frequency of Response: On occasion
Estimated Total Recordkeeping/ Reporting Burden: 7,024,786 hours
OMB Number: 1545–0350
Form Number: 6561
Type of Review: Reinstatement
Title: Payer Summary of Form W–2P Magnetic Media Pension Information
Description: Payers of pension income who file their Forms W–2P on magnetic media with the Social Security Administration must submit Form 6561 which is used to balance the payer's submission.
Respondents: State or local governments, Farms, Businesses or other for-profit, Federal agencies or employees, Non-profit institutions, Small businesses or organizations
Estimated Number of Respondents: 40,000
Frequency of Response: Annually
Estimated Total Reporting Burden: 10,000 hours
Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 89–20115 Filed 8–24–89; 8:45 am]
BILLING CODE 4810–25–M

Public Information Collection Requirements Submitted to the Office of Management and Budget for Review

Date: August 21, 1989.

The Department of the Treasury has submitted the following public information collection requirement(s) to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515–0158
Form Number: CF 349 and CF 350
Type of Review: Revision
Title: Harbor Maintenance Fee
Description: The collection of information will be used to verify that the harbor maintenance fee paid is accurate and current for each individual importer, exporter, shipper, or cruise line.
Respondents: Businesses or other for-profit, Small businesses or organizations
Estimated Number of Respondents: 16,450
Estimated Burden Hours Per Response/ Recordkeeping: 29 minutes
Frequency of Response: Quarterly
Estimated Total Recordkeeping/ Reporting Burden: 29,314 hours
Clearance Officer: Dennis Dore (202) 535–9267, U.S. Customs Service, Paperwork Management Branch, Room 6316, 1301 Constitution Avenue, NW., Washington, DC 20229.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 89–20116 Filed 8–24–89; 8:45 am]
BILLING CODE 4810–25–M

Comptroller of the Currency

Office of the Assistant Secretary for International Affairs

[Document No. 89–12]

Foreign Treatment of United States Financial Institutions

AGENCY: Comptroller of the Currency and Office of the Assistant Secretary for International Affairs, U.S. Treasury.

ACTION: Notice of study and request for comments.

SUMMARY: Section 3602 of the Omnibus Trade and Competitiveness Act of 1988, Public Law 100–418, requires that a quadrennial report on the foreign treatment of United States financial institutions be submitted to Congress by the Department of the Treasury, working with other agencies. The first report is due no later than December 1, 1990. This report will describe, *inter alia*, "the extent to which foreign countries deny national treatment to United States banking organizations and securities companies." Public comment is requested on significant denials of national treatment to United States banking organizations and securities companies.

DATES: Comments must be delivered on or before September 30, 1989.

ADDRESSES: Comments regarding banking market activities should be directed to: Communications Division, Office of the Comptroller of the Currency, 5th Floor, 490 L'Enfant Plaza East, SW., Washington, DC 20219; Attention: Jacqueline England; Docket No. 89–12. Comments will be available for inspection and photocopying at the same location.

Comments regarding securities market activities should be directed to: Office of International Banking and Portfolio Investment, Office of the Assistant Secretary for International Affairs, Room 5323, U.S. Treasury Department, Washington, DC 20220.

These comments will be available for public inspection and photocopying during the hours that the Treasury Department Library is open (by appointment) to members of the public. The Treasury Library is located in Room 5030, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. Appointments can be made by calling the Treasury Library at (202) 566–2777.

FOR FURTHER INFORMATION CONTACT: William Albrecht, Study Director (Banking) or Jose Tuya, Senior Advisor, International Banking and Finance, Office of the Comptroller of the

Currency (202–447–1700) and James Ammerman, Study Director (Securities), Report on Foreign Treatment of United States Financial Institutions, Office of International Banking and Portfolio Investment, Treasury Department (202–566–5628).

SUPPLEMENTARY INFORMATION: In September 1979, 1984, and 1986, Treasury, working with other interested departments and agencies, prepared reports on the treatment of U.S. commercial banks by foreign governments. (The 1986 report also covered securities markets). In 1988, Congress passed the Financial Reports Act as part of the Omnibus Trade and Competitiveness Act, which in section 3602 requires that Treasury, working with other agencies, report to the Congress on (1) the foreign countries from which foreign financial services institutions have entered into the business of providing financial services in the United States, (2) the kinds of financial services which are being offered, (3) the extent to which foreign countries deny national treatment to United States banking organizations and securities companies, and (4) the efforts undertaken by the United States to eliminate such discrimination. The report shall focus on those countries in which there are significant denials of national treatment which impact United States financial firms.

The policy of providing foreign financial firms an opportunity to compete on an equal basis with local domestic firms is known as "national treatment" or "equality of competitive opportunity."

Treasury would welcome specific comments on:

(a) Those markets which deny national treatment to U.S. banking organizations and securities companies in banking and/or securities activities;

(b) The laws, regulations, restrictions, or practices which result in the denial of equality of competitive opportunity; and

(c) The seriousness of such obstacles to business operations.

Dated: August 22, 1989.

Robert L. Clarke,

Comptroller of the Currency.

Dated: August 22, 1989.

Robert M. Bestani,

Acting Assistant Secretary for International Affairs.

[FR Doc. 89–20112 Filed 8–24–89; 8:45 am]

BILLING CODE 4810–33–M

Fiscal Service

[Dept. Circ. 570, 1989 Rev., Supp. No. 2]

Surety Companies Acceptable on Federal Bonds; U.S. Capital Insurance Company

A Certificate of Authority as an acceptable surety on Federal Bonds is hereby issued to the following company under Sections 9304 to 9308, Title 31, of the United States Code. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1989 Revision, on page 27825 to reflect this addition:

U.S. Capital Insurance Company.
Business Address: 4 West Red Oak Lane, White Plains, New York 10604.
Underwriting Limitation [b]: $2,004,000.
Surety Licenses [c]: AZ, ID, IN, MI, NY and WI. Incorporated IN: New York.

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR, part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

Copies of the Circular may be obtained from the Surety Bond Branch, Finance Division, Financial Management Service, Department of the Treasury, Washington, DC 20227, telephone (202) 287–3921.

Dated: August 21, 1989.

Mitchell A. Levine,

Assistant Commissioner, Comptroller Financial Management Service.

[FR Doc. 89–20085 Filed 8–24–89; 8:45 am]

BILLING CODE 4810–35–M

Internal Revenue Service

[Delegation Order No. 11 (Rev. 19)]

Organization Functions, and Authority Delegations: District Director

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Allows redelegation of authority from the District Director to accept or reject offers in compromise to the level of Division Chief or Chief Collection Section in streamlined districts where this position exists.

EFFECTIVE DATE: August 25, 1989.

FOR FURTHER INFORMATION CONTACT: Don Schumacher, CO:O, Room 7535, 1111 Constitution Avenue, NW., Washington, DC 20224, Telephone Number (202) 566–4471, (not a toll-free number).

Order No. 11 (Rev. 19)
Effective date: 8–25–89

Authority to Accept or Reject Offers in Compromise

The authority vested in the Commissioner of Internal Revenue by Treasury Order Nos. 150–04 and 150–09, 26 CFR 301.7122–1 and 26 CFR 301.7701–9, and Treasury Order No. 150–13 is hereby delegated as follows:

1. The Deputy Assistant Commissioner (International), the Associate Chief Counsel (Technical and International), Assistant District Directors, Regional Counsel, Chiefs and Associate Chiefs, Appeals Offices, are delegated authority, under Section 7122 of the Internal Revenue Code, to accept offers in compromise and to reject offers in compromise regardless of the amount of the liability sought to be compromised. This authority does not pertain to offers in compromise of liabilities arising under laws relating to alcohol, tobacco, and firearms taxes. The authority delegated to District Directors may not be redelegated lower than Division Chief (Chief, Collection Section, in streamlined districts where the position exists); except that the authority with respect to the withdrawal of an offer in compromise based upon doubt as to collectibility may be redelegated to Chief, Special Procedures. The authority delegated to Regional Counsel may not be redelegated, except that the authority to reject offers in compromise may be redelegated, but not lower than to District Counsel. Regional Director of Appeals, Chiefs and Associate Chiefs, Appeals Offices, may not redelegate this authority.

2. Assistant Service Center Directors are delegated authority, under Section 7122 of the Internal Revenue Code, to accept offers in compromise, limited to penalties based solely on doubt as to liability, and to reject offers in compromise, limited to penalties, regardless of the amount of the liability sought to be compromised, and to summarily reject without further investigation, offers based solely on doubt as to liability regardless of the amount of the liability sought to be compromised, limited to obvious offers that are frivolous, groundless or dilatory, or where the liability has been finally determined by the Tax Court or other courts, or by a Commissioner's final closing agreement, or where the offer is based upon an agreed liability in which administrative appeal rights have

been exercised or waived. This authority does not pertain to offers in compromise of liabilities arising under laws relating to alcohol, tobacco, and firearms taxes. This authority may be redelegated only to the Chief, Compliance Division.

3. Delegation Order No. 11 (Rev. 18), effective May 10, 1988, is superseded.

Dated: August 7, 1989.

Approved Date: August 7, 1989.

Charles H. Brennan,

Deputy Commissioner (Operations).

[FR Doc. 89-20016 Filed 8-24-89; 8:45 am]

BILLING CODE 4830-01-M

federal register

Friday
August 25, 1989

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

29 CFR Part 502

Reporting and Employment Requirements for Employers of Certain Workers Employed in Seasonal Agricultural Services; Rule

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

29 CFR Part 502

RIN 1215-AA

Reporting and Employment Requirements for Employers of Certain Workers Employed in Seasonal Agricultural Services

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor

ACTION: Final Rule.

SUMMARY: This rule amends the regulations to specify the INS Alien Registration Number series announced by INS for replenishment agricultural workers. A replenishment agricultural worker (RAW) is one who, pursuant to section 210A of the Immigration and Nationality Act (INA), is admitted to the United States or otherwise acquires the status of alien lawfully admitted for temporary residence, to meet a shortage of agricultural workers during the period beginning October 1, 1989 through September 30, 1993.

EFFECTIVE DATE: October 1, 1989.

FOR FURTHER INFORMATION CONTACT: Paula V. Smith, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Telephone (202) 523-8305. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: In the Federal Register of September 9, 1988 (53 FR 35154), the Department of Labor issued final regulations, 29 CFR Part 502, entitled "Reporting and Employment Requirements for Employers of Certain Workers Employed in Seasonal Agricultural Services." These regulations were effective October 1, 1988.

Section 502.1(b)(2) of the regulations referred to above, provided that a technical amendment to the regulations would be issued to specify the Alien Registration Number ("A" number) series announced by the Immigration and Naturalization Service (INS) for replenishment agricultural workers. Accordingly, this document revises the regulations at § 502.2(m) to specify that a "replenishment agricultural worker" is identified by an "A" number beginning with A94 and followed by any six digits. In this regard, conforming changes are made to §§ 502.1 (b)(2), (d), and (f), 502.10(c)(1), and 502.13(a).

The "A" number is utilized by employers pursuant to section 502.10 of the regulations in identifying "reportable workers" for whom reports are required to be submitted to the Government. In addition, the "A" number will identify which of the reportable workers are replenishment agricultural workers (who are identified by an INS Alien Registration Number beginning with A94 and followed by any six digits) for whom additional labor standard protections are afforded, as discussed below. The "A" number can be ascertained when an employer completes the INS Form I-9, as required for all persons hired after November 6, 1986. When completing the top portion of the I-9 Form, a prospective employee who is not a U.S. citizen must provide an "A" number in completing Part 1 of the form.

Pursuant to section 210A of the INA, § 502.13 of these regulations requires that for the period beginning October 1, 1989, through September 30, 1992, any person employing any replenishment agricultural worker (who is identified by an INS Alien Registration Number beginning with A94 and followed by any six digits) in seasonal agricultural services for one or more work-day(s) during any pay period shall provide such worker, with each wage payment—but no less than twice per month, a complete, accurate, and legible report certifying such reportable worker's employment. The employment information reported to the replenishment agricultural worker documents the worker's employment history for retention of legal status and avoidance of deportation, and makes it possible for workers with the required work in seasonal agricultural services to apply for and be granted permanent residency in the U.S. after three years, and to apply for naturalization after five years. Properly filled out, optional Form WH-501R, attached as an appendix hereto, will satisfy the requirements of section 210A of the INA and will also satisfy the requirements of sections 201(d)(2) and (c)(2) of the Migrant and Seasonal Agricultural Worker Protection Act (MSPA).

In addition to the reporting requirement, employers of replenishment agricultural workers (who are identified by an INS Alien Registration Number beginning with A94 and followed by any six digits) must: (1) Provide the same transportation arrangements to other workers as are provided to any replenishment agricultural worker, and (2) not discriminate against any replenishment agricultural worker. In addition, any employer who would otherwise be exempt from MSPA pursuant to section 4(a) (1) or (2) of that Act, shall not knowingly provide false or misleading information to a replenishment worker concerning the terms, conditions, or existence of agricultural employment.

Publication in Final

The Department of Labor has determined, pursuant to 5 U.S.C. 553(b)(B), that good cause exists for waiving public comment on these amendments to the regulations. Such comment is unnecessary because the Department is performing a ministerial act pursuant to a previously announced intention to make a technical amendment to the regulations to specify the "A" number series announced by INS for replenishment agricultural workers.

Executive Order 11291

The Department has determined that this rule is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, because it will have no substantive impact and therefore is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is required.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for the rule under 5 U.S.C. 553(b), the requirements of the Regulatory Flexibility Act, Public Law 96-354, Stat. 1165, 5 U.S.C. 601 *et seq.* pertaining to regulatory flexibility analysis, do not apply to this rule. See 5 U.S.C. 601(2). In any event, the rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

As the amendments to this rule require the collection of no additional information, additional approval of the Office of Management and Budget is not required. See 44 U.S.C. 3501 *et seq.* Prior OMB approval was obtained under OMB Control Number 1215-0148.

For reasons set out in the above preamble, Part 502 of Chapter V of Title 29 of the Code of Federal Regulations, is amended as set forth below:

PART 502—REPORTING AND EMPLOYMENT REQUIREMENTS FOR EMPLOYERS OF CERTAIN WORKERS EMPLOYED IN SEASONAL AGRICULTURAL SERVICES

1. The authority citation for Part 502 continues to read as follows:

Authority: 8 U.S.C. 1160, 1161; 29 U.S.C. 1801 et seq. Section 502.6 also issued under 29 U.S.C. 49k.

2. In section 502.1, paragraphs (b)(2), (d), and (f) are revised to read as follows:

§ 502.1 Purpose and scope.

* * * * *

(b) * * *

(2) Section 210A of the INA provides that before the beginning of each fiscal year (beginning 1990 and ending 1993), the Secretaries of Labor and Agriculture shall jointly determine the number (if any) of replenishment agricultural workers (RAWS) to be admitted to the United States, or otherwise acquire the status of aliens lawfully admitted for temporary residence, to meet a shortage of agricultural workers. A replenishment agricultural worker is identified by an INS Alien Registration Number beginning with A94 and followed by any six digits.

* * * * *

(d) Any person who hires any worker must complete the Employment Eligibility Verification Form (INS Form I–9). Any resident alien who is identified with an Alien Registration Number ("A" number) in the A90000000 series on the I–9 Form (including any replenishment agricultural worker, who is identified by an INS Alien Registration Number beginning with A94 and followed by any six digits) and who is employed in seasonal agricultural services, is an employee subject to this part (termed "reportable worker"). Employers cannot reliably determine whether such an employee is a special agricultural worker since employees cannot be required to document such status to anyone other than INS (see 8 CFR 274a.2(b)(v)).

* * * * *

(f) Any employment of a reportable worker for at least one work-day in seasonal agricultural services is subject to reporting to the Federal Government. Additionally, any employment of a replenishment agricultural worker (who is identified by an INS Alien Registration Number beginning with A94 and followed by any six digits) in seasonal agricultural services is subject to both the reporting requirements to the Federal Government and to the individual worker.

* * * * *

2. In § 502.2, paragraph (m) is revised to read as follows:

§ 502.2. Definitions pertaining solely to a reportable worker employed in seasonal agricultural services.

* * * * *

(m) "Replenishment Agricultural Worker" (RAW) is an individual with an INS Alien Registration Number beginning with A94 and followed by any six digits who was admitted to the United States during FY 1990 through FY 1993 for lawful temporary resident status or whose status was adjusted to lawful temporary residency to meet a shortage of workers employed in seasonal agricultural services.

* * * * *

3. In § 502.10, paragraph (c)(1) is revised to read as follows:

§ 502.10 Requirements for reporting and employing a reportable worker in seasonal agricultural services.

* * * * *

(c) * * * (1) For the period October 1, 1989, through September 30, 1992, furnish to any reportable worker who is a replenishment agricultural worker (identified by an INS Alien Registration Number beginning with A94 and followed by any six digits) and who is employed for at least one work-day in seasonal agricultural services during the pay period, a report on each pay day containing the information specified in this part (see § 502.13), formulated from employment records maintained (see § 502.11; and

* * * * *

4. In § 502.13, paragraph (a) is revised to read as follows:

§ 502.13 Reporting to the replenishment agricultural worker.

* * * * *

(a) For the period beginning October 1, 1989, through September 30, 1992, any person employing any reportable worker who is a replenishment agricultural worker (identified as an INS Alien Registration Number beginning with A94 and ending with any six digits) in seasonal agricultural services for one or more work-day(s) during any pay period shall provide such worker, with each wage payment, no less than twice per month, a complete, accurate, and legible report certifying such reportable worker's employment.

Note: The Department presents a form in the Appendix which satisfies certain recordkeeping aspects of the Act and regulations. This form, however, will not appear in the Code of Federal Regulations.

BILLING CODE 4510-27-M

Appendix A—Optional Form WH–501R.

Employee _____ Social Security No. _____

Permanent Address _____

INS Alien Registration No. A _____

EMPLOYEE RECIPIENT: KEEP YOUR COPY OF THIS FORM. This information will be needed to support any future application for change in your immigration status.

Day/Date	Sun/	Mon/	Tues/	Wed/	Thurs/	Fri/	Sat/
Starting Time							
Quitting Time							
Hours Worked							
Crop/Task Units Done							
Rate of Pay (Hourly or Piece Rate)							
Daily Pay							

Workweek Ending (Month, Day, Year)

Total Hours Worked In Week	Number of Work-Days	(At least 4 hours worked each day)
		Itemized Deductions
	FICA	
	Federal Tax	
Total Gross Pay	State Tax	
	Rent	
	Food	
	Transportation	
	Other	
	Total Deductions	
	Net Pay (Amount Due Employees)	Date Paid:

Employer _____

Address _____

Social Security Employer I.D. No. _____

Any information which pertains to work days for the person named above is provided in accordance with section 210A of the Immigration and Nationality Act.
(See reverse for instructions)

Optional Form WH-501R (Sept. 1988)

Properly filled out, this optional form will satisfy the requirements of sections 201(d)(2) and (c)(2) of the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) and will also satisfy the requirements of section 210A of the Immigration and Nationality Act (INA).

PAYROLL INFORMATION: Enter the month, day and year on which the employee's payroll workweek ends. Enter the calendar date of the day worked. Enter the time work started and ended each day. Enter the total time actually worked each day. Subtract bonafide meal periods. Crop/Task - Units done - Enter the kind of work (such as picking oranges per bin). Enter the number of units produced if the employee is paid on a piece work or task basis. Enter the hourly or piece rate of pay. Enter the amount of daily pay computed at the hourly and/or piece rate.

NUMBER OF WORK-DAYS: For resident alien workers with INS registration number (a series that INS will announce at a later date) and performing work in seasonal agricultural services, enter the number of days that the worker worked at least four (4) hours.

ITEMIZED DEDUCTIONS: In addition to FICA (Social Security), federal tax, state and rent, food, and transportation deductions (if any), enter any other deductions and identify the purpose of each other deduction. Total Deductions - Enter total deductions in right column and then transfer to left. Subtract total deductions from total Gross Pay - Enter the result as Net Pay (Amount Due Employee). Enter date worker is paid.

Public reporting burden for this collection of information under both MSPA and the INA is estimated to average 2 minutes per response in addition to that incurred in the normal course of business, including the time for reviewing instruction, 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 Office of Information Management, Department of Labor, Room N-1301, 200 Constitution Ave., NW., Washington, DC 20210; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

OMB No. 1215-0148

BILLING CODE 4510-27-C

Signed at Washington, DC this 17th day of August, 1989.

Paula V. Smith,

Administrator, Wage and Hour Division, Employment Standards Administration.

[FR Doc. 89–19941 Filed 8–24–89; 8:45 am]

BILLING CODE 4510–27–M

federal register

Friday
August 25, 1989

Part III

Department of Housing and Urban Development

Delaying Submission of Comprehensive Homeless Assistance Plans; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-89-1716; FR-2386]

Delaying Submission of Comprehensive Homeless Assistance Plans

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice is intended to inform grantees under Titles IV and VII of the Stewart B. McKinney Homeless Assistance Act that they need not submit their Comprehensive Homeless Assistance Plans (CHAP) to HUD by the October 1, 1989 deadline, as previously requested. Instead, Emergency Shelter Grants (ESG) formula cities and counties should submit their CHAPs to the Department by July 15, 1990, and simultaneously send an information copy to the State in which they are located. State grantees should submit their CHAPs to HUD by August 30, 1990, and simultaneously send information copies to the formula jurisdictions in their state. Thereafter, CHAPS should be annually submitted to HUD in accordance with the July 15 and August 30 deadlines.

FOR FURTHER INFORMATION CONTACT: For information concerning HUD provisions under Title IV of the McKinney Act, James N. Forsberg, Coordinator, Special Needs Assistance (Homeless Programs, Room 7228, (202) 755-6300.

For the Department of Labor provisions under Title VII, John D. Heinberg, Office of Strategic Planning and Policy Development, Employment and Training Administration, Room N-5629, Frances Perkins Building, 200 Constitution Avenue, Washington, DC 20210, telephone (202) 535-0682.

For the Department of Education voluntary CHAP provisions under Title VII, Sarah Newcombe, Office of Vocational and Adult Education, 400 Maryland Avenue, SW., Room 4426, Washington, DC 20202, telephone (202) 732-2390. (None of these telephone numbers are toll-free.)

SUPPLEMENTARY INFORMATION:

Background

On July 22, 1987, the Stewart B. McKinney Homeless Assistance Act (Pub. L. 100-77) (the Act) was signed into law. Title IV of the Act contained a number of homeless assistance and related provisions to be administered by HUD.

Subtitle A of Title IV established the requirements for the Comprehensive Homeless Assistance Plan (CHAP). On August 14, 1987, HUD published a notice in the **Federal Register** implementing the initial CHAP requirements (52 FR 30628). Under Subtitle A, HUD was prohibited from making assistance under Title IV's programs available to, or within the jurisdiction of, States, or metropolitan cities or urban counties eligible for a formula allocation under the Emergency Shelter Grants program (ESG formula cities and counties), unless the jurisdiction and a HUD-approved CHAP.

In addition, individual applications for Title IV assistance were required to include a certification that the activities proposed for assistance were consistent with the jurisdiction's approved CHAP.

The Title IV programs affected by the CHAP requirement included the Emergency Shelter Grants program under Subtitle B; the Supportive Housing Demonstration program (both Transitional and Permanent Housing components) under Subtitle C; the Supplemental Assistance for Facilities to Assist the Homeless program under Subtitle D; and the Section 8 Moderate Rehabilitation program under Subtitle E.

In addition, the CHAP was required in connection with programs administered by the Departments of Education and Labor under Title VII of the Act. Section 702 of the Act originally required the Secretary of Education to distribute funds under the Adult Education for the Homeless Programs on the basis of assessments of the homeless population made in State CHAPs. However, subsequent legislation removed this requirement and converted the program from a formula program to a discretionary program, requiring the Secretary to consider as a factor in making discretionary awards the number of homeless adults receiving literacy and basic skills training in each project. Plans to provide for the educational needs of homeless adults are submitted in each State's adult education plan submitted directly to the Secretary of Education every four years. Currently, States may continue to include State Education Agencies in their CHAP process at the State's option, although CHAP data are not required for formula purposes.

Under Section 732, States are required to describe in their CHAPs how they will coordinate job training demonstration projects for homeless individuals under Subtitle C of Title VII with other services for homeless individuals assisted under the Act.

Annual CHAP Submission Under the 1988 Amendments Act

On November 7, 1988, President Reagan signed the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Pub. L. 100-628) (the 1988 Amendments). The 1988 Amendments revised a number of provisions of the Act, including the CHAP submission requirement which was changed from a one-time submission into an annual submission requirement.

On December 28, 1988, the Department published in the **Federal Register** a notice implementing the CHAP provisions in the 1988 Amendments Act (53 FR 52600). Under section 485 of the 1988 Amendments, HUD is required to publish by November 7, 1989 a final rule based on the December CHAP notice.

Included in the December notice was a provision informing grantees under Titles IV and VII of the Act that the next CHAPs needed to be submitted to HUD by February 13, 1989, but thereafter that CHAPs should be submitted annually by October 1. This Notice is intended to inform Titles IV and VII grantees that they need *not* submit their CHAPs to HUD by the stated October 1, 1989 deadline.

The Department is currently considering a number of revisions to the content of the CHAP which are intended to provide additional data on the extent of the homeless need, and on the development of an effective strategy to respond to that need. HUD intends to publish these requirements as proposed provisions, either in conjunction with the final CHAP rule that the Department publishes by the November 7, 1989 statutory deadline, or in a separate proposed rulemaking. (Following a notice and comment period, these revised requirements will be published in a final rule that will govern the next CHAP submissions, as described below.)

As a result, during this transition period in implementing the annual CHAP requirement, and because of the relatively brief period between the February 1989 CHAP submission and the projected October 1, 1989 submission, HUD will not require grantees to submit CHAPs by October 1. Instead, CHAPs reflecting the Department's revised content requirements should be submitted to HUD in accordance with the following schedule:

(1) Grantees that are ESG formula cities and counties should submit their CHAPs to HUD by July 15, 1990, with a CHAP information copy simultaneously

forwarded to the State in which the formula city or county is located.

(2) State grantees should use the formula jurisdictions' CHAP information copies in the preparation of their own Statewide CHAPs. To provide State grantees with an adequate review period of the formula jurisdictions' CHAPs, HUD is not requiring State grantees to submit their CHAPs until August 30, 1990. At that time, State grantees should simultaneously forward CHAP information copies to each of the formula jurisdictions in their State.

HUD will continue to use the July 15 (formula communities) and August 30 (States) deadlines for all subsequent CHAP submissions.

It should be noted that the Department expects grantees to submit their annual CHAP performance reports by the May 31, 1990 deadline, and voluntarily to submit amendments to their existing CHAPs during the transition period announced in this Notice.

Authority: Sec. 485, Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Pub. L. 100–628, approved November 7, 1988); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: August 17, 1989.

Audrey E. Scott,

General Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 89–20054 Filed 8–24–89; 8:45 am]

BILLING CODE 4210–29–M

federal register

Friday
August 25, 1989

Part IV

Department of Health and Human Services

Public Health Service

Announcement of Availability of Funds for Family Planning Service Grants; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Announcement of Availability of Funds for Family Planning Service Grants

AGENCY: Public Health Service, HHS.

ACTION: Notice.

SUMMARY: For Fiscal Year (FY) 1990, approximately $130 million will be provided to fund family planning services grants under title X of the Public Health Service Act (42 U.S.C. 300 *et seq.*). The Office of Population Affairs is announcing the availability of approximately ⅛ of this amount for competitive grants.

OMB Catalog of Federal Domestic Assistance: 13.217.

DATE: Application due dates vary. See Supplementary Information below.

ADDRESSES: Additional information may be obtained from and completed applications should be sent to the appropriate Regional Health Administrator at the address below:

Region I (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont): DHHS/PHS Region I, John F. Kennedy Federal Building, Government Center, Room 1400, Boston, MA 02203.

Region II (New Jersey, New York, Puerto Rico, Virgin Islands): DHHS/PHS Region II, 26 Federal Plaza, Room 3337, New York, NY 10278.

Region III (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, W. Virginia): DHHS/PHS Region III, 3535 Market Street, Philadelphia, PA 19101.

Region IV (Alabama, Florida, Georgia, Kentucky, Mississippi, N. Carolina, S. Carolina, Tennessee): DHHS/PHS Region IV, 101 Marietta Tower, Suite 1002, Atlanta, GA 30323.

Region V (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin): DHHS/PHS Region V, 300 South Wacker Drive, 34th Floor, Chicago, IL 60606.

Region VI (Arkansas, Louisiana, New Mexico, Oklahoma, Texas): DHHS/PHS Region VI, 1200 Main Tower Building, Room 1800, Dallas, TX 75202.

Region VII (Iowa, Kansas, Missouri, Nebraska): DHHS/PHS Region VII, 601 East 12th Street, 5th Fl. W., Kansas City, MO 64106.

Region VIII (Colorado, Montana, N. Dakota, S. Dakota, Utah, Wyoming): DHHS/PHS Region VIII, 1961 Stout Street, Denver, CO 80294.

Region IX (Arizona, California, Hawaii, Nevada, Commonwealth of the Northern Mariana Islands, American Samoa, Guam, Republic of Palau, Federated States of Micronesia, Republic of the Marshall Islands): DHHS/PHS Region IX, 50 United Nations Plaza, Room 327, San Francisco, CA 94102.

Region X (Alaska, Idaho, Oregon, Washington): DHHS/PHS Region X, Blanchard Plaza, 2201 Sixth Avenue, M/S RX-20, Seattle, WA 98121.

FOR FURTHER INFORMATION CONTACT: Grants Management Offices, Region I: Mary O'Brien–617/565–1482; Region II: Thomas Butler–212/264–4496; Region III: Richard Dovalovsky–215/596–6653; Region IV: Wayne Cutchins–404/331–2597; Region V: Lawrence Poole–312/353–8700; Region VI: Frank Cantu–214–767–3879; Region VII: Hollis Hensley–816/426–2924; Region VIII: Jerry F. Wheeler–303/844–6163; Region IX: Alan Harris–415/556/5810; Region X: J. O'Neal Adams–206/442–7997.

Program Officers, Region I: James Sliker–617/565–1452; Region II: Eileen Connolly–212/264–3939; Region III: Joe Healey–215/596–6686; Region IV: Ed Rogge–404/331–5316; Region V: George Hockenberry–312/353–1700; Region VI: Paul Smith–214/767–3072; Region VII: Will Marshall–816/426–2924; Region VIII: John J. McCarthy, Jr.–303/844–5955; Region IX: James Hauser–415/556–7117; Region X: Vivian Lee–206/442–1020.

Staff are available to answer questions and provide limited technical assistance in the preparation of grant applications.

SUPPLEMENTARY INFORMATION: Title X of the Public Health Service Act, 42 U.S.C. 300 *et seq.*, authorizes the Secretary of Health and Human Services to award grants and enter into contracts with public or private nonprofit entities to assist in the establishment and operation of voluntary family planning projects to provide a broad range of acceptable and effective family planning methods and services (including natural family planning methods, infertility services, and services for adolescents). To the extent practicable, entities shall encourage family participation. No funds may be used in programs where abortion is a method of family planning. Implementing regulations have been published at 42 CFR part 59, subpart A. At 53 FR 2922, (February 2, 1988), the Department of Health and Human Services promulgated rules revising the requirements for compliance by grantees and applicants for grants with the statutory provision relating to abortion. Since promulgation of the revised rules, suits have been filed in four jurisdictions challenging the rules, and the February 1988 rules have been enjoined by two of the jurisdictions. Consequently, portions of the regulations currently appearing at 42 CFR Part 59 Subpart A are effective at present for certain organizations and not with respect to others. Users or organizations with questions as to whether the rules issued on February 2, 1988 apply to them should contact the appropriate program officer at the telephone number listed above.

Approximately $130 million nationwide is available in funding for Title X services grants, which are normally awarded for 3 years. The entire $130 million is allocated among the 10 departmental regions, and will in turn be awarded to public and private nonprofit agencies located within the regions. Each regional office is responsible for evaluating applications, establishing priorities, and setting funding levels according to criteria in statute Part 59, Subpart A, Subsection 59.7.

This notice announces the availability of approximately $24,000,000 to provide services in 17 States. This notice includes those projects for which the application due date has not passed at the time of publication. Applications are invited for the following areas:

Area(s) to be served	Number of grants to be awarded	Approximate funding level	Application due date	Grant funding date
Region I:				
Connecticut	1	$1,170,000	9/1/89	1/1/90
Metro Boston	1	809,000	5/1/90	9/1/90
Western MA	1	527,000	12/1/89	4/1/90
Northeastern MA	1	751,000	3/1/90	7/1/90
Vermont	1	432,000	12/1/89	4/1/90

Area(s) to be served	Number of grants to be awarded	Approximate funding level	Application due date	Grant funding date
New Hampshire	1	547,000	3/1/90	7/1/90
Maine	1	861,000	3/1/90	7/1/90
Rhode Island	1	334,000	3/1/90	7/1/90
Region II:				
New York excel. NYC	1	5,571,000	3/1/90	7/1/90
Region V:				
St. Paul & Ramsey Co., MN	1	197,000	9/1/89	1/1/90
Cuyahoga, Geauga, Lake and Lorain Counties, OH	1	1,012,000	12/1/89	4/1/90
Westland and River Rouge, MI	1	178,000	12/1/89	4/1/90
Region VI:				
Texas	1	7,600,000	12/1/89	4/1/90
3 Job Corps sites:				
San Marcos, McKinney and El Paso, Texas	1	310,000	6/1/90	10/1/90
Region VII:				
KS excl. Wyandotte County	1	1,100,000	3/1/90	7/1/90
Region VIII:				
Larimer Co., Colorado	1	132,000	9/1/89	1/1/90
Montana	1	822,000	3/1/90	7/1/90
Utah	1	516,000	3/1/90	7/1/90
Northern Wyoming	1	155,000	11/1/89	3/1/90
Southern Wyoming	1	316,000	11/1/89	3/1/90
Region IX:				
Guam	1	102,000	3/1/90	7/1/90
Region X:				
Idaho	1	558,000	3/1/90	7/1/90
Total	22	24,000,000		

Applications must be postmarked or received at the appropriate Grants Management Office no later than close of business on application due dates listed above. Private metered postmarks will not be acceptable as proof of timely mailing. Applications which are postmarked or delivered to the appropriate Grants Managements Office later than the application due date will be judged late and will not be accepted for review. Applications which do not conform to the requirements of this program announcement or do not meet the assurances for project requirements in regulation 42 CFR Part 59, Subpart A will not be accepted for review. Applicants will be so notified, and the applications will be returned.

Applicants will be evaluated on the following criteria:

(1) The number of patients and, in particular, the number of low-income patients to be served;

(2) The extent to which family planning services are needed locally;

(3) The relative need of the applicant;

(4) The capacity of the applicant to make rapid and effective use of the Federal assistance;

(5) The adequacy of the applicant's facilities and staff;

(6) The relative availability of non-Federal resources within the community to be served and the degree to which those resources are committed to the project; and

(7) The degree to which the project plan adequately provides for the requirements set forth in the Title X regulations.

Application Requirements: Application kits, including the application form, PHS 5161, and technical assistance for preparing proposals are available from the respective regional office. An application must contain: (1) A narrative description of the project and the manner in which the applicant intends to conduct it in order to carry out the requirements of the law and regulations; (2) a budget that includes an estimate of project income and costs, with justification for the amount of grant funds requested; (3) a description of the standards and qualifications that will be required for all personnel and facilities to be used by the project; and (4) such other pertinent information as may be required by the Secretary and specified by the regional office. In preparing an application, applicants should respond to all applicable regulatory requirements. (The information collections contained in this notice have been approved by the Office of Management and Budget and assigned control number 0937–0189.)

Application Review and Evaluation: Each regional office is responsible for establishing its own review process. Applications must be submitted to the appropriate regional office at the address listed above. Applications not meeting the due dates above will not be accepted for review.

Grant Awards: Grants are generally awarded for 3 years with an annual non-competitive review of a continuation application to continue support. Non-competing continuation awards are subject to the project making satisfactory progress and the availability of funds. In all cases, continuation awards require a determination by HHS that continued funding is in the best interest of the Federal Government.

Review Under Executive Order 12372: Applicants under this announcement are subject to the review requirements of Executive Order 12372, State Review applications for Federal Financial Assistance, as implemented by 45 CFR part 100. As soon as possible, the applicant should discuss the project with the State Single Point of Contact (SPOC) for each State to be served. The application kit contains the currently available listing of the SPOCs which have elected to be informed of the submission of applications. For those States not represented on the listing, further inquiries should be made by the applicant regarding the submission to the Grants Management Office of the appropriate region. State Single Point of Contact comments must be received by the regional office 30 days prior to the funding date to be considered.

When final funding decisions have been made, each applicant will be notified by letter of the outcome of their application. The official document

notifying an applicant that a project application has been approved for funding is the Notice of Grant Award, which specifies to the grantee the amount of money awarded, the purposes of the grant, and terms and conditions of the grant award.

Dated: July 26, 1989.

Nabers Cabaniss,

Deputy Assistant Secretary for Population Affairs.

[FR Doc. 89-20088 Filed 8-24-89; 8:45 am]

BILLING CODE 4160-17-M

federal register

Friday
August 25, 1989

Part V

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Final Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018-AA 24

Final Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes special migratory bird hunting regulations to be established for certain tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands. This season begins as early as September 1.

EFFECTIVE DATE: This rule takes effect on September 1, 1989.

ADDRESSES: Comments received on the proposed special hunting regulations and tribal proposals are available for public inspection during normal business hours in Room 634—Arlington Square Building, 4401 N. Fairfax Drive, Arlington, VA. Communications regarding the documents should be addressed to: Director (FWS/MBMO), U.S. Fish and Wildlife Service, Room 634—Arlington Square, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Fant W. Martin, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Room 634—Arlington Square, Washington, DC 20240 (703–358–1773).

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 et seq.), authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds, to determine when, to what extent, and by what means such birds or any part, nest, or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported, or transported.

In the July 24, 1989, **Federal Register** (54 FR 30858), the U.S. Fish and Wildlife Service (hereinafter the Service) proposed special migratory bird hunting regulations for the 1989–90 hunting season for certain Indian tribes, under the guidelines described in the June 4, 1985, **Federal Register** (at 50 FR 23467). The guidelines were developed in response to tribal requests for Service recognition of their reserved hunting rights, and for some tribes, recognition of their authority to regulate hunting by both tribal members and nonmembers on their reservations. The guidelines include possibilities for: (1) on-reservation hunting by both tribal members and nonmembers, with hunting by nontribal members on some reservations to take place within Federal frameworks but on dates different from those selected by the surrounding State(s); (2) on-reservation hunting by tribal members only, outside of usual Federal frameworks for season dates and length, and for daily bag and possession limits; and (3) off-reservation hunting by tribal members on ceded lands, outside of usual framework dates and season length, with some added flexibility in daily bag and possession limits. In all cases, the regulations established under the guidelines would have to be consistent with the March 10–September 1 closed season mandated by the 1916 Migratory Bird Treaty with Canada. Tribes that desired special hunting regulations in the 1989–90 hunting season were requested in the February 27, 1989, **Federal Register** (54 FR 8221) to submit a proposal that included details on: (1) Requested season dates and other regulations to be observed; (2) harvest anticipated under the requested regulations; (3) methods that will be employed to measure or monitor harvest; (4) steps that will be taken to limit level of harvest, where it could be shown that failure to limit such harvest would impact seriously on the migratory bird resource; and (5) tribal capabilities to establish and enforce migratory bird hunting regulations. No action is required if a tribe wishes to observe the hunting regulations that are established by the State(s) in which an Indian reservation is located. The guidelines have been used successfully since the 1985–86 hunting season, and they were made final beginning with the 1988–89 hunting season.

In the July 24, 1989, proposed rule, the Service pointed out that duck hunting regulations for the upcoming season likely would be restrictive in the 1989–90 hunting season because of a reduced fall flight caused by drought. Hunting regulations also were restrictive last year for the same reason. Recently completed surveys on the breeding ground have confirmed that there has been little improvement in duck population status since 1988. Although duck hunting regulations have not been established yet for the late season, they can be expected to be restrictive again during the 1989–90 hunting season.

Comments and Issues Concerning Tribal Proposals

Great Lakes Indian Fish and Wildlife Commission, Odanah, Wisconsin

In a June 30, 1989 letter, Mr. C.D. Besadny, Secretary, Wisconsin Department of Natural Resources, raised a number of concerns regarding the regulations requested by the Great Lakes Indian Fish and Wildlife Commission for hunting of migratory birds by Chippewa Indians on ceded lands in Wisconsin. Mr. Besadny had no objections to the requested goose hunting regulations. However, he asked that the tribes delay the duck season one week (from September 18 to September 25) because of the decline in duck numbers caused by drought, that tribal members observe the same shooting hours that will be established throughout the Mississippi Flyway, and that the opening dates for hunting of migratory game birds other than ducks and geese be concurrent with the opening of the tribal duck season. Mr. Besadny also asked that the tribes retain the 48-hour emergency closure rule that was included in the past because of concern over possible displacement of waterfowl caused by the early season.

In the July 24, 1989, **Federal Register** (54 FR 30858), the Service pointed out that preliminary survey results indicated little improvement since 1988 in duck numbers or breeding ground conditions, and that it was likely that it would be necessary to establish conservative hunting regulations again for the 1989–90 hunting season. As noted earlier in this document, completed surveys have confirmed that no increase in the fall flight is expected this year, and continued harvest restrictions will be necessary. Last year, the different Chippewa Indian Tribes opened the duck season later than usual as a means of reducing the harvest. They have agreed to delay the season again this year, and it will open on September 25, rather than on September 18, as was proposed earlier in the July 24, 1989, proposed rule (54 FR 30858). Season dates for geese and woodcock will begin on the dates shown in the July 24, 1989, proposed rule. Seasons on other species will be concurrent with the early duck season for tribal members. Daily bag and possession limits for Canada geese on ceded lands in Michigan, Minnesota, and Wisconsin will be 4 and 8, respectively, rather than 3 and 6, respectively, as shown in the July 24, 1989, proposed rule. The increase in Canada goose bag and possession limits is authorized for tribal members

because of an anticipated substantial increase in the fall flight in Michigan and Wisconsin, where virtually all of the tribal harvest occurs.

The tribes will observe the same shooting hour regulations that will be established for States in the flyway, under final Federal frameworks to be announced. The Service does not believe that the small number of tribal hunters in the early season will have adverse effects on the population status of migratory game birds or cause a major change in their distribution. However, in an emergency, the Great Lakes Indian Fish and Wildlife Commission will exercise its authority to close the season under provisions in the Chippewa Inter-tribal Agreement Governing Resource Management and Regulation of Off-reservation Treaty Rights in the Ceded Territory.

As discussed in the July 24, 1989, proposed rule, the Michigan Department of Natural Resources concurred with the proposed regulations for hunting by tribal members in the State's Upper Peninsula. However, Minnesota continues to oppose special regulations for hunting by Chippewa Indians on ceded lands in the State. The Service recognizes Minnesota's concerns, but for the reasons discussed in the July 24, 1989, proposed rule, believes that continued carefully regulated seasons for Chippewa Tribal members are appropriate in Minnesota, as well as in Michigan, and Wisconsin. Therefore, special regulations for the 1989–90 hunting season are made final in this rule. The regulations take into account the need to continue the reduced harvest of ducks, and as in the past, the Great Lakes Indian Fish and Wildlife Commission will conduct a survey to monitor harvest by tribal members.

Confederated Salish and Kootenai Tribes, Flathead Indian Reservation, Pablo, Montana

As discussed in the July 24, 1989, proposed rule, the Confederated Salish and Kootenai Tribes and the State of Montana are continuing to work toward a comprehensive and long-term agreement. There is no disagreement over the migratory bird hunting regulations requested by the tribes, however, and they are made final in this rule. In the past, the final rule for the Flathead Indian Reservation provided for an early closure of goose hunting on a portion of the reservation. Any such closure or other restrictions on migratory bird hunting on the reservation for the 1989–90 hunting season may be established at a later date under tribal and State authority.

Yankton Sioux Tribe, Marty, South Dakota

In the July 24, 1989, proposed rule, the Service proposed special Canada goose and White-fronted goose hunting regulations for both tribal and nontribal members on tribal and trust lands of the Yankton Sioux Tribe. In the past, nontribal members hunting on tribal and trust lands observed the regulations established by the South Dakota Game, Fish, and Parks Department. However, in a May 22, 1989 proposal, the Yankton Sioux Tribe requested a later season for Canada geese than is usually established by the State in the Missouri River unit. The later season was requested because of the delayed arrival of geese onto Indian lands. The tribe requested that the Service approve the same season dates for duck hunting on tribal and trust lands that will be established in surrounding areas by the State for the 1989–90 hunting season.

In an August 8, 1989, letter, John P. Guhin, Deputy Attorney General, State of South Dakota, raised a number of concerns about the proposed hunting regulations. Some of these concerns also were raised in an earlier telephone conversation in which the Service pointed out that the tribe would revise the proposal to make it complete. In his letter, Mr. Guhin stated that the description of the tribal proposal in the July 24, 1989, proposed rule was cursory, that the proposal was amended through a telephone conversation with the Service, and that the State should not be expected to comment on the proposal until it is complete. Mr. Guhin requested that the proposal be withdrawn and submitted again to South Dakota for comment when a complete proposal is available. Mr. Guhin concluded that it is the view of the State that the tribe has no jurisdiction to allow a nonmember to hunt outside of the seasons prescribed by South Dakota and that the State therefore objects to the proposed regulations. In his letter, Mr. Guhin stated that the State has no objection to tribal members hunting on their lands in a season other than that adopted by the State. He pointed out further that the State also has no objection to a tribal requirement of a nonmember license if the nonmember also has a State license, and the nonmember hunts during the State prescribed season and abides otherwise by State requirements.

In response, the Service acknowledges that the tribal proposal is incomplete in some respects and that steps will soon be taken to make it complete. Specifically, the Service intends to meet promptly with tribal officials to ensure that the area where hunting will occur is well-defined, that it includes only tribal and trust lands, and that bag checks or other procedures are followed to ensure that the species composition and size of harvest is measured during the 1989–90 hunting season. The Service will request that a State representative participate in the meeting.

As stated in the July 24, 1989, proposed rule, the Service believes that Indian tribes generally have the authority to regulate migratory bird hunting on tribal and trust lands, and that tribes are entitled to establish special migratory bird hunting regulations for nontribal members, subject to Service approval. The Service will not approve special regulations if they are likely to result in excessive harvest. The Service does not believe that there will be a large goose harvest on Yankton Sioux lands but will require that the 1989–90 hunting season is experimental, pending the collection and evaluation of harvest information. The Service believes that prompt consultation will rectify the omissions in the tribe's May 22, 1989, proposal and the special regulations requested by the tribe are made final in this rule.

NEPA Consideration

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES–75–74)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975, (40 FR 25241). A supplement to the final environmental statement "Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (SEIS 88–14)" was filed on June 9, 1988, and notice of availability was published in the **Federal Register** on June 16, 1988, (53 FR 22582) and June 17, 1988, (53 FR 22727). In addition, an August 1985 environmental assessment entitled "Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands" is available from the Service.

Nontoxic Shot Regulations

On November 9, 1988, (at 53 FR 45296), the Service proposed nontoxic shot zones for the 1989–90 waterfowl hunting season. This proposed rule was sent to all affected tribes and to Indian organizations for comment. The final rule on nontoxic shot zones for the 1989–90 hunting season was published on April 13, 1989, in the **Federal Register** (54 FR 14814). All of the hunting regulations

covered by this final rule are in compliance with the Service's nontoxic shot restrictions.

Endangered Species Act Consideration

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

On August 3, 1989, the Division of Endangered Species and Habitat Conservation notified the Office of Migratory Bird Management of its concurrence with the finding that the proposed action will not affect any listed species or any critical habitat.

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

In the March 27, 1989, Federal Register (54 FR 12534), the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive Order. These included preparing a Determination of Effects and an updated Final Regulatory Impact Analysis, and publication of a summary of the latter. These regulations have been determined to be major under Excutive Order 12291, and they have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act. This determination is detailed in the aforementioned documents which are available on request from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Room 634—Arlington Square, Washington, DC 20240. These regulations contain no collection of information subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980.

Memorandum of Law

The Service published its Memorandum of Law, required by Section 4 of Executive Order 12291, in the Federal Register on August 11, 1989, (54 FR 32975).

Authorship

The primary author of this final rule is Fant W. Martin, Office of Migratory Bird Management, working under the direction of Byron K. Williams, Acting Chief.

Regulations Promulgation

The rulemaking process for migratory bird hunting must, by its nature, operate under severe time constraints. However, the Service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when the proposed hunting regulations for certain tribes were published on July 24, 1989, the Service established the longest period possible for public comments. In doing this, the Service recognized that time would be of the essence. The comment period provided the maximum amount of time possible while ensuring that a final rule was published before the beginning of the hunting season on September 1, 1989.

Therefore, under the authority of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 703 et seq.), the Service prescribes final hunting regulations for certain tribes on Federal Indian reservations (including off-reservation trust lands), and ceded lands. The regulations specify the species to be hunted and establish season dates, bag and possession limits, season length, and shooting hours for migratory game birds other than waterfowl. However, final Federal frameworks for the waterfowl hunting season (opening and closing framework dates, daily bag and possession limits, etc.) are planned for publication on September 18, 1989. Because it was necessary to publish this document by September 1, 1989, most waterfowl regulations for the tribes listed here are shown as "within final Federal frameworks to be established."

Therefore, for the reasons set out above, the Service finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and this final rule, therefore, will take effect on September 1, 1989.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Transportation, Wildlife.

Accordingly, 50 CFR part 20 is amended as follows:

For the reasons set out in the preamble, title 50, chapter I, subchapter B, part 20, subpart K, is amended as set forth below.

PART 20—[AMENDED]

1. The authority citation for part 20 continues to read as follows:

Authority: Migratory Bird Treaty Act sec. 3, Pub. L. 65–186, 40 Stat. 755 (16 U.S.C. 701–708h); sec. 3(h), Pub. L. 95–616, 92 Stat. 3112 (16 U.S.C. 712).

Editorial Note.—The following annual hunting regulations provided for by § 20.110 of 50 CFR part 20 will not appear in the Code of Federal Regulations because of their seasonal nature.

2. Section 20.110 is revised to read as follows:

§ 20.110 Seasons, limits, and other regulations for certain Federal Indian reservations, Indian Territory, and ceded lands.

(a) *Jicarilla Indian Reservation, Dulce, New Mexico (Tribal Members and Nonmembers).*—(1) *Ducks (including Mergansers). Season Dates:* Earliest opening date and longest season permitted Pacific Flyway States under final Federal frameworks to be announced. *Daily bag and possession limits:* Same as permitted Pacific Flyway States under final Federal frameworks to be announced.

(2) *Goose Season Closed on All Species.*

(3) *General Conditions:* Tribal and nontribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (duck stamp) signed in ink across the face. Special regulations established by the Jicarilla Apache Tribe also apply on the reservation.

(b) *Navajo Indian Reservation, Window Rock, Arizona (Tribal Members and Nonmembers).*—(1) *Ducks (including Mergansers). Season Dates:* Earliest opening date and longest season permitted Pacific Flyway States under final Federal frameworks to be announced. *Daily Bag and Possession Limits:* Same as permitted Pacific Flyway States under final Federal frameworks to be announced.

(2) *Canada Geese (Season closed on other geese). Season Dates:* December 16–January 7. *Daily Bag and Possession Limits:* 2 daily. Possession limit 4.

(3) *Coots and Common Moorhens (Gallinule). Season Dates:* Same as for ducks. *Daily Bag and Possession Limits:* Same as permitted Pacific Flyway States under final Federal frameworks to be announced.

(4) *Common Snipe. Season Dates:* Same as for ducks. *Daily Bag and Possession Limits:* 8 daily. Possession limit 16.

(5) *Band-tailed Pigeons. Season Dates:* September 1–September 30. *Daily Bag*

and Possession Limits: 5 daily. Possession limit 10.

(6) *Mourning Doves and White-winged Doves. Season Dates:* September 1–September 30. *Daily Bag and Possession Limits:* 10 mourning and white-wing doves daily in the aggregate, of which no more than 6 may be white-winged doves. Possession limit is 20 mourning and white-winged doves in the aggregate, of which no more than 2 may be white-winged doves.

(7) *General Conditions:* Tribal and nontribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (duck stamp) signed in ink across the face. Special regulations established by the Navajo Nation also apply on the reservation.

(c) *Fort Hall Indian Reservation, Fort Hall, Idaho (Nontribal Members Only)*—(1) *Ducks (including Mergansers). Season Length and Dates:* Begin continuous season on October 14, with longer season permitted Pacific Flyway States under final Federal frameworks to be announced. *Daily Bag and Possession Limits:* Same as permitted Pacific Flyway States under final Federal frameworks to be announced.

(2) *Geese (Canada, Blue, Snow, White-fronted). Season Length and Dates:* Begin continuous season on October 14, with longest season permitted Idaho under final Federal frameworks to be announced. *Daily Bag and Possession Limits:* Same as permitted Idaho under final Federal frameworks to be announced.

(3) *Common Snipe. Season Length and Dates:* Same as for ducks. *Daily Bag and Possession Limits:* 8 daily. Possession limit 16.

(4) *General Conditions:* Nontribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his/her person a valid Migratory Bird Hunting and Conservation State (duck stamp) signed in ink across the face. Special regulations established by the Shoshone-Bannock Tribes also apply on the reservation.

(d) *Fort Apache Indian Reservation, Whiteriver, Arizona (Tribal Members and Nonmembers)*—(1) *Ducks (including Mergansers). Season Length and Dates:* Latest closing date and longest season permitted Pacific Flyway States under final Federal frameworks to be announced. *Daily Bag and Possession Limits:* Same as permitted Pacific Flyway States under final Federal frameworks to be announced.

(2) *Geese (Canada, Blue, Snow, White-fronted). Season Length and Dates:* Latest closing date and longest season permitted Arizona under final Federal frameworks to be announced. *Daily Bag and Possession Limits:* Same as permitted Arizona under final Federal frameworks to be announced.

(3) *Coots and Common Moorhens (Gallinule). Season Dates:* Same as for ducks. *Daily Bag and Possession Limits:* Same as permitted Pacific Flyway States under final Federal frameworks to be announced.

(4) *Common Snipe. Season Length and Dates:* Same as for ducks. *Daily Bag and Possession Limits:* 8 daily. Possession limit 16.

(5) *Mourning Doves and White-winged Doves. Season Length and Dates:* ½ hour before sunrise until noon, September 1–10; ½ hour before sunrise until sunset, November 24–January 12. *Daily Bag and Possession Limits:* 10 mourning and white-winged doves daily in the aggregate, of which no more than 6 may be white-winged doves. Possession limit is 20 mourning and white-winged doves in the aggregate, of which no more than 12 may be white-winged doves.

(6) *Band-tailed Pigeons. Season Dates:* October 13–November 11. *Daily Bag and Possession Limits:* 5 daily. Possession limit 10.

(7) *General Conditions:* Tribal and nontribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his/her person a valid Migratory Bird Hunting and Conservation State (duck stamp) signed in ink across the face. Special regulations established by the White Mountain Apache Tribe also apply on the reservation.

(e) *Colorado River Indian Reservation, Parker, Arizona (Tribal Members and Nonmembers)*—(1) *Ducks (including Mergansers). Season Length and Dates:* Same as Colorado River Zone in California. *Daily Bag and Possession Limits:* Same as Colorado River Zone in California.

(2) *Geese (Canada, Blue, Snow, White-fronted). Season Length and Dates:* Same as Colorado River Zone in California. *Daily Bag and Possession Limits:* Same as Colorado River Zone in California.

(3) *Coots and Common Moorhens (Gallinule). Season Dates:* Same as for ducks in Colorado River Zone in California. *Daily Bag and Possession Limits:* Same as Colorado River Zone in California.

(4) *Common Snipe. Season Length and Dates:* Same as for ducks in Colorado River Zone in California. *Daily Bag and Possession Limits:* 8 daily. Possession limit 16.

(5) *Mourning Doves and White-winged Doves. Season Length and Dates:* September 1–15 and November 11–December 25. *Daily Bag and Possession Limits:* 10 mourning and white-winged doves, singly or in the aggregate. Possession limit is 20, singly or in the aggregate.

(6) *General Conditions:* Tribal and nontribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his/her person a valid Migratory Bird Hunting and Conservation State (duck stamp) signed in ink across the face. Special regulations established by the Colorado River Indian Tribes also apply on the reservation.

(f) *Penobscot Indian Nation, Old Town, Maine (Tribal Members and Nonmembers)*—(1) *Ducks:* Same species, season dates, season length, and daily bag and possession limits as regular duck season in Maine.

(2) *Geese:* Same species, season dates, season length, and daily bag possession limits as regular goose season in Maine.

(3) *General Conditions:* (i) Tribal members may hunt waterfowl (ducks and geese) on Penobscot Indian Territory under special sustenance regulations during the 1989–90 hunting season. Sustenance season dates are September 16–November 30. The daily bag limit in the sustenance season is 4 ducks, including no more than 1 black duck and 2 wood ducks. The daily bag limit for geese is 3 Canada geese, 3 snow geese, or 3 in the aggregate. When the sustenance and Maine's general waterfowl season overlap, the daily bag limit for tribal members is only the larger of the two daily bag limits.

(ii) Possession limits on ducks and geese during the tribal sustenance season are applicable only to transportation and do not include birds which are cleaned, dressed, and at a member's residence.

(iii) Tribal members shall comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking, except during the sustenance season, tribal members shall be permitted to

hunt one-half hour before sunrise to one-half hour after sunset.

(iv) Each tribal and nontribal waterfowl hunter 16 years of age or over must possess and carry on his/her person a valid Migratory Bird Stamp and Conservation Stamp (duck stamp), signed in ink across the face.

(v) Nontribal members hunting waterfowl on Penobscot Indian Territory shall comply with all Federal and State hunting regulations. Special regulations established by the Penobscot Indian Nation also apply on Penobscot Indian Territory.

(g) *Great Lakes Indian Fish and Wildlife Commission, Odanah, Wisconsin (Tribal Members Only)*—(1) *Ducks (including Mergansers). Wisconsin and Minnesota Zones: Season Dates:* Begin September 25. End with closure of Wisconsin Northern Zone duck season. *Daily Bag and Possession Limits:* Same as permitted Wisconsin under final Federal frameworks to be announced.

Michigan Zone: Same dates, season length, and daily bag and possession limits permitted Michigan under final Federal frameworks to be announced.

(2) *Canada Geese. Wisconsin and Minnesota Zones: Season Dates:* Begin September 18. End with closure of Wisconsin Northern Zone duck season. *Daily Bag and Possession Limits:* 4 daily. Possession limit 8.

Michigan Zone: Season Dates: Same opening date and season length permitted Michigan under final Federal frameworks to be announced. *Daily Bag and Possession Limits:* 4 daily. Possession limit 8.

(3) *Other Geese (Blue, Snow, and White-fronted). Wisconsin and Minnesota Zones: Season Dates:* Begin September 18. End with closure of Wisconsin Northern Zone duck season. *Daily Bag and Possession Limits:* Same as permitted Wisconsin under final Federal frameworks to be announced.

Michigan Zone: Same dates, season length, and daily bag and possession limits permitted Michigan under final frameworks to be announced.

(4) *Coots and Common Moorhens (Gallinule). Wisconsin and Minnesota Zones: Season Dates:* Begin September 25. End with closure of Wisconsin Northern Zone duck season. *Daily Bag and Possession Limits:* 20 daily, singly or in the aggregate. Possession limit 40.

Michigan Zone: Same dates, season length, and daily bag and possession limits permitted Michigan under final Federl frameworks to be announced.

(5) *Sora and Virginia Rails. Wisconsin and Minnesota Zones: Season Dates:* Begin September 25. End with closure of Wisconsin Northern Zone duck season. *Daily Bag and Possession Limits:* 25 daily, singly or in the aggregate. Possession limit 25.

Michigan Zone: Same dates, season length, and daily bag and possession limits permitted Michigan under final Federal frameworks to be announced.

(6) *Common Snipe: Wisconsin and Minnesota Zones: Season Dates:* Begin September 25. End with closure of Wisconsin Northern Zone duck season. *Daily Bag and Possession Limits:* 8 daily. Possession limit 16.

Michigan Zone: Same dates, season length, and daily bag and possession limits permitted Michigan under final Federal frameworks to be announced.

(7) *Woodcock. Wisconsin and Minnesota Zones: Season Dates:* September 16–November 20. *Daily Bag and Possession Limits:* 5 daily. Possession limit 10.

Michigan Zone: Season Dates: September 15–November 14. *Daily Bag and Possession Limits:* 5 daily. Possession limit 10.

(8) *General Conditions:* (i) While hunting waterfowl, a tribal member must carry on his/her person a valid tribal waterfowl hunting permit.

(ii) Tribal members will comply with all basic Federal migratory bird hunting regulations, 50 CFR part 20, and shooting hour regulations, 50 CFR part 20, subpart K.

(iii) Nontoxic shot will be required for all off-reservation hunting by tribal members of waterfowl, coots, moorhens, and gallinules.

(iv) Tribal members in each zone will comply with State regulations providing for closed and restricted waterfowl hunting areas.

(v) *Wisconsin Zone.* Tribal members will comply with NR 10.09 (1)(a) (2) and (3), Wis. Adm. Code (shotshells), sec. NR 10.12 (1) (C), Wis. Adm. Code (shooting from structures), sec. NR 10.12 (1) (g), Wis. Adm. Code (decoys), and § 29.27 Wis. Stats. (duck blinds). The Canada goose season at Powell Marsh will begin on September 18. A tribal quota of 25 Canada geese will be in effect until September 25, or until daily censuses by Great Lakes Indian Fish and Wildlife Commission or Wisconsin Department of Natural Resources employees indicate that at least 300 Canada geese are in the area, whichever comes first. If the tribal quota is reached before September 25, and before 300 Canada geese are present, Powell Marsh will be closed to tribal hunting until September 25. Thereafter, the tribal season will resume without a quota and with a daily bag limit of 3 Canada geese.

(vi) *Minnesota Zone.* Tribal members will comply with M.S. 100.29, Subd. 18 (duck blinds and decoys). (vii) Possession limits are applicable only to transportation and do not include birds which are cleaned, dressed, and at a member's primary residence. For purposes of enforcing bag and possession limits, all migratory birds in the possession or custody of tribal members on ceded lands will be considered to have been taken on those lands unless tagged by a tribal or State conservation warden as having been taken on-reservation. In Wisconsin, such tagging will comply with sec. NR 19.12, Wis. Adm. Code. All migratory birds which fall on reservation lands will not count as part of any off-reservation bag or possession limit.

(h) *Flathead Indian Reservation, Pablo, Montana (Nontribal Members Only).*—(1) *Ducks (including Mergansers:* Same species, season dates, season length, and daily bag and possession limits as permitted Pacific Flyway portion of Montana under final Federal frameworks to be announced.

(2) *Geese:* Same species, season dates, season length, and daily bag and possession limits as permitted Pacific Flyway portion of Montana under final Federal frameworks to be announced.

(3) *General Conditions:* Nontribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (duck stamp), signed in ink across the face. Special regulations established by the Confederated Salish and Kootenai Tribes also may apply on the reservation.

(i) *Crow Creek Indian Reservation, Fort Thompson, South Dakota (Tribal Members and Nonmembers)*—(1) *Ducks. Season Dates:* Begin October 21, 1989, with longest season permitted Low Plains portion of South Dakota under final Federal frameworks to be announced. *Daily Bag and Possession Limits:* Same as permitted Low Plains portion of South Dakota under final Federal frameworks to be announced.

(2) *Geese:* Same species, season dates, season lengths, and daily bag and possession limits as established by South Dakota in the Missouri River Unit under final Federal frameworks to be announced.

(3) *General Conditions:* The waterfowl hunting regulations established by this final rule apply only to designated tribal and trust lands within the external boundaries of the reservation. Tribal and nontribal hunters will comply with all basic Federal migratory bird hunting

regulations in 50 CFR part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (duck stamp) signed in ink across the face. Special regulations established by the Crow Creek Sioux Tribe also apply on the reservation.

(j) *Yankton Sioux Tribe, Marty, South Dakota (Tribal Members and Nonmembers)*—(1) *Ducks:* Same species, season dates, season length, and daily bag and possession limits as established by South Dakota in the Low Plains Area under final Federal frameworks to be announced.

(2) *Canada and White-fronted Geese:* Begin October 21, 1989, with longest season permitted South Dakota in Missouri River Unit under final Federal frameworks to be announced. *Daily Bag and Possession Limits:* Same as permitted South Dakota in Missouri River Unit under final Fedeal frameworks to be announced.

(3) *Other Geese* (Blue and Snow): Same season dates, season length, and daily bag and possession limits as established by South Dakota under final Federal frameworks to be announced.

(4) *General Conditions:* The waterfowl hunting regulations established by this final rule apply only to designated tribal and trust lands. Tribal and nontribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (duck stamp) signed in ink across the face. Special regulations established by the Yankton Sioux Tribe also apply on tribal and trust lands.

Dated: August 22, 1989.

Richard N. Smith,

Acting Director,

[FR Doc 89-20090 Filed 8-24-89; 8:45 am]

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Federal Register

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