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federal register

Monday
August 12, 1985

Briefings on How To Use the Federal Register—
For information on briefings in Washington, DC, see announcement on the inside cover of this issue.

Selected Subjects

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Selected Subjects

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 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.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

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

WASHINGTON, DC

WHEN: September 6 and 27; at 9 am (identical sessions).

WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.

RESERVATIONS: Call Martin Franks, Workshop Coordinator, 202-523-5239.

FUTURE WORKSHOPS: Additional workshops are scheduled bimonthly in Washington starting in November. The January 1986 workshop will include facilities for the hearing impaired. Dates will be announced later.

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Presidential Documents

Title 3—

The President

Executive Order 12528 of August 8, 1985

Presidential Board of Advisors on Private Sector Initiatives

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to establish, in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), an advisory committee on private sector initiatives, it is hereby ordered as follows:

Section 1. *Establishment.* (a) There is established the Presidential Board of Advisors on Private Sector Initiatives. The Board shall be composed of not more than 30 members, to be appointed or designated by the President.

(b) The President shall designate a Chairman and Vice Chairman from among the members of the Board. The Deputy Assistant to the President and Director of Private Sector Initiatives shall serve as Secretary to the Board.

Sec. 2. *Functions.* (a) The Board shall advise the President and the Secretary of Commerce, through the White House Office of Private Sector Initiatives, with respect to the objectives and conduct of private sector initiative policies, including methods of increasing public awareness of the importance of public/private partnerships; removing barriers to development of effective social service programs which are administered by private organizations; strengthening the professional resources of the private social service sector; and studying options for promoting the long-term development of private sector initiatives in the United States.

(b) The Board shall seek the advice, ideas, and recommendations of the White House Office of Private Sector Initiatives and such other government offices as the President may deem appropriate in order to fulfill its responsibilities under this Order.

(c) In performance of its advisory responsibilities, the Board shall report to the President from time to time as requested.

Sec. 3. *Administration.* (a) The heads of Executive agencies shall, to the extent permitted by law, provide the Board such information with respect to private sector initiative issues and such other support as it may require for purposes of carrying out its functions.

(b) Members of the Board shall serve without compensation for their work on the Board. However, members appointed from among private citizens of the United States shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the government service (5 U.S.C. 5701–5707).

(c) The Department of Commerce shall, to the extent permitted by law and subject to the availability of funds, provide the Board with such administrative services, funds, and other support services as may be necessary for the effective performance of its functions.

Sec. 4. *General.* (a) The Board shall terminate two years from the date of this Order, unless sooner extended.

Ronald Reagan

THE WHITE HOUSE,
August 8, 1985.

[FR Doc. 85-19216
Filed 8-8-85; 2:44 pm]
Billing code 3195-01-M

Rules and Regulations

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-NM-03-AD; Amdt. 39-5120]

Airworthiness Directives; Airbus Industrie Model A300 B2 and B4 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises an existing airworthiness directive (AD) applicable to Airbus Industrie Model A300 B2 and B4 series airplanes which requires inspection of the decompression panels in the forward cargo compartment. This amendment adds two airplanes to the applicability statement, introduces some minor changes in the accomplishment instructions, and adds an additional terminating modification.

EFFECTIVE DATE: September 19, 1985.

ADDRESSES: The service bulletins specified in this AD may be obtained upon request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France, or may be examined at the Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal.

FOR FURTHER INFORMATION CONTACT: Mr. H.N. Wantiez, Standardization Branch, ANM-113; telephone (206) 431-2979. Mailing Address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The FAA issued Amendment 39-4070 (46 FR 17538; March 19, 1981), AD 81-07-02, which requires inspections of the decompression panels in the forward cargo compartment. AD 81-07-02 makes reference to Airbus Industrie Service Bulletins A300-25-248, original issue; A300-25-138, Revision 4; and A300-25-149, Revision 3. The manufacturer has since issued later revisions to these service bulletins. Two more airplanes were added in the applicability statement by the latest revisions. Otherwise, the changes introduced by the revisions are minor: clarification of instructions, changes in some materials, and changes in some references. The manufacturer also released Service Bulletin A300-25-332 which describes Modification No. 3361. Incorporation of this modification would eliminate the need for the repetitive inspection requirements of the existing AD.

A proposal to amend Part 39 of the Federal Aviation Regulations by amending AD 81-07-02 to include two more airplanes in the applicability statement and to make reference to the latest service bulletins was published in the Federal Register on March 27, 1985 (50 FR 12036). The comment period closed on May 20, 1985, and interested persons have been afforded an opportunity to participate in the making of this amendment. Two comments were received. Both commenters agreed with the proposal.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that two additional airplanes of U.S. registry will be affected by this revision, that it will take approximately 500 manhours per airplane to accomplish the required actions, and that the average labor costs will be $40 per manhour. Repair parts are estimated at $6,576 per airplane. Based on these figures, the total cost impact of this revision on U.S. operators is estimated to be $53,152.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact on a substantial number of small entities because few, if any, Airbus Industrie Model A300 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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

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

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

2. By revising Airworthiness Directive 81-07-02, Amendment 39-4070 (46 FR 17538; March 19, 1981), to read as follows:

Airbus Industrie: Applies to Model A300 B2 and B4 series airplanes listed in Airbus Industrie Service Bulletin A300-25-138, Revision 8, dated June 27, 1983, certificated in any category. To prevent loss of fire protection due to separation of or damage to blowout panels in the ceiling and sidewalls of the forward cargo compartments, which could result in a degradation of the fire extinguishing capability in the aircraft, accomplish the following, unless previously accomplished:

A. Inspect the forward cargo compartment decompression panels for condition and attachment in the panel cut-outs in accordance with the accomplishment instructions of Airbus Industrie Service Bulletins A300-25-138, Revision 8, dated June 27, 1983, according to the following schedule:

(1) Daily, if Modifications 1878 and 2506, described in Airbus Industrie Service Bulletin A300-25-149, Revision 5, dated March 28, 1980, and A300-25-248, Revision 5, dated January 4, 1982, have not been incorporated;

(2) Within the next 600 hours time in service after the effective date of this AD and at subsequent intervals not to exceed 600 flight hours in service, if Modifications 1878 and 2506 have been incorporated.

B. If, during the inspections required by paragraph A. of this AD, damage to or separation of decompression panels is found, perform within the next 25 hours time of service from the last inspection the repair described in paragraph 2C of Airbus Industrie Service Bulletin A300-25-138, Revision 8.

Note.—Inspections and modifications accomplished in accordance with Amendment 39-4070 constitute compliance with the requirements of paragraphs A. and B. of this Amendment.

C. Terminating action for the requirements of this AD is accomplished if Modification 3361, described in Airbus Industrie Service

Bulletin A300-25-332, Revision 1, dated June 10, 1982, is incorporated.

D. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

This amendment becomes effective September 19, 1985.

Issued in Seattle, Washington, on August 5, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85-19017 Filed 8-9-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-AWP-4]

Alteration of Control Zone and Transition Area; Yuma, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters and redefines the control zone and transition area at Yuma, Arizona. The realignment of the controlled airspace is required to contain all of the civil and military IFR operations at Yuma Marine Corp Air Station (MCAS)/Yuma International Airport, a joint use airport, and correct reference points. The current definition refers to Yuma VORTAC which has been renamed and the proposed definitions use geographical coordinates for clarity. This action is necessary to ensure segregation of aircraft using approach procedures in instrument weather conditions and other aircraft operating in visual weather conditions.

EFFECTIVE DATE: 0901 G.m.t., September 26, 1985.

FOR FURTHER INFORMATION CONTACT: Curtis Alms, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration (FAA), 15000 Aviation Boulevard, Hawthorne, California 90216; telephone (213) 536-6649.

SUPPLEMENTARY INFORMATION:

History

On June 6, 1985, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter and redefine the control zone and transition operations at Yuma Marine Corp Air Station (MCAS)/Yuma International Airport, a joint use airport, and correct reference points. Interested parties were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received objecting to the alteration, correction, and redefinition of the Yuma, Arizona, Control Zone and Transition Area. Except for editorial changes, this amendment is the same as that proposed in the notice. Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were republished in Handbook 7400.6A dated January 2, 1985.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters and redefines the Yuma, Arizona, Control Zone and Transition Area. The additional controlled airspace is to ensure that aircraft conducting IFR operations are separated from aircraft conducting VFR operation when the visibility is less than three miles, thereby enhancing the safety of such operations. The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Control zone, Transition areas, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the FAR as follows:

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

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

2. Section 71.171 is amended as follows:

Yuma, Arizona—[Revised]

"Within a 5-mile radius of Yuma MCAS/Yuma International Airport (lat. 32°39'23.5" N., long. 114°36'18.7" W.); beginning at lat. 32°41'00" N., long. 114°31'20" W.; clockwise via the 5-mile radius circle to lat. 32°43'30" N., long. 114°38'20" W.; to lat. 32°46'10" N., long. 114°38'20" W.; to lat. 32°46'10" N., long. 114°34'10" W.; to lat. 32°43'30" N., long. 114°34'10" W.; to lat. 32°44'20" N., long. 114°32'50" W.; to lat. 32°42'00" N., long. 114°30'00" W.; thence to the point of beginning."

3. Section 71.181 is amended as follows:

Yuma, Arizona—[Revised]

"That airspace extending upward from 700 feet above the surface beginning at lat. 32°41'00" N., long. 114°24'10" W.; clockwise via the 11-mile radius of the Yuma MCAS/Yuma International Airport (lat. 32°39'23.5" N., long. 114°36'18.7" W.); to lat. 32°29'40" N., long. 114°34'10" W.; to lat. 32°28'00" N., long. 114°34'30" W.; to lat. 32°28'00" N., long. 114°38'40" W.; to lat. 32°29'40" N., long. 114°38'30" W.; thence clockwise via the 11-mile radius excluding that portion outside the United States to lat. 32°47'30" N., long. 114°42'00" W.; to lat. 32°57'30" N., long. 114°42'00" W.; to lat. 32°57'30" N., long. 114°15'00"W.; to lat. 32°41'00" N., long. 114°15'00" W.; thence to the point of beginning; that airspace extending upward from 1,200 feet above the surface bounded by an area starting at a point lat. 33°02'00" N., long. 114°51'00" W.; to lat. 33°05'30" N., long. 114°24'30" W.; to lat. 32°23'00" N., long. 114°24'30" W.; to lat. 32°29'30" N., long. 114°46'00" W.; thence to the point of beginning excluding that portion outside the United States, extending upward from 4,000 feet MSL, bounded by an area starting at lat. 33°22'30" N., long. 114°47'30" W.; to a point lat. 33°03'00" N., long. 114°44'00" W.; to lat. 33°02'00" N., long. 114°51'00" W.; to lat. 32°50'00" N., long. 114°49'00" W.; to lat. 32°49'30" N., long. 115°15'00" W.; to lat. 32°56'20" N., long. 115°15'00" W.; to lat. 33°04'00" N., long. 114°56'00" W.; to lat. 33°24'00" N., long. 114°53'00" W.; thence to the point of beginning; that airspace extending upward from 9,000 feet MSL bounded by a point lat. 33°22'30" N., long. 114°38'00" W.; to lat. 33°23'00" N., long. 114°34'00" W.; to lat. 33°04'00" N., long. 114°34'00" W.; thence to the point of beginning."

Issued in Los Angeles, California on July 24, 1985.

Wayne C. Newcomb,

Acting Director, Western-Pacific Region.

[FR Doc. 85-19021 Filed 8-9-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-ACE-06]

Revocation of Transition Area—West Plains, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revokes the West Plains, Missouri, transition area. It was anticipated that instrument approaches would be made to the West Plains, Missouri, Airport utilizing a Nondirectional Radio Beacon (NDB) as a navigational aid. The transition area was established based on this NDB. However, the City of West Plains has permanently closed their airport effective May 8, 1985, and the NDB will be relocated. Therefore, the transition area is unnecessary.

EFFECTIVE DATE: November 21, 1985.

FOR FURTHER INFORMATION CONTACT: Dale R. Carnine, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: The City of West Plains, Missouri, has permanently closed their airport effective May 8, 1985, and the NDB is being relocated. Therefore, the transition area which was established based on that NDB is no longer necessary and is being revoked. Accordingly, the FAA hereby releases that airspace below 700 feet above the ground level for other than instrument flight operations. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

Discussion of Comments

On Page 23312 of the **Federal Register** dated June 3, 1985, the FAA published a Notice of Proposed Rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to revoke the transition area at West Plains, Missouri. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received as a result of the Notice of Proposed Rulemaking.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 71 of the FAR (14 CFR Part 71) as follows:

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

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

2. By amending § 71.181 as follows:

West Plains, Missouri

Revoke transition area.

This amendment becomes effective at 0901 G.m.t. November 21, 1985.

Issued in Kansas City, Missouri, on August 1, 1985.

Edwin S. Harris,

Director, Central Region.

[FR Doc. 85-19016 Filed 8-9-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-AGL-15]

Alteration of Control Zone; Ohio

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The nature of this action is to alter the Columbus Lockbourne AFB, Ohio control zone to identify Rickenbacker Airport as the correct name of the military establishment and to more accurately define the South Columbus, Ohio, airport reference point by minor changes in the listed geographical coordinates.

EFFECTIVE DATE: 0901 G.m.t., September 26, 1985. Comments must be received on or before September 10, 1985.

ADDRESS: Send comments on the proposal in triplicate to: Federal Aviation Administration, Regional Counsel, AGL-7, Attn: Rules Docket No. 85-AGL-15, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

An informal docket may also be examined during normal business hours at the Airspace, Procedures, and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The currently defined and published control zone for Columbus Lockbourne AFB, Ohio, should correctly read "Columbus Rickenbacker Airport, OH." Where Lockbourne AFB is referenced in the description, Richenbacker Airport should be shown in its place. This action also corrects the geographical coordinates shown for South Columbus Airport, Columbus, Ohio, from latitude 39°53'11" N., longitude 82°57'53" W. to latitude 39°53'22" N., longitude 82°57'51" W.

Aeronautical maps and charts will continue to reflect the defined areas which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Request for Comments on the Rule

Although this action is in the form of a final rule, which changes the name of the Columbus Lockbourne AFB (Richenbacker Airport), Ohio control zone and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the Federal Aviation Administration (FAA) will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to correct the currently published Columbus Lockbourne AFB

(Richenbacker Airport Ohio control zone.

Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 2, 1985.

Under the circumstances presented, the FAA concludes that there is an immediate need for a regulation to alter the Columbus Lockbourne AFB, Ohio control zone and to define the South Columbus, Ohio airport reference point.

Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is contrary to the public interest and that good cause exists for making this amendment effective coincident with the next charting date.

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

List of Subjects in 14 CFR Part 71

Control zones, Aviation safety.

Adoption of the Amendment

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

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

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

2. By amending § 71.171 as follows:

Columbus, Richenbacker Airport, OH

Within a 5.5 mile radius of the center, latitude 39°49'00" N., longitude 82°56'00" W., of Richenbacker Airport, Columbus, Ohio, within 1.5 miles each side of the Richenbacker TACAN 042° radial, extending from the 5.5 mile radius zone to 7 miles northeast of the TACAN; within 1.5 miles each side of the Richenbacker TACAN 229° radial, extending from the 5.5 mile radius zone to 6 miles southwest of the TACAN; within a 1.5 mile radius of the center, latitude 39°53'22" N., longitude 82°57'51" W., of South Columbus Airport, Columbus, Ohio.

Issued in Des Plaines, Illinois, on July 19, 1985.

Carl B. Schellenberg,

Acting Director, Great Lakes Region.

[FR Doc. 85-18553 Filed 8-9-85; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 556 and 558

Animal Drugs, Feeds, and Related Products; Monensin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Elanco Products Co. The supplement provides for the use of monensin in broiler and replacement chickens with no withdrawal period. The regulations are also amended to revoke the tolerance for negligible residues and to establish the safe concentrations for monensin residues in edible chicken tissues.

EFFECTIVE DATE: August 12, 1985.

FOR FURTHER INFORMATION CONTACT: Adriano Gabuten, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: Elanco Products Co., A Division of Eli Lilly & Co., Lilly Corporate Center, Indianapolis, IN 46285, filed a supplement to its approved NADA 38-878 for monensin for broiler and replacement chickens. The drug is used as an aid in the prevention of coccidiosis caused by *E. necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima.* The supplement provides for use of monensin in broiler and replacement chickens without a withdrawal period. The application is approved and the regulations are amended accordingly. Additionally, the regulations are amended to revoke the tolerance for negligible residues of monensin in edible chicken tissues and to establish the safe concentrations for monensin residues in edible chicken tissues. The agency now has sufficient data to conclude a tolerance is not needed to assure safe use of monensin in chickens. The basis for approval is discussed in the freedom of information summary.

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

The Center for Veterinary Medicine has determined under 21 CFR 25.24(d)(1)(i) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 556

Animal drugs, Foods, Residues.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Parts 556 and 558 are amended as follows:

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

1. The authority citation for 21 CFR Part 556 continues to read as follows:

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

2. Part 556 is amended by revising § 556.420 to read as follows:

§ 556.420 Monensin.

(a) *Cattle.* A tolerance of 0.05 part per million is established for negligible residues of monensin in the edible tissues of cattle.

(b) *Chickens.* A tolerance for a marker residue of monensin in chickens is not needed. The safe concentrations for total residues of monensin in chickens are 1.5 parts per million in muscle, 3.0 parts per million in skin with adhering fat, and 4.5 parts per million in liver. "Tolerance" in this paragraph refers to the concentration of a marker residue in the target tissue selected to monitor for total residues of the drug in the target animals. "Safe concentrations" refers to the concentration of total residues considered safe in edible tissues.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

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

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

§ 558.355 [Amended]

2. Section 558.355 *Monensin* is amended in paragraph (f)(1)(i)(*b*) by removing the phrase "withdraw 72 hours before slaughter;" and inserting in its place "in the absence of coccidiosis, the use of monensin with no withdrawal period may limit feed intake resulting in reduced weight gain;" and in paragraph (f)(4)(iii) by removing the phrase "withdraw 72 hours before slaughter;".

Effective date. This regulation is effective August 12, 1985.

Dated: August 5, 1985.

Gerald B. Guest,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 85–19038 Filed 8–9–85; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin and Sulfamethazine

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed for Hubbard Milling Co. The supplement provides for manufacturing premixes containing 5, 20, or 40 grams per pound each of tylosin and sulfamethazine used to make finished swine feeds.

EFFECTIVE DATE: August 12, 1985.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1414.

SUPPLEMENTARY INFORMATION: Hubbard Milling Co., 424 North Front St., Mankato, MN 56001, is the sponsor of a supplement to NADA 94–402 submitted on its behalf by Elanco Products Co. The supplement provides for the manufacture of premixes containing 5, 20, or 40 grams per pound each of tylosin (as tylosin phosphate) and sulfamethazine intended for use to subsequently make finished swine feeds. The resulting feeds are for use in maintaining weight gains and feed efficiency in the presence of atrophic rhinitis, lowering the incidence and severity of *Bordetella bronchiseptica* rhinitis, preventing swine dysentery (vibrionic), and controlling swine pneumonias caused by bacterical pathogens (*Pasteurella multocida* and/or *Corynebacterium pyogenes*). The NADA was previously approved for the manufacture of premixes containing 10 grams per pound each of tylosin and sulfamethazine. The supplement is approved and the regulations are amended to reflect the approval. The basis for approval is discussed in the freedom of information summary.

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

The agency has determined under 21 CFR 25.24(d)(1)(i) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

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

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

2. Section 558.630 *Tylosin and sulfamethazine* is amended in paragraph (b)(2) by removing No."012190" and in paragraph (b)(10) by numerically inserting No. "012190".

Dated August 5, 1985.

Marvin A. Norcross,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 85–19039 Filed 8–9–85; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed for Heinold Feeds, Inc., providing for the manufacture of 5-, 20-, and 40-gram-per-pound tylosin premixes used to make complete feeds for swine, beef cattle, and chickens.

EFFECTIVE DATE: August 12, 1985.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1414.

SUPPLEMENTARY INFORMATION: Heinold Feeds, Inc., P.O. Box 377, Kouts, IN 46347, is the sponsor of a supplement to NADA 95–628 submitted on its behalf by Elanco Products Co. The supplement provides for the manufacture of 5-, 20-, and 40-gram-per-pound tylosin premixes used to make complete feeds for swine, beef cattle, and chickens for use as in 21 CFR 558.625(f)(1)(i) through (vi). The supplement is approved and the regulations are amended to reflect the approval.

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

The agency has determined under 21 CFR 25.24(d)(1)(i) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to

the Center for Veterinary Medicine, Part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

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

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

2. Section 558.625 is amended by revising paragraph (b)(9) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(9) To 043727: 4 grams per pound, paragraph (f)(1)(vi)(*a*) of this section; 5, 10, 20, and 40 grams per pound, paragraph (f)(1)(i) through (vi) of this section.

* * * * *

Dated: August 5, 1985.

Marvin A. Norcross,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 85-19040 Filed 8-9-85; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 245

[Docket No. R-85-1125; FR-1730]

Tenant Participation in Multifamily Housing Projects

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule provides an opportunity for tenants in certain types of subsidized multifamily housing projects to comment on requests by project owners for HUD approval of any of the following owner actions: (1) Conversion from project-paid utilities to tenant-paid utilities or reduction in tenant utility allowances; (2) conversion of residential units to nonresidential use, cooperative housing or condominiums; (3) a partial release of mortgage security; and (4) major capital additions to a project. The rule would also continue the requirements for tenant participation in project rent increases, as provided in existing Subpart A of 24 CFR Part 245. The amendments implement section 202(b)(1) of the Housing and Community Development Amendments of 1978, as amended by section 329F of the Housing and Community Development Amendments of 1981, and reflect the statutory changes made by section 217 of the Housing and Urban-Rural Recovery Act of 1983, as they apply to section 202 of the 1978 Act.

EFFECTIVE DATE: October 4, 1985.

FOR FURTHER INFORMATION CONTACT: James Tahash, Director, Program Planning Division, Office of Multifamily Housing Management, Department of Housing and Urban Development, Washington, D.C. 20410, Telephone: (202) 426-3970. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Section 202(b)(1) of the Housing and Community Development Amendments of 1978 (the 1978 Act), as amended by section 329F of the Housing and Community Development Amendments of 1981, provides for the participation by tenants of "multifamily housing projects" in certain specified actions by owners of such projects. Under this provision, the Secretary may require tenant participation whenever a project owner must obtain HUD approval for one of the following actions: (1) Rent increase; (2) conversion of residential rental units to nonresidential use, cooperative housing, or condominiums; (3) partial release of security; or (4) major physical alterations. Tenant participation includes adequate notice of, reasonable access to relevant information about, and an opportunity to comment on these actions. These comments have to be taken into consideration by HUD in making approval decisions.

On December 20, 1983, the Department published a proposed rule for public comment (at 48 FR 56232) which would implement the foregoing provisions of section 202. Eleven organizations, including project owners, housing public interest groups, legal services organizations, State housing agencies, real estate management firms, and an association of professional property managers, submitted written comments.

Following is a summary of comments received, the Department's response to them, and an explanation of the changes from the proposed rule incorporated in the final rule.

Tenant Participation in General

Several commenters questioned the wisdom of having tenant participation requirements, particularly with respect to utility conversions, conversions to commercial use, partial release of mortgage security, and major capital additions. These commenters questioned whether tenants had the experience or knowledge to comment effectively. One of these commenters contended that applying tenant participation procedures to partial release of security constitutes a violation of private property rights. Another commenter believed that the tenant participation process would lead to harassment of owners through litigation or by tenant organizations. This commenter questioned the constitutionality of the procedures, since they provided no appeal rights. These commenters also believed that the net effect of these procedures would simply be to increase administrative expenses. One commenter suggested that HUD, upon receiving an owner's request for approval of certain actions, notify the tenants, receive and screen the comments, and transmit the relevant comments with HUD's appraisal to the owner for comment.

The Department disagrees with these comments. Questions concerning the need for or wisdom of tenant review procedures are outside the scope of the rule, since they question the underlying statutory intent, and not the regulatory implementation of that authority. Tenant participation procedures are not intended to create an adjudicatory system with an appeal process. Rather, they are intended to provide information to assist HUD in its decision-making. While tenants may not have technical expertise in managing a project, they do have information (not the least of which concerns the effect of the proposed action on the tenant body) that can be helpful to the owner in deciding to seek HUD approval of a proposed action and to HUD in determining whether to approve the action. The Department's experience with tenant participation with respect to requests for rent increases does not support the commenter's contention that tenant participation procedures lead to harassment of owners by tenants.

Tenant comment on whether HUD should approve a partial release of mortgage security does not constitute a violation of private property rights. The contractual relationships entered into by owners under the programs covered by this rule are not purely private transactions. They were undertaken to carry out Federal housing programs, and the right of HUD to protect the Government's interest through approving partial releases of mortgage security existed from the inception of the contractual relationships. Section 202 of the 1978 Act, as amended, and these implementing regulations do no impair any rights under these contracts.

but simply give tenants living in the project the right to comment on actions that may affect them. HUD is not required to follow tenant comments. Rather, it must take these comments into consideration in reaching a decision. Decisions concerning partial releases of security and the other covered actions are based on consideration of all relevant matters, not just tenant comments.

The Department does not believe that this rule will cause any significant increase in administrative costs to project owners. These owners already must follow tenant participation procedures for rent increases, including rent increases triggered by conversion to tenant-paid utilities. The additional actions that require tenant participation should occur less frequently than requests for rent increases. An owner-managed tenant participation process is more efficient than a HUD-managed process, since the landlord-tenant relationship is between the owner and the tenant, while the regulatory contractual relationship is between HUD and the owner. Therefore, it is better for the owner to take tenant comment into consideration in making requests for HUD approval.

Applicability of Part (§ 245.10)

State-Assisted, Non-Insured Projects

Under the proposed rule, the tenant participation procedures would apply, as they had under 24 CFR Part 401 (redesignated 24 CFR Part 245, Subpart D, after publication of the proposed rule), to State-assisted, non-insured projects with respect to rent increases. The proposed rule would also have extended the tenant participation procedures to State-assisted, non-insured projects with respect to requests for conversions from project-paid utilities to tenant-paid utilities and for reductions in utility allowances. The preamble to the proposed rule explained that these procedures were being applied to State-assisted, non-insured projects in these situations because such conversions or reductions frequently result in increases in total housing costs for project tenants, where this result is likely to occur, requests for approval to convert or to reduce utility allowances are subject to Part 245, Subpart D.

The preamble to the proposed rule noted that the Department had submitted authorization legislation to remove State-assisted, non-insured projects from the coverage of section 202 of the 1978 Act. The preamble also stated the Department's intent to publish a proposed rule concerning extending coverage of these tenant participation requirements to State-assisted, non-insured projects if the proposed legislation was not enacted. The preamble to two other rules contained similar statements. The first was a final rule, published June 22, 1983 (48 FR 28433), that implemented subsections (b)(2) and (4) of section 202 of the 1978 Act, which concern the efforts of tenants to obtain assistance and to organize, respectively. That final rule added what are now Subparts B and C to Part 245. The second was a final rule, published on September 23, 1983 (48 FR 43310), that implemented that part of subsection (b)(3) of section 202 of the 1978 Act that prohibits leases approved by HUD in connection with the covered programs from containing unreasonable terms and conditions. That final rule did not affect Part 245, but rather amended particular program regulations in 24 CFR Parts 215, 221, and 236.

HUD's legislative amendment proposal was not enacted. Rather, section 217 of the Housing and Urban Rural-Recovery Act of 1983 (the 1983 Act) amended section 201 of the 1978 Act to make section 201 expressly applicable to State-assisted, non-insured projects. Because section 202 defines its coverage by reference to section 201, the change made by section 217 of the 1983 Act applies with equal force to section 202.

This final rule is intended to implement fully section 217 of the 1983 Act with respect to the applicability of sections 202(b) (1), (2), and (4) of the 1978 Act to State-assisted, non-insured projects. The Department plans no further rulemaking for these provisions. HUD will implement section 217 of the 1983 Act with respect to the applicability of section 202(b)(3) of the 1978 Act to State-assisted, non-insured projects through separate rulemaking.

The final rule revises § 245.10 to add a new paragraph (b) which was not in the proposed rule. This new paragraph makes Subparts B (tenant organizations) and Subpart C (efforts to obtain assistance) applicable to State-assisted, non-insured projects.

The final rule makes no change from the proposed rule with respect to the applicability of the tenant participation requirements to State-assisted, non-insured projects. Under the final rule, the tenant participation procedures continue to apply to State-assisted, non-insured projects with respect to a rent increase, and a conversion from project-paid utilities to tenant-paid utilities and a reduction in utility allowances. Requests for rent increases require written approval from HUD, and hence fall within the scope of section 202(b)(1) the 1978 Act. As noted below, HUD has treated requests for conversions to tenant-paid utilities and reductions in utility allowances as equivalent to requests for rent increases.

The final rule does not extend the tenant participation procedures to State-assisted, non-insured projects with respect to (1) conversion of residential rental units to non-residential use, cooperative housing, or condominiums; (2) a partial release of security; or (3) a major capital addition. These actions do not require HUD approval and thus do not fall within the scope of section 202(b)(1) of the 1978 Act.

The Department received several comments concerning the applicability of the proposed rule to State-assisted, non-insured projects. One State agency commenter objected to what it perceived to be an unnecessary extension of tenant participation procedures to State-assisted, non-insured projects. Another State agency commenter indicated that, while it did not have a strong objection to allowing tenant comments on rent increases and on conversion from central to individual metering, it believed such action to be contrary to the concept of deregulation. A third State agency commenter expressed agreement with extending tenant participation procedures to conversion to tenant-paid utilities and to reductions in utility allowances, since the commenter considered these actions equivalent to rent increases. It also agreed with the proposed rule's omission of mandatory tenant participation procedures for the other actions listed in section 202. The two legal service commenters urged that, with respect to State-assisted, non-insured projects, the tenant participation requirements be applied to all of the actions described in the rule.

HUD disagrees with the assertion that providing tenant participation for those covered actions is unnecessary. The clear statutory intent is that tenant participation in actions requiring written HUD approval is important and contributes to the success operation of projects. HUD has considered deregulation and in the interest of furthering the principles of deregulation has, in general, limited tenant participation procedures to the actions specified in section 202(b)(1) of the 1978 Act that require written HUD approval. The one exception, is a request for conversion to tenant-paid utilities and reductions, which is an action not specifically mentioned in section 202(b)(1). It is included as a covered action, as noted above, because such

conversions are equivalent to requests for rent increases.

Conversion to Section 8 Assistance

Several commenters urged that the final rule be extended to apply to projects that are converted from assistance under the section 236 or Rent Supplement program to assistance under the section 8 program. It should be noted that the proposed rule would have applied the tenant participation requirements to a project in which the rental assistance payment contract under section 236 was converted to a housing assistance payment contract under section 8, since the project, after conversion, would still meet the requirements of § 245.10(a)(1). (The project would still be assisted under section 236, since conversion to section 8 does not affect the interest reduction payment contract under section 236.) The proposed rule, however, did not provide for tenant participation in a project converted from the Rent Supplement program to the section 8 program.

Section 217(b)(2) of the 1983 Act amended section 201(c)(1) of the 1978 Act to make projects that are converted from section 236 or Rent Supplement assistance to section 8 assistance subject to section 202. The Department, therefore, has added a new § 245.10(a)(2) (proposed § 245.10(a)(2) is now § 245.10(a)(3)) to make rent supplement assisted projects that are converted to section 8 assistance under 24 CFR Part 886, Subpart A subject to the tenant participation procedures. Section 236-assisted projects in which the rental assistance payments are converted to section 8 assistance under 24 CFR Part 886, subpart A remain subject to these tenant participation procedures under § 245.10(a)(1).

Section 8-Assisted Tenants

Proposed § 245.10(c)(2) would exclude tenants residing in an otherwise covered project who are receiving section 8 assistance from the tenant participation provisions for rent increases in subpart D. The proposed rule's preamble explained that such tenants would not be affected by a rent increase since their rent is based on a percentage of their income and does not increase solely as a result of an increase in the unit rent. Several commenters urged that these tenants be provided an opportunity to participate in rent increase requests. One commenter stated that section 8-assisted tenants may ultimately stop receiving assistance when their income rises and will, at that time, be affected by the rent increase. Another commenter stated that section 8-assisted tenants could be affected by a rent increase if the basic rents exceed the section 8 fair market rent levels for the project and also stated that input from section 8-assisted tenants would help HUD assure that the section 8 contract rents remain reasonable.

HUD is not persuaded that there is a need to include in the rent increase process section 8 Certificate Program tenants who reside in a covered project. Tenants who stop receiving section 8 assistance when their income increases are entitled to tenant participation procedures for future rent increases. Section 8-assisted tenants who will only be affected by a rent increase through a possible future increase in income have their interests protected by the fact that other tenants, who will be more immediately affected by a rent increase, can comment. Similarly, HUD's review of a rent increase request, including comments from tenants more immediately affected than the section 8-assisted tenants, provides an adequate mechanism for ensuring that section 8 contract rents remain reasonable. The final rule adds a reference to 24 CFR Part 882, subparts A and B to clarify that in § 245.10(d)(2) the exception applies only to the section 8 Certificate Program tenants.

Changes in HUD's assistance payments under section 8 are not affected by the section 8 fair market rents. They are made through contract rent adjustments. HUD has revised its procedures so that, with respect to a section 236 project, the contract rents are adjusted by the amount of any increase in the basic rents (the minimum rent a tenant must pay). Therefore, section 8-assisted tenants would not be affected by an increase in basic rents; HUD's section 8 assistance payment would increase.

With the exception of rent increases, discussed above, the tenant participation procedures under the proposed rule would have applied to section 8-assisted tenants with respect to all other actions covered by the rule. The proposed rule, however, expressly asked for comment on whether section 8-assisted tenants should be excluded from participation regarding requests for approval of major capital additions. While several commenters questioned the need for tenant participation procedures in general, no commenter presented any argument why section 8-assisted tenants should be excluded from participation on questions of major capital additions. The final rule follows the proposed rule, and permits participation by section 8 tenants on major capital additions requests.

Cooperatives

Proposed § 245.10(c)(1) would not apply the tenant participation procedures to projects that are cooperative housing corporations or associations. The preamble to the proposed rule explained that this exception was based on the fact that the residents collectively own the project and have input into the management and operation of the project through election of board members. The legal service commenters urged that this exception be dropped. One of these commenters acknowledged that election of board members gives the cooperative members a form of participation, but stated that the decisions involved were so important that direct participation by the cooperative members was needed. Another commenter questioned the basis in fact for the claim that the right to elect board members provides adequate access to decisionmaking for cooperative members. This commenter also pointed out that non-member residents of a cooperative would have no participation.

The Department continues to believe that the more appropriate means for assuring tenant participation in a cooperative is for cooperative members to exercise their membership rights. The relative number of non-member residents is low (not more than 10 percent of the units in a cooperative may be leased to non-member tenants). Their interests are protected by the fact that the project is owned by persons who are similarly situated. Accordingly, HUD does not believe that the presence of non-member tenants should alter the decision to rely on the cooperative itself as the forum for tenant participation.

Section 202 Elderly or Handicapped Projects.

Under the proposed rule, subparts D (rent increases) and E (utility conversions and reductions in utility allowances) would apply to all section 202 projects. Subparts B (tenant organizations), C (efforts to obtain assistance), F (requests for approval of conversions), G (partial release of mortgage security), and H (major capital additions) were intended to apply to a section 202 project for the elderly or handicapped only if the project was assisted under the Rent Supplement Program. (See 48 FR 56234.) One commenter urged that these requirements be extended to all other section 202 projects. The commenter believed that uniform treatment of all section 202 projects would be beneficial and would also reflect the legislative

purpose that tenants can contribute to the successful operation of multifamily housing projects.

The Department has not adopted this suggestion. The rule applies the tenant participation requirements to those programs that are statutorily covered under section 202 of the 1978 Act. The section 202 direct loan program for the elderly or handicapped is not itself a statutorily covered program under section 202 of the 1978 Act. Congress neither included this program in the original section 202 nor in its 1983 amendment (discussed above), which extended coverage to rent supplement projects that are converted to section 8 assistance. The final rule, consistent with the 1983 amendment, does include section 202 projects that had rent supplement assistance and have been converted to section 8 assistance under Part 886, subpart A of this title (see § 245.10(a)(2)). Section 245.10(a)(2) also expressly provides that subparts B through H apply to section 202 projects that are assisted under the Rent Supplement Program.

Both the proposed rule and the final rule provide for tenant participation in *all* section 202 elderly or handicapped projects with respect to requests for rent increases and for requests for approval of utility conversion or reduction in utility allowances. The rule continues the previous coverage in this area because it is not HUD's intent to narrow this coverage under the guise of implementing section 202. This broader coverage is not required by section 202 of the 1978 Act.

Retroactive Application of Rule

One commenter objected to the retroactive application of the tenant participation procedures to projects currently in existence and to owners who had no opportunity to consider the cost of such procedures before they decided to participate in the housing program. Implementation of these tenant participation requirements is not a retroactive application of the law. No owner is being asked to reprocess actions completed before the rule becomes effective. Rather, the rule and the statute it implements consitute a prospective application of new requirements to parties who are subject to existing contracts. While the Department is sensitive to project owners' concerns that these requirements may cause the owner unanticipated costs, the law plainly permits HUD to regulate program participants and permits Congress to impose additional statutory requirements on them. (See *Thorpe* v. *Housing Authority*, 393 U.S. 268, 279 (1969) and *Federal Housing Administration* v. *Darlington, Inc.*, *358 U.S. 90, 91 (1958).)*

Notice

One legal service commenter suggested that all notices should indicate that the proposed request may result in a rent increase, whether or not such an increase is sought. The Department agrees that the actions covered by the rule are actions that could require a rent increase and has amended the notice provisions to incorporate this suggestion. (See §§ 245.510(e), 245.610(e) and 245.710(e).)

One commenter urged that HUD provide standard notices for all covered actions—not just for rent increase. As indicated in the preamble to the proposed rule at 49 FR 56233, HUD believes that owners should be allowed to develop their own notice formats. The final rule is the same as the proposed rule on this issue.

Another commenter stated that the prescribed notice to tenants for a rent increase was too complex to be truly informative to the majority of low-income tenants and provided an alternative format. The Department, as the proposed rule indicated, left the rent increase or decrease format in place only because project owners and tenants are familiar with it. The final rule retains the same notice format. Owners, as before, may adopt their own equivalent notice formats.

The proposed rule would provide for 30 days notice to tenants of a request for approval of one of the covered actions. It also would provide tenants a period of 15 days from date of service of a notice of a material change in the original request. (Proposed §§ 245.310(a), 245.420(c), 245.520(c), 245.620(c), and 245.720(c).) Under this procedure, the 30-day comment period would be extended only if the notice of the material change were served within the last 15 days of the original comments period. One commenter requested that a material change in the request trigger automatic 15-day extension of the comment period.

The Department has not adopted this recommendation. It believes that the procedure as set out in the proposed rule strikes a fair balance between a tenant's need for time to consider the new material and an owner's need for prompt consideration of its request. It should be noted that the rent increase procedures, which have been in effect since 1975, provided a five-day extension only if there were materials submitted in support of the request that were not available to tenants during the first 25 days of the comment period.

One commenter recommended that for those actions requiring a substantial expenditure of funds before implementation, the notice to tenants informing them of HUD's decision should provide that the owner will not undertake the approved action until the required period has expired. This commenter noted that proposed §§ 245.510(e) and 245.410(e), concerning utility meter conversions and condominium or cooperative conversions, respectively, were not as clearly stated as was proposed § 245.710(e) concerning major capital additions. The Department agrees and has clarified these two sections, which are §§ 245.510(f) and 245.410(e) in the final rule.

A commenter requested that any notice to tenants of an owner's intention to submit a request to HUD for approval of a covered action not only notify tenants of their right to seek counsel (as the proposed rule would require) but also list the name, address and phone number of the local legal assistance office. The commenter referred to *Ressler* v. *Landrieu*, 692 F.2d 1212, 1220 (9th Cir. 1982). The Court of Appeals in *Ressler* held that due process required a project owner to supply legal services information to a rejected applicant who was seeking section 8-assisted tenancy. The Department does not believe that there is a need to impose an obligation on project owners to provide legal services information to the tenant body affected by this rule as there is to provide such information to an individual applicant. An individual applicant for assisted admission is far more likely to need assistance in locating counsel than are a group of tenants residing in a project most of whom have telephones and telephone directories.

Two commenters questioned the adequacy of the service of notice set out in proposed § 245.15, which would provide that notice be served either by delivery (either directly or by mail) *or* by posting. These commenters requested that service be effected by both delivery *and* posting. One of these commenters also recommended that if delivery is made in person, a receipt should be obtained from the tenant. The Department believes that posting may not provide adequate notice in projects with more than a few common entrances, and has revised § 245.15 to require in general that notice be delivered, except in high-rise projects where notice may be delivered or posted. The Department does not believe that a receipt requirement is necessary. The purpose of the tenant

participation procedures is to seek comment from tenants to assist HUD in making more informed decisions, not to initiate any form of adverse action against an individual tenant. Proof of service, therefore, is not considered necessary to preserve legal rights.

A commenter stated that there are certain instances when the notice of the decision should provide more than 30 days notice. The commenter noted that displacement could result from a conversion of residential units to commercial use or from conversion to cooperative or condominium use. The commenter recommended that displaced tenants be given, at a minimum, six months notice that they will be expected to vacate. The Department does not agree that the 30-day period in the notice of decision should vary depending on whether the decision can form the basis for a termination of tenancy. The rights of a tenant whose lease is being terminated are governed by 24 CFR Part 247—Evictions from Certain Subsidized and HUD-Owned Projects. Subject to the exception in § 247.5 for substantial rehabilitation and demolition, under § 247.4(c), a notice of termination for cause may be effective only at the end of the lease term but in no case earlier than 30 days after receipt of the tenant notice.

Relocation

Proposed § 245.515(a)(1)(v) would require the owner to pay all relocation costs required by HUD for tenants who must vacate as a result of a conversion of residential rental units to non-residential use. A commenter contended that owners should be required to pay relocation costs any time the approved conversion results in tenant displacement.

The Department does not believe that there is a need to require relocation payments when a project is converted to a cooperative, since such conversion would not terminate the rental subsidy being provided to lower income tenants.

The Department is preparing proposed regulations to implement section 250 of the National Housing Act, which was added by section 433 of the 1983 Act. Section 250 establishes certain conditions upon HUD approval of an owner's prepayment of a mortgage. One of the conditions imposed by section 250 is that the owner have a plan for providing relocation assistance to any lower income tenant who will be displaced as a result of the prepayment and withdrawal of the project from the program. Since conversion to condominium will require prepayment of the existing mortgage, condominium conversion of projects with respect to insured or Secretary-held mortgages will be covered by the rule implementing section 250.

Rent Increase Procedures

One commenter suggested that the regulation state that HUD has authority to initiate a rent decrease. This commenter also wanted a decrease to be effective immediately with delivery of the notice to tenants for comments. HUD does not believe there is any need to revise this rule to refer to HUD-initiated rent decreases. The Department's statutory authority to initiate a rent decrease has been judicially sustained in *Beck Park Apts. v. HUD*, 695 F. 2d 366 (9th Cir. 1982). The *Beck Park* rent decrease was in response to the State-wide decrease in real property taxes caused by the passage of Proposition 13 in California. In the *Beck Park* rent decrease, HUD requested project owners in California to initiate rent increase requests so that decreases caused by lower taxes could be measured against current operating cost information, and to obtain tenant input. This authority to initiate a rent decrease needs to be used rarely, both because of the historic tendency of project costs to increase over time and because the Department has requirements covering the use of surplus cash that may be generated by projects.

The Department also believes that a rent decrease should not be implemented until the process for determining the amount of the decrease is completed. As the *Beck Park* decrease indicates, a rent decrease is not simply a pass through of, for example, a tax reduction. It requires consideration of other costs. The actual amount of a potential rent decrease, therefore, would not be known at the time that tenants were notified of a potential rent decrease.

Section 245.330(c)(3) has been revised to make it clear that the State or local agency is certifying that the mortgagor has complied with requirements of this subpart and not that the State or local agency, itself, has carried out the requirements imposed on the mortgagor. In addition, § 245.330(d) has been revised to make it clear that it is the final disposition of the mortgagor's request that is referred to and not an agency's initial determination to approve a request. The final disposition is either the agency's determination to disapprove the mortgagor's request or HUD's determination following its review of an agency's.

Rent Increase Submissions

The final rule adds an alternative set of documents to be submitted by the mortgagor to support a request for a rent increase. The proposed rule contained the same submission requirements as are in the existing regulations, which require submission of Form HUD 92410, annual Statement of Profit and Loss. The Department amended its program regulations to determine rent increases based in part on audited operating costs, but taking into consideration reasonably anticipated increases in operating costs that will occur within 12 months of the date of filing of the rent adjustment applications. (See 24 CFR 207.19(e)(2) "Rent adjustments".) The Department has developed submission requirements that contain information necessary to implement this so-called forward-budgeted method. Section 245.315 has been revised to add a new § 245.315(b) which contains these submission requirements. A new § 245.315(a) retains the submission requirements based on the Profit and Loss Statement, since the Department has not fully implemented the change to the forward-budgeted method. Ultimately, the Profit and Loss Statement method will be completely phased out. The rule authorizes the local HUD office to specify which method the mortgagor should follow. This revision does not alter the tenants' right to comment. (See § 245.320.)

Utility Conversions and Allowances

One commenter recommended that Subpart E set forth the standard for establishing utility allowances and indicated that the allowances for individually metered projects should be set at actual avarage consumption for units by bedroom size.

The Department has not included utility allowance standards in this rule, which is primarily a procedural rule for obtaining tenant participation. The Department is preparing handbook quidance for determining utility allowance. While allowances may be based on actual average consumption, they may also be derived from utility company data or from a combination of these two methods.

One commenter urged that the regulation require at least annual adjustment in utility allowances. HUD currently performs annual reviews of utility rates and requires that the allowance be adjusted if necessary.

Another commenter stated that approval of a conversion to individual metering should be conditioned on the owner's documenting that all affected units are insulated, weatherstripped, and generally energy efficient. While the Department agrees that such energy saving actions are desirable, it does not believe that conversion to individual

metering should be conditioned on taking these other actions, which without some form of financial assistance may be beyond the ability of the project to absorb without a corresponding rent increase.

A commenter recommended that tenants be given an opportunity to comment when utility allowances are increased as well as when they are decreased. The Department has not provided tenant participation procedures for utility allowance increases because increases are based only on increases in utility rates—a readily ascertainable factual determination nor requiring tenant participation.

The final rule removes proposed § 245.415(a)(ii). This provision would have required the mortgagor to send HUD a copy of the proposed lease, as revised, to indicate those utilities which are to be paid for by the tenants, as part of the mortgagor's request for approval of a utility conversion. This provision is unnecessary since mortgagors are required to use a HUD-approved model lease and HUD will provide a model addendum for use when a project is converted to tenant-paid utilities.

Section 245.435(a)(3) has been revised to make it clear that the State or local agency is certifying that the mortgagor has complied with requirements of this subpart and not that the State of local agency, itself, has carried out the requirements imposed or the mortgagor. In addition, § 245.435(d) has been revised to make it clear that it is the final disposition of the mortgagor's request that is referred to and not an agency's intital determination to approve a request. The final disposition is either the agency's determination to disapprove the mortgagor's request of HUD's determination following its review of an agency's.

Conversion of Rental Units to Another Purpose

A commenter recommended that tenant comment be sought for any conversion of residential rental units to another purpose, not only to commercial space or to condominium units or the transfer of the project to a cooperative. The Department agrees that the proposed rule was too narrowly drafted and, accordingly, has revised § 245.505 to apply to any change from use or transfer to cooperative ownership and have replaced the term "commercial space" with "non-residential use" throughout Subpart F.

A commenter stated that HUD should require the owner to submit a list of the units that will be converted, together with information as to whether the units are occupied or vacant and, if vacant, the date they were vacated. The Department agrees that information on the occupancy of the affected units would be helpful in deciding whether to approve the proposed conversion but does not believe that the date the unit was vacated is needed. Section 245.515(a)(1)(ii) and added § 245.515(a)(3)(iii) accordingly.

One commenter wanted specific standards set out in the rule to be used by HUD in determining whether to approve a request to convert residential units to another use. This commenter suggested the following standards: Approval to other types of dwelling units contingent upon units remaining affordable (within 28–30 percent of adjusted income) to lower and very low-income tenants; no conversion to cooperative or condominium form of ownership without 85 percent of the tenants expressing a desire to purchase; and no conversion to commercial use if there is a need for low-income housing.

The Department believes that it is not desirable to establish specific standards for this type of determination. These are highly discretionary decisions that frequently involve weighting competing considerations. For example, while it is true that in general units should not be converted to commercial use if there is a need for lower income housing, the lack of convenient commercial use may create a hardship for the lower income tenants in the project, the alleviation of which would justify relocating some tenants. The Department believes that each proposed conversion (a relatively small percentage of the projects subject to Part 245) must be considered on its own merits.

Major Alterations

Proposed Subpart H would apply tenant participation procedures to requests for HUD approval of major capital additions to the project. One commenter pointed out that the statutory term "major physical alterations" is more inclusive than is "major capital additions" as defined in the proposed rule, noting that it would include modifications in units that changed the number of bedrooms. The Department agrees and has revised the definition of "major capital additions" in § 245.705(b) to include capital improvements that result in a change in the total number of bedrooms in the project. The rule retains the limitation that upgrading or replacing existing capital components does not constitute a major physical alteration. The Department believes that it would be counterproductive to provide tenant participation with respect to the repair or replacement of existing components such as a routes and heating and air conditioning systems, therefore, has limited tenant participation to items that constitute major capital additions.

Other Matters

A Finding of No Significant Impact with respect to the enviroment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements section 102(2) (C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the address set forth above.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. An analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs of prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect 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.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant econimic impact on a substantial number of small entities. While the expanded tenant participation requirements proposed by this rule may result in an increase in costs to project owners, some of whom constitute small entities, we do not believe that the economic impact on those entities will be significant.

The Catalog of Federal Domestic Assistance program numbers for the programs affected by this rule are 14.103 and 14.144.

This rule is listed at 49 FR 41711 as item number 95 under the Department's Semiannual Agenda of Regulations published on October 22, 1984 (49 FR 41684), under Executive Order 12291 and the Regulatory Flexibility Act.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 86–511) and have been assigned OMB control numbers 2502–0310 and 2502–0324.

List of Subjects in 24 CFR Part 245

Housing, Loan programs: housing and urban development, Low and moderate income housing, Mortgages, Projects, Rent control, Rent subsidies, Utilities.

PART 245—TENANT PARTICIPATION IN MULTIFAMILY HOUSING PROJECTS

Accordingly, HUD amends 24 CFR Part 245 as follows:

1. The authority citation for Part 245 is revised to read as follows:

Authority: Sec. 202, Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-16); sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

2. By revising the table of contents for Subparts A through D to read as follows:

Subpart A—General Provisions

Sec.
245.5 Purpose.
245.10 Applicability of part.
245.15 Notice to tenants.

Subpart B—Tenant Organizations

245.105 Organizations and efforts to organize.
245.110 Meeting space.

Subpart C—Efforts to Obtain Assistance

245.205 Efforts to obtain assistance.
245.210 Availability of information.

Subpart D—Procedures for Requesting Approval of an Increase in Maximum Permissible Rents

245.305 Applicability of subpart.
245.310 Notice to tenants.
245.315 Materials to be submitted to HUD.
245.320 Request for increase.
245.325 Notification of action on request for increase.
245.330 Non-insured projects.

3. By adding entries for new Subparts E through H to the table of contents, to read as follows:

Subpart E—Procedures for Requesting Approval of a Conversion From Project-Paid Utilities to Tenant-Paid Utilities or of a Reduction in Tenant Utility Allowances

Sec.
245.405 Applicability of subpart.
245.410 Notice to tenants.
245.415 Initial submission of materials to HUD.
245.420 Rights of tenants to participate.
245.425 Submission of request for approval to HUD.
245.430 Decision on request for approval.
245.435 Non-insured projects.

Subpart F—Procedures for Requesting Approval of a Conversion of Residential Units to a Non-Residential Use, or to Cooperative Housing or Condominiums

245.505 Applicability of subpart.
245.510 Notice to tenants.
245.515 Initial submission of materials to HUD.
245.520 Rights of tenants to participate.
245.525 Submission of request for approval to HUD.
245.530 Decision on request for approval.

Subpart G—Procedures for Requesting Approval of a Partial Release of Mortgage Security

245.605 Applicability of subpart.
245.610 Notice to tenants.
245.615 Initial submission of materials to HUD.
245.620 Rights of tenants to participate.
245.625 Submission of request for approval to HUD.
245.630 Decision on request approval.

Subpart H—Procedure for Requesting Approval for Major Capital Additions

245.705 Applicability of subpart.
245.710 Notice to tenants.
245.715 Initial submission of materials to HUD.
245.720 Rights of tenants to participate.
245.725 Submission of request for approval to HUD.
245.730 Decision on request for approval.

4. By revising Subpart A to read as follows:

Subpart A—General Provisions

§ 245.5 Purpose.

The purpose of this part is to recognize the importance and benefits of cooperation and participation of tenants in creating a suitable living environment in multifamily housing projects and in contributing to the successful operation of such projects, including their good physical condition, proper maintenance, security, energy efficiency, and control of operating costs.

§ 245.10 Applicability of part.

(a) Except as provided in paragraph (d) of this section, the requirements of Subparts B through H of this part apply to mortgagors of multifamily housing projects which:

(1) Have mortgages that have received final endorsement on behalf of the Secretary and are insured under the National Housing Act, or held by the Secretary, and that are assisted under section 236 or the proviso of section 221(d)(5) of the National Housing Act, or under section 101 of the Housing and Urban Development Act of 1965;

(2) Have direct mortage loans from HUD at below-market interest rates under section 202 of the Housing Act of 1959 that are assisted under section 101 of the Housing and Urban Development Act of 1965 or that are assisted under Part 886, Subpat A of this title, following conversion to such assistance from under section 101 of the Housing and Urban Development Act of 1965;

(3) Have mortgages that have received final endorsement on behalf of the Secretary and are assisted under Part 886, Subpart A of this title, following conversion to such assistance from assistance under section 101 of the Housing and Urban Development Act of 1965; or

(4) Were assisted under the above programs before acquisition by the Secretary and sold by the Secretary subject to a mortgage insured or held by the Secretary and an agreement to maintain the low- and moderate- income character of the project.

(b) Except as provided in paragraph (d) of this section, the requirements of subparts B and C of this part apply, in addition to the mortgagors described in paragraph (a) of this section, to mortgagors of multifamily housing projects which receive assistance under section 236 of the National Housing Act or section 101 of the Housing and Urban Development Act of 1965 administered through a State or local housing finance agency, but which do not have mortgages insured under the National Housing Act or held by the Secretary.

(c) Except as provided in paragraph (d) of this section, the requirements of subparts D and E of this part apply, in addition to the mortgagors described in paragraph (a) of this section, to mortgagors of multifamily housing projects which:

(1) Receive assistance under section 236 of the National Housing Act or section 101 of the Housing and Urban Development Act of 1965 administered through a State or local housing finance agency, but which do not have mortgages insured under the National Housing Act or held by the Secretary; or

(2) Have direct mortgage loans from HUD at below-market interest rates under section 202 of the Housing Act of 1959.

(d)(1) The requirements of subpart B and of subparts D through H do not apply to any mortgagor which is a cooperative housing corporation or association.

(2) The requirements of subpart D do not apply with respect to any tenant of a multifamily project who is receiving housing assistance payments under section 8 of the United States Housing Act of 1937, pursuant to Part 882, Subparts A and B of this title.

§ 245.15 Notice to tenants.

(a) Whenever a mortgagor is required under Subparts D through H of this part to serve notice on the tenants of a project, the notice must be served by delivery, except, for a high-rise project, the notice may be served either by delivery or by posting. If service is made by delivery, a copy of the notice must be delivered directly to each unit in the project or mailed to each tenant. If

service is made by posting, the notice must be posted in at least three conspicuous places within each building in which the affected dwelling units are located and, during any prescribed tenant period, in a conspicuous place at the address stated in the notice where the materials in support of the mortgagor's proposed action are to be made available for inspection and copying. Posted notices must be maintained intact and in legible form during any prescribed notice period.

(b) For purposes of computing time periods following service of notice, service is effected, in the case of service by delivery, when all notices have been delivered or mailed and, in the case of service by posting, when all notices have been initially posted.

5. In Subpart B, by removing § 245.12 and redesignating § 245.10 and § 245.11 as § 245.105 and § 245.110, respectively. In Subpart C by redesignating § 245.20 and § 245.21 as § 245.205 and § 245.210, respectively.

6. By revising Subpart D and adding Subparts E through H, to read as follows:

Subpart D—Procedures for Requesting Approval of an Increase in Maximum Permissible Rents

§ 245.305 Applicability of subpart.

(a) The requirements of this subpart apply to any request by a mortgagor, as provided by § 245.10, for HUD approval of an increase in maximum permissible rents.

(b) For purposes of this subpart, an increase in utility charges paid directly by the tenant does not constitute an increase in rents.

§ 245.310 Notice to tenants.

(a) At least 30 days before submitting a request to HUD for approval of an increase in maximum permissible rents, the mortgagor must notify the tenants of the proposed rent increase. Copies of the notice must be served on the tenants as provided in § 245.15. The notice must contain the following information in the following format or an equivalent format:

Notice to Tenants of Intention To Submit a Request to HUD for Approval of an Increase in Maximum Permissible Rents

Date of Notice

Take notice that on [date] we plan to submit a request for approval of an increase in the maximum permissible rents for [name of apartment complex] to the United States Department of Housing and Urban Development (HUD). The proposed increase is needed for the following reasons:

1.
2.
3.

The rent increases for which we have requested approval are:

Bedrooms	Present rent [1]		Proposed increase [1]		Proposed rent [1]	
	Basic	Market	Basic	Market	Basic	Market
5						
0	$	$	$	$		$
1						
2						
3						
4						

[1] Separate columns for basic and market rent should be used only for projects assisted under sec. 236 of the National Housing Act. In addition, in projects with more than 1 type of apartment having the same number of bedroom but different rents, each type should be listed separately.

A copy of the materials that we are submitting to HUD in support of our request will be available during normal business hours at [address] for a period of 30 days from the date of service of this notice for inspection and copying by tenants of [name of apartment complex] and, if the tenants wish, by legal or other representatives acting for them individually or as a group.

During a period of 30 days from the date of service of this notice, tenants of [name of apartment complex] may submit written comments on the proposed rent increase to us at [address]. Tenant representatives may assist tenants in preparing those comments. [If, at HUD's request or otherwise , we make any material change during the comment period in the materials available for inspection and copying, we will notify the tenants of the change or changes, and the tenants will have a period of 15 days from the date of service of this additional notice (or the remainder of any applicable comment period, if longer) in which to inspect and copy the materials as changed and to submit comments on the proposed rent increase). These comments will be transmitted to HUD, along with our evaluation of them and our request for the increase. You may also send a copy of your comments directly to HUD at the following address: United States Department of Housing and Urban Development [address of local HUD field office with jurisdiction over rent increases for the project], Attention: Director, Housing Management Division, Re: Project No. [Name of Apartment Complex].

HUD will approve, adjust upward or downward, or disapprove the proposed rent increase upon reviewing the request and comments. When HUD advises us in writing of its decision on our request, you will be notified. If the request is approved, any allowable increase will be put into effect only after a period of at least 30 days from the date you are served with that notice and in accordance with the terms of existing leases.

[Name of mortgagor or managing agent]

(b) The mortgagor must comply with all representations made in the notice. The materials to be made available to tenants for inspection and copying are those specified in § 245.315.

§ 245.315 Materials to be submitted to HUD.

When the notice referred to in § 245.310 is served on the tenants, the mortgagor must send to the local HUD office copies of the following documents described in either paragraph (a) or (b) of this section, as specified by the local HUD office:

(a) Documents to be submitted under profit and loss approach:

(1) A copy of the notice to tenants;

(2) An annual Statement of Profit and Loss, Form HUD–92410, covering the project's most recently ended accounting year (this statement must have been audited by an independent public accountant if the project is required by HUD to prepare audited financial statements), and Form HUD–92410 for the intervening period since the date of the last annual statement if more than four months have elapsed since that date;

(3) A narrative statement of the reasons for the requested increase in maximum permissible rents; and

(4) An estimate of the reasonably anticipated increases in project operating costs that will occur within twelve months of the date of submission of materials under this section.

(5) A status report on the project's implementation of its current Energy Conservation Plan.

(b) Documents to be submitted under the forward-budget approach:

(1) A cover letter summarizing the reasons a rent increase is needed;

(2) A copy of the notice to tenants;

(3) A rent increase worksheet providing an income and expense budget for the 12 months following the anticipated effective date of the proposed rent increase;

(4) A brief statement explaining the basis for the expense lines on the rent increase worksheet;

(5) A partially completed Rent Schedule, Form HUD–92458;

(6) If the tenants receive utility allowances, the mortgagor's recommended utility allowance for each unit type and brief statement explaining the basis for the recommended increase; and

(7) A status report on the project's implementation of its current Energy Conservation Plan.

(The information collection requirements in paragraph (a) of this section were approved by the Office of Management and Budget under OMB Control No. 2502–0310. The information collection requirements in paragraph (b) of this section were approved by the Office of Management and Budget under OMB Control Number 2502–0324.)

§ 245.320 Request for increase.

Upon expiration of the period for tenant comments required in the notice format in § 245.310 and after review of the comments submitted to the mortgagor, the mortgagor must submit to the local HUD office, in addition to the materials enumerated in § 245.315 and any revisions thereto, the request for an increase in the maximum permissible rents, together with the following:

(a) Copies of all written comments submitted by the tenants to the mortgagor;

(b) The mortgagor's evaluation of the tenants' comments with respect to the request;

(c) A certification by the mortgagor that:

(1) It has complied with all of the requirements of this subpart;

(2) The copies of the materials submitted in support of the proposed increase were located in a place reasonably convenient to tenants in the project during normal business hours and that requests by tenants to inspect the materials, as provided for in the notice, were honored;

(3) All comments received from tenants were considered by the mortgagor in making its evaluation; and

(4) Under the penalties and provisions of Title 18, United States Code, section 1001, the statements contained in this request and its attachments have been examined by me and, to the best of my knowledge and belief, are true, correct, and complete.

§ 245.325 Notification of action on request for increase.

(a) When processing a request for an increase in maximum permissible rents, HUD shall take into consideration reasonably anticipated increases in project operating costs that will occur (1) within 12 months of the date of submission of materials to HUD under § 245.315(a) (profit and loss approach) or (2) within 12 months of the anticipated effective date of the proposed rent increase for submissions under § 245.315(b) (forward-budget approach).

(b) After HUD has considered the request for an increase in rents, has found that it meets the requirements of § 245.320, and has made its determination to approve, adjust upward or downward, or disapprove the request, it will furnish the mortgagor with a written statement of the reasons for approval, adjustment upward or downward, or disapproval. The mortgagor must make the reasons for approval, adjustment, or disapproval known to the tenants, by service of notice on them as provided in § 245.15.

§ 245.330 Non-insured projects.

(a) In the case of a proposed rent increase for a project assisted under section 236 of the National Housing Act or section 101 of the Housing and Urban Development Act of 1965, but which does not have a mortgage insured by HUD or held by the Secretary, the provisions of this section and of §§ 245.305 through 245.320 shall apply to the mortgagor (project owner), except that—

(1) The notice format prescribed in § 245.310 must be modified to reflect the procedural changes made by this section;

(2) The material (including tenant comments) required to be submitted to HUD under §§ 245.315 and 245.320 must be submitted to the State or local agency administering the section 236 assistance or rent supplement assistance contracts, rather than to HUD. An equivalent State or local agency form or standard accounting form may be substituted for the Statement of Profit and Loss, Form HUD–92410 required under § 245.315(a)(2), if approved by the local HUD office; and

(3) The State or local agency must certify that the mortgagor has complied with the requirements of §§ 245.310, 245.315, 245.320, and 245.325.

(b) After the State or local agency has considered the request for an increase in maximum permissible rents that meets the requirements of § 245.320 (including consideration of anticipated cost increases, as provided in § 245.325(a)), it must make a determination to approve, adjust upward or downward, or disapprove the request. If the agency determines to approve or adjust the request, it must submit to the appropriate local HUD office the mortgagor's requests for approval of an increase in maximum permissible rents, along with the comments of the tenants and the mortgagor's evaluation of the comments, and must certify to HUD that the mortgagor is in compliance with the requirements of this subpart. HUD shall review the agency's determination and certification and, within 30 days, of their submission to HUD, notify the agency of its approval, adjustment upward or downward, or disapproval of the proposed rent increase. HUD will not unreasonably withhold approval of a rent increase approved by the State or local agency.

(c) If the agency determines to disapprove the request, there is no HUD review of the agency's determination.

(d) The agency must notify the mortgagor of the final disposition of the request, and it must furnish the mortgagor with a written statement of the reasons for its approval, adjustment, or disapproval. The mortgagor must make the reasons for approval, adjustment or disapproval known to the tenants, by service of notice on them as provided in § 245.15.

Subpart E—Procedures for Requesting Approval of a Conversion From Project-Paid Utilities to Tenant-Paid Utilities or of a Reduction in Tenant Utility Allowances

§ 245.405 Applicability of subpart.

The requirements of this subpart apply to any request by a mortgagor covered by § 245.10 for HUD approval of the conversion of a project from project-paid utilities to tenant-paid utilities, or of a reduction in tenant utility allowances.

§ 245.410 Notice to tenants.

At least 30 days before submitting a request to HUD for approval of a

conversion from project-paid utilities to tenant-paid utilities, or of a reduction in tenant utility allowances, the mortgagor must serve notice of the proposed conversion or reduction on the project tenants, as provided in § 245.15. The notice shall state the following:

(a) That the mortgagor intends to submit a request to HUD for approval of conversion from project-paid utilities to tenant-paid utilities, or of a reduction of tenant utility allowances;

(b) That the tenants have the right to participate as provided in § 245.420, and what those rights are, including the address at which the material required to be made available for inspection and copying under that section are to be kept;

(c) That tenant comments on the proposed conversion of reduction may be sent to the mortgagor at a specified address or directly to the local HUD office, and that comments sent to the mortgagor will be transmitted to HUD, along with the mortgagor's evaluation of them, when the request for HUD's approval of the conversion or reduction is submitted;

(d) That HUD will approve or disapprove the proposed conversion, or approve, adjust upward or downward, or disapprove the proposed reduction, based upon its review of the information submitted and all tenant comments received; and

(e) That the mortgagor will notify the tenants of HUD's decision and that it will not begin to effect any approved conversion or reduction (in accordance with the terms of existing leases) until at least 30 days from the date of service of the notification.

§ 245.415 Initial submission of materials to HUD.

(a) When the notice required under § 245.410 is served on the tenants, the mortgagor must submit the following materials to the local HUD office:

(1) A copy of the notice to tenants;

(2) In the case of a proposed conversion from project-paid utilities to tenant-paid utilities—

(i) A statement indicating:

(A) The type of utility or utilities involved;

(B) The number of units in the project by type and size;

(C) The average utility consumption data by unit type and size for comparable projects, and utility rate information, as obtained from the utility supplier;

(D) The estimated monthly cost of the utilities to be paid by the tenants by unit type and size, based upon the consumption data and rate information described in paragraph (a)(2)(i)(C);

(E) The monthly cost for the past year of paying for the utility or utilities involved on a project basis (actual cost) and by unit type and size (estimated breakdown);

(F) An estimate of the cost of conversion, as obtained from the utility supplier or from bids from contractors;

(G) The source and terms of financing for the conversion (to the extent known); and

(H) The estimated effect of the conversion on the total housing costs of the tenants by unit type and size, taking into account the estimated cost of conversion (including the cost of its financing), the estimated monthly cost of utilities to be paid by the tenants by unit type and size, the proposed utility allowances, and the estimated change in the rents paid to the mortgagor resulting from the conversion; and

(ii) A copy of the portion of the project's Energy Conservation Plan which addresses the cost-effectiveness determination associated with converting the project to tenant-paid utilities; and

(3) In the case of a proposed reduction in tenant utility allowances, a statement indicating the information described in paragraphs (a)(2)(i) (A), (B), (C) and (D) of this section, the utility allowances proposed for reduction, and a justification of the proposed reduction.

(b) If additional notice under § 245.420(c) is required, the mortgagor must submit to HUD the changes to the materials required under this section when the notice required under § 245.420(c) is served on the tenants.

(Approved by the Office of Management and Budget under OMB Control Number 2502-0310.)

§ 245.420 Rights of tenants to participate.

(a) The tenants (including any legal or other representatives acting for tenants individually or as a group) must have the right to inspect and copy the materials that the mortgagor is required to submit to HUD pursuant to § 245.415(a), for a period of 30 days from the date on which the notice required under § 245.410 is served on the tenants. During this period, the mortgagor must provide a place (as specified in the notice) reasonably convenient to tenants in the project where tenants and their representatives can inspect and copy these materials during normal business hours.

(b) The tenants have the right during this period to submit written comments on the proposed conversion to the mortgagor and to the local HUD office. Tenant representatives may assist tenants in preparing these comments.

(c) If the mortgagor, whether at HUD's request or otherwise, makes any material change during a tenant comment period in the materials submitted to HUD pursuant to § 245.415, the mortgagor must notify the tenants of the change, in the manner provided in § 245.15, and make the materials as changed available for inspection and copying at the address specified in the notice for this purpose. The tenants have a period of 15 days from the date of service of this additional notice (or the remainder of any applicable comment period, if longer) in which to inspect and copy the materials as changed and to submit comments on the proposed conversion or reduction, before the mortgagor may submit its request to HUD for approval of the conversion or reduction.

§ 245.425 Submission of request for approval to HUD.

Upon completion of the tenant comment period, the mortgagor must review the comments submitted by tenants and their representatives and prepare a written evaluation of the comments. The mortgagor must then submit the following materials to the local HUD office:

(a) The mortgagor's written request for HUD approval of a conversion from project-paid utilities to tenant-paid utilities, or of a reduction in tenant utility allowances;

(b) Copies of all written tenant comments;

(c) The mortgagor's evaluation of the tenant comments on the proposed conversion or reduction;

(d) A certification by the mortgagor that it has complied with all of the requirements of §§ 245.410, 245.415 and 245.420, and this section; and

(e) Such additional materials as HUD may have specified in writing.

(Approved by the Office of Management and Budget under OMB Control Number 2502-0310.)

§ 245.430 Decision on request for approval.

(a) After consideration of the mortgagor's request for approval and the materials submitted in connection with the request, HUD must notify the mortgagor in writing of its approval or disapproval of the proposed conversion or of its approval, adjustment upward or downward, or disapproval of the proposed reduction, providing its reasons for such determination.

(b) The mortgagor must notify the tenants of HUD's decision in the manner provided in § 245.15. If HUD has approved the proposed conversion or a

reduction (as originally proposed or as adjusted), the notice must state:

(1) The amount of the rent to be paid to the mortgagor and the utility allowance for each unit; and

(2) The effective date of the conversion or reduction (which must be at least 30 days from the date of service of the notice and in accordance with the terms of existing leases).

§ 245.435 Non-insured projects.

(a) In the case of a proposed conversion or reduction involving a project that is assisted under section 236 of the National Housing Act or section 101 of the Housing and Urban Development Act of 1965 but that does not have a mortgage insured by HUD or held by the Secretary, the provisions of this section and of §§ 245.405 through 245.425 apply to the mortgagor (project owner), except that—

(1) The notice to tenants required under § 245.410 must be modified to reflect the procedural changes made by this section;

(2) The materials (including tenant comments) required to be submitted to HUD under §§ 245.415 and 245.425 must be submitted to the State or local agency administering the section 236 assistance or rent supplement assistance contracts, rather than to HUD; and

(3) The State or local agency must certify that the mortgagor has complied with the requirements of §§ 245.410, 245.415, 245.420, and 245.425.

(b) After the State or local agency has considered the request for approval of a conversion or reduction that meets the requirements of § 245.425, it must make a determination to approve or disapprove the conversion, or to approve, adjust upward or downward, or disapprove the reduction. If the agency determines to approve the conversion or reduction (as originally proposed or as adjusted), it must submit to the appropriate local HUD office the mortgagor's request for approval of the conversion or reduction, along with the comments of the tenants and the mortgagor's evaluation of the comments, and must certify to HUD that the mortgagor is in compliance with the requirements of this subpart. HUD must review the agency's determination and certification and notify the agency of its approval or disapproval of the proposed conversion or of its approval, adjustment upward or downward, or disapproval of the proposed reduction. HUD will not unreasonably withhold approval of a conversion or reduction approved by the State or local agency.

(c) If the agency determines to disapprove the conversion or reduction, there is no HUD review of the agency's determination.

(d) The agency must notify the mortgagor of the final disposition of the request, and it must furnish the mortgagor with a written statement of the reasons for its approval or disapproval. The mortgagor must make the reasons for approval or disapproval known to the tenants, by service of notice on them as provided in § 254.15. If the agency has approved the proposed conversion or a reduction, the notice must set forth the information prescribed in § 245.430(b)(1) and (2).

Subpart F—Procedures for Requesting Approval of a Conversion of Residential Units to a Non-Residential Use, or to Cooperative Housing or Condominiums

§ 245.505 Applicability of subpart.

The requirements of this subpart apply to any request by a mortgagor covered by § 245.10 for HUD approval of the conversion of residential units in a multifamily housing project to a nonresidential rental use, or the transfer of the project to a cooperative housing mortgagor corporation or association.

§ 245.510 Notice to tenants.

At least 30 days before submitting a request to HUD for approval of conversion of residential space in a project to nonresidential use, cooperative housing or condominiums, the mortgagor must serve notice of the proposed conversion on the project tenants, as provided in § 245.15. Conversion of a project to a cooperative of a portion to non-residential use does not constitute a change of use requiring mortgagee approval. The notice must state the following:

(a) That the mortgagor intends to submit a request to HUD for approval of a conversion of residential units in the project to non-residential use, cooperative housing or condominiums (as described in the notice);

(b) That the tenats have the right to participate as provided in § 245.520, and what those rights are, including the address at which the materials required to be made available for inspection and copying under the section are to be kept;

(c) That tenant comments on the proposed conversion may be sent to the mortgagor at a specified address or directly to the local HUD office, and that comments sent to the mortgagor will be transmitted to HUD, along with the mortgagor's evaluation of them, when the request for HUD approval of the conversion is submitted.

(d) That HUD will approve or disapprove the proposed conversion based upon its review of the information submitted and all tenant comments received;

(e) That the proposed conversion may require the owner to request HUD approval of a rent increase; and

(f) That the mortgagor will notify the tenants of HUD's decision and that it will not begin to effect any approved conversion (in accordance with the terms of existing leases) until at least 30 days from date of service of the notification.

§ 245.515 Initial submission of materials to HUD.

(a) When the notice required under § 245.510 is served on the tenants, the mortgagor must submit the following materials to the local HUD office:

(1) In the case of a proposed conversion of residential rental units to non-residential use:

(i) A statement describing the proposed conversion;

(ii) A statement describing the estimated effect of the proposed conversion on the value of the project, the project rent schedule, the number of dwelling units in the project, a list of the units to be converted and their occupancy, the amount of subsidy available to the project, and the project income and expenses (including property taxes);

(iii) A statement assessing the compatibility of the proposed non-residential use with the residential character of the project;

(iv) Written approval of the mortgagee if required;

(v) An undertaking by the mortgagor to pay all relocation costs that may be required by HUD for tenants required to vacate the project because of the conversion; and

(vi) A copy of the notice to tenants.

(2) In the case of a proposed transfer of the project to a cooperative housing mortgagor corporation or association (conversion of residential rental units to residential cooperative housing), the materials specified in paragraphs (a)(1)(i), (iv) and (vi) of this section and the following additional materials:

(i) An estimate of the demand for cooperative housing, including an estimate of the number of present tenants interested in purchasing cooperative housing;

(ii) Estimates of downpayments and monthly carrying charges that will be required; and

(iii) Copies of proposed organizational documents, including By-Laws, Articles of Incorporation, Subscription Agreement, Occupancy Agreement, and Sale Document.

(3) In the case of a proposed conversion of residential rental units to condominium units, the materials specified in paragraph (a)(1) (i), (iv) and (vi) of this section and the following additional materials:

(i) An estimate of the demand for condominium housing, including an estimate of the number of present tenants interested in purchasing units;

(ii) Estimates of downpayments, monthly mortgage payments and condominium association fees that will be required; and

(iii) A list of the units to be converted and their occupancy.

(b) If additional notice under § 245.520(c) is required, the mortgagor must submit to HUD the changes to the materials required under this section when the notice required under § 245.520(c) is served on the tenants.

(Approved by the Office of Management and Budget under OMB Control Number 2502–0310.)

§ 245.520 Rights of tenants to participate.

(a) The tenants (including any legal or other representatives acting for tenants individually or as a group) have the right to inspect and copy the materials that the mortgagor is required to submit to HUD pursuant to § 245.515(a), for a period of 30 days from the date on which the notice required under § 245.510 is served on the tenants. During this period, the mortgagor must provide a place (as specified in the notice) reasonably convenient to tenants in the project where tenants and their representatives can inspect and copy these materials during normal business hours.

(b) The tenants have the right during this period to submit written comments on the proposed conversion to the mortgagor and to the local HUD office. Tenant representatives may assist tenants in preparing these comments.

(c) If the mortgagor, whether at HUD's request or otherwise, makes any material change during a tenant comment period in the materials submitted to HUD pursuant to § 245.515, the mortgagor must notify the tenants of the change, in the manner provided in § 245.15, and make the materials as changed available for inspection and copying at the address specified in the notice for this purpose. The tenants have a period of 15 days from the date of service of this additional notice (or the remainder of any applicable comment period, if longer) in which to inspect and copy the materials as changed and to submit comments on the proposed conversion, before the mortgagor may submit its request to HUD for approval of the conversion.

§ 245.525 Submission of request for approval to HUD.

Upon completion of the tenant comment period, the mortgagor must review the comments submitted by tenants and their representatives and prepare a written evaluation of the comments. The mortgagor must then submit the following materials to the local HUD office:

(a) The mortgagor's written request for HUD approval of a conversion of residential space in the project to non-residential use, cooperative housing or condominiums;

(b) Copies of all written tenant comments;

(c) The mortgagor's evaluation of the tenant comments on the proposed conversion;

(d) A certification by the mortgagor that it has complied with all of the requirements of §§ 245.510, 245.515 and 245.520 and this section; and

(e) Such additional materials as HUD may have specified in writing.

(Approved by the Office of Management and Budget under OMB Control Number 2502–0310.)

§ 245.530 Decision on request for approval.

(a) After consideration of the mortgagor's request for approval and the materials submitted in connection with the request, HUD must notify the mortgagor and the mortgagee in writing of its approval or disapproval of the proposed conversion, providing its reasons for such determination.

(b) The mortgagor must notify the tenants of HUD's decision in the manner provided in § 245.10. If HUD has approved the proposed conversion, the notice must state:

(1) Which residential rental units are to be converted and whether the conversion is to non-residential use or to cooperative or condominium units; and

(2) The effective date of the conversion (which must be at least 30 days from the date of service of the notice and in accordance with the terms of existing leases).

Subpart G—Procedures for Requesting Approval of a Partial Release of Mortgage Security

§ 245.605 Applicability of subpart.

(a) The requirements of this subpart apply to any request by a mortgagor covered by § 245.10 for HUD approval of a partial release of mortgage security. Examples of transactions that involve a partial release of mortgage security are: (1) The sale of portions of project property that provide amenities, such as parking space and recreational areas, and (2) the sale of one building in a project having more than one building.

(b) The requirements of this subpart do not apply to any release of property from a mortgage lien with respect to a utility easement or a public taking of such property by condemnation or eminent domain.

§ 245.610 Notice to tenants.

At least 30 days before submitting a request to HUD for approval of a partial release of mortgage security, the mortgagor must serve notice of the proposed conversion on the project tenants, as provided in § 245.15. The notice must state the following:

(a) That the mortgagor intends to submit a request to HUD for approval of a partial release of mortgage security (as described in the notice);

(b) That the tenants have the right to participate as provided in § 245.620, and what those rights are, including the address at which the materials required to be made available for inspection and copying under that section are to be kept;

(c) That tenant comments on the proposed partial release may be sent to the mortgagor at a specified address or directly to the local HUD office, and that comments sent to the mortgagor will be transmitted to HUD, along with the mortgagor's evaluation of them, when the request for HUD approval of the partial release is submitted.

(d) That HUD will approve or disapprove the proposed partial release based upon its review of the information submitted and all tenant comments received;

(e) That the proposed partial release may require the owner to request HUD approval of a rent increase; and

(f) That the mortgagor will notify the tenants of HUD's decision and that it will not effect any approved partial release transaction (in accordance with the terms of existing leases) until at least 30 days from the date of service of the notification.

§ 245.615 Initial submission of materials to HUD.

(a) When the notice required under § 245.610 is served on the tenants, the mortgagor must submit the following materials to the local HUD office:

(1) A statement describing the portion of the property that is proposed to be released and the transaction requiring the release;

(2) A statement describing the estimated effect of the proposed release on the value of the project, the number of dwelling units in the project, the project income and expenses (including

property taxes), the amount of subsidy available to the project, and the project rent schedule;

(3) A statement describing the proposed use of the property to be released and the persons who will have responsibility for the operation and maintenance of that property, and assessing the compatibility of that use with the residential character of the project;

(4) A statement describing the proposed use of any proceeds to be received by the mortgagor as a result of the release; and

(5) A copy of the notice to tenants.

(b) If additional notice under § 245.620(c) is required, the mortgagor must submit to HUD the changes to the materials required under this section when the notice required under § 245.620(c) is served on the tenants.

(Approved by the Office of Management and Budget under OMB Control Number 2502-0310.)

§ 245.620 Rights of tenants to participate.

(a) The tenants (including any legal or other representatives acting for the tenants individually or as a group) have the right to inspect and copy the materials that the mortgagor is required to submit to HUD pursuant to § 245.615(a), for a period of 30 days from the date on which the notice required under § 245.610 is served on the tenants. During this period, the mortgagor must provide a place (as specified in the notice) reasonably convenient to tenants in the project where tenants and their representatives can inspect and copy these materials during normal business hours.

(b) The tenants have the right during this period to submit written comments on the proposed partial release transaction to the mortgagor and to the local HUD office. Tenant representatives may assist tenants in preparing these comments.

(c) If the mortgagor, whether at HUD's request or otherwise, makes any material change during a tenant comment period in the materials submitted to HUD pursuant to § 245.615, the mortgagor must notify the tenants of the change, in the manner provided in § 245.15, and make the materials as changed available for inspection and copying at the address specified in the notice for this purpose. The tenants have a period of 15 days from the date of service of this additional notice (or the remainder of any applicable comment period, if longer) in which to inspect and copy the materials as changed and to submit comments on the proposed partial release transaction, before the mortgagor may submit its request to HUD for approval of the partial release.

§ 245.625 Submission of request for approval to HUD.

Upon completion of the tenant comment period, the mortgagor must review the comments submitted by tenants and their representatives and prepare a written evaluation of the comments. The mortgagor must then submit the following materials to the local HUD office:

(a) The mortgagor's written request for HUD approval of a partial release of mortgage security;

(b) Copies of all written tenant comments;

(c) The mortgagor's evaluation of the tenant comments on the proposed partial release;

(d) A certification by the mortgagor that it has complied with all of the requirements of §§ 245.610, 245.615 and 245.620 and this section; and

(e) Such additional materials as HUD may have specified in writing.

(Approved by the Office of Management and Budget under OMB Control Number 2502-0310.)

§ 245.630 Decision on request for approval.

(a) After consideration of the mortgagor's request for approval and the materials submitted in connection with the request, HUD must notify the mortgagor and the mortgagee in writing of its approval or disapproval of the proposed partial release of mortgage security, providing its reasons for such determination.

(b) The mortgagor must notify the tenants of HUD's decision in the manner provided in § 245.15. If HUD has approved the proposed partial release transaction, the notice must state the date on which the mortgagor intends to effect the partial release transaction (which must be at least 30 days from the date of service of the notice and in accordance with the terms of existing leases).

Subpart H—Procedures for Requesting Approval for Major Capital Additions

§ 245.705 Applicability of subpart.

(a) The requirements of this subpart apply to any request by a mortgagor covered by § 245.10 for HUD approval to make major capital additions to the project.

(b) For the purposes of this subpart, the term "major capital additions" includes only those capital improvements which represent a substantial addition to the project, such as a new recreational facility, swimming pool or parking garage, or result in a change in the total number of bedrooms in the project. Upgrading or replacing existing capital components of the project (such as the roof or the heating or electrical system) would not constitute a major capital addition to the project.

§ 245.710 Notice to tenants.

At least 30 days before submitting a request to HUD for approval to make major capital additions to the project, the mortgagor must serve notice of the proposed additions on the project tenants, as provided in § 245.15. The notice must state the following:

(a) That the mortgagor intends to submit a request to HUD for approval to make major capital additions to the project;

(b) That the tenants have the right to participate as provided in § 245.720, and what those rights are, including the address at which the materials required to be made available for inspection and copying under that section are to be kept;

(c) That tenant comments on the proposed additions may be sent to the mortgagor at a specific address or directly to the local HUD office, and that comments sent to the mortgagor will be transmitted to HUD, along with the mortgagor's evaluation of them, when the request for HUD approval of the additions is submitted.

(d) That HUD will approve or disapprove the proposed additions based upon its review of the information submitted and all tenant comments received;

(e) That the proposed additions may require the owner to request HUD approval of a rent increase; and

(f) That the mortgagor will notify the tenants of HUD's decision and that it will not begin to make any approved additions to the project (in accordance with the terms of existing leases) until a period of at least 30 days from the date of service of the notification has expired.

§ 245.715 Initial submission of materials to HUD.

(a) When the notice required under § 245.710 is served on the tenants, the mortgagor must submit the following materials to the local HUD office:

(1) The general plans and sketches of the proposed capital additions;

(2) A statement describing the estimated effect of the proposed capital additions on the value of the project, the project income and expenses (including property taxes), and the project rent schedule;

(3) A statement describing how the proposed capital additions will be financed and the effect, if any, of that financing on the tenants;

(4) A statement assessing the compatibility of the proposed capital additions with the residential character of the project; and

(5) A copy of the notice to tenants.

(b) If additional notice under § 245.720(c) is required, the mortgagor must submit to HUD the changes to the materials required under this section when the notice required under § 245.720(c) is served on the tenants.

(Approved by the Office of Management and Budget under OMB Control Number 2502-0310.)

§ 245.720 Rights of tenants to participate.

(a) The tenants (including any legal or other representatives acting for the tenants individually or as a group) have the right to inspect and copy the materials that the mortgagor is required to submit to HUD pursuant to § 245.715(a), for a period of at least 30 days from the date on which the notice required under § 245.710 is served. During this period, the mortgagor must provide a place (as specified in the notice) reasonably convenient to tenants in the project where tenants and their representatives can inspect and copy these materials during normal business hours.

(b) The tenants have the right during this period to submit written comments on the proposed additions to the mortgagor and to the local HUD office. Tenant representatives may assist tenants in preparing these comments.

(c) If the mortgagor, whether at HUD's request or otherwise, makes any material change during a tenant comment period in the materials submitted to HUD pursuant to § 245.715, the mortgagor must notify the tenants of the change, in the manner provided in § 245.15, and make the materials as changed available for inspection and copying at the address specified in the notice for this purpose. The tenants have a period of 15 days from the date of service of this additional notice (or the remainder of any applicable comment period, if longer) in which to inspect and copy the materials as changed and to submit comments on the proposed additions, before the mortgagor may submit its request to HUD for approval to make the major capital additions.

§ 245.725 Submission of request for approval to HUD.

Upon completion of the tenant comment period, the mortgagor must review the comments submitted by tenants and their representatives and prepare a written evaluation of the comments. The mortgagor must then submit the following materials to the local HUD office:

(a) The mortgagor's written request for HUD approval to make major capital additions;

(b) Copies of all written tenant comments;

(c) The mortgagor's evaluation of the tenant comments on the proposed major capital additions;

(d) A certification by the mortgagor that it has complied with all of the requirements of §§ 245.710, 245.715 and 245.720 and this section; and

(e) Such additional materials as HUD may have requested in writing.

(Approved by the Office of Management and Budget under OMB Control Number 2502-0310.)

§ 245.730 Decision on request for approval.

(a) After consideration of the mortgagor's request for approval and the materials submitted in connection with the request, HUD must notify the mortgagor and the mortgagee in writing of its approval or disapproval of the proposed major capital additions, providing its reasons for such determination.

(b) The mortgagor must notify the tenants of HUD's decision in the manner provided in § 245.15. If HUD has approved the proposed additions, the notice must state the date on which the mortgagor intends to begin making the additions to the project (which must be at least 30 days from date of service of the notice and in accordance with the terms of existing leases).

Dated: August 5, 1985.

Janet Hale,

Acting General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 85-18958 Filed 8-9-85; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 157

[CGD 82-28]

Segregated Ballast, Dedicated Clean Ballast and Crude Oil Washing on Tankships of 20,000 DWT or More But Less Than 40,000 DWT Carrying Oil in Bulk

AGENCY: Coast Guard, DOT.

ACTION: Reaffirmation of final rule.

SUMMARY: The Coast Guard has reviewed its regulations to implement 46 U.S.C. 3705(c) and 3706(d) and has determined that they will remain in effect without change. These regulations affecting existing tankships, 15 years of age and older, and are applicable to U.S. tankships, and to foreign tankships (other than those on innocent passage) that enter the navigable waters of the United States or which call at a port or place subject to the jurisdiction of the United States. This action responds to comments received on these regulations concerning age determination for vessels which have undergone a major conversion.

ADDRESSES: Copies of the final regulations, as well as any materials referenced in this document, are available for examination and coping between 8:00 a.m. and 4:00 p.m., Monday through Friday, except holidays, at the Marine Safety Council (G-CMC/21), Room 2110, Coast Guard Headquarters, 2100 Second St., SW., Washington, DC 20593.

FOR FURTHER INFORMATION CONTACT: LCDR Jeffrey G. Lantz, Project Manager, at (202) 426-4431.

SUPPLEMENTARY INFORMATION: 46 U.S.C. 3705(c) and 3706(d) require existing tankships to be fitted with segregated ballast tanks (SBT), dedicated clean ballast tanks (CBT) or a crude oil washing system (COW) when they reach 15 years of age or January 1, 1986, whichever occurs later. A notice of proposed rulemaking (NPRM) to implement these statutes was published in the **Federal Register** (49 FR 2998) on January 24, 1984. The final regulations were published in the **Federal Register** (50 FR 11622) on March 22, 1985.

The final regulations determined the age of a vessel from the original delivery date or, for vessels that had undergone a major conversion, from the completion date of the major conversion. This was a change from the NPRM, which indicated that the 15 years was to be based on the original delivery date. This resulted from comments received concerning the application of the rules to vessels that had undergone a major conversion and a realization that tankship age as used in 46 U.S.C. 3705(c) and 3706(d) required interpretation.

The Coast Guard has always treated a vessel as though it was newly constructed or rebuilt if it underwent a major conversion. This concept is recognized in 46 U.S.C. 3701 which defines "major conversion" and states

that a vessel which has undergone a major conversion after specified dates is a "new" vessel. The Coast Guard intended to apply this concept to determine the "age" of an existing vessel for one which had undergone a major conversion *before* the dates specified in 46 U.S.C. 3701 and believed that this was understood. Two commenters indicated that this interpretation was not understood and a change was made in the final rule to indicate that age would be computed from "the date it was delivered to the original owner or 15 years after the completion of a major conversion."

Realizing that others may not have been aware of the Coast Guard's interpretation, the final rules invited comments on this issue. No termination date for receipt of comments was specified. Eighteen letters were received, seventeen by June 17, 1985, and one on July 24, 1985 which did not raise any additional issues. Since the ten vessels known to have undergone major conversion would have to meet a January 1, 1986 compliance date if their age is not based on completion of their conversion, final action on this action is necessary.

Discussion of Comments

In general, the commenters in favor of the final rules own or operate tankships that have undergone a major conversion; thus they would be able to delay fitting these affected tankships with SBT, CBT or COW. On the other hand, those that would not be able to benefit from this interpretation objected to the competitive advantage granted to those that would. Both sides maintained that they had made business decisions based on their respective positions.

Eleven commenters supported the final regulations. Five of these were general letters of support with the other six expressing specific support for using a major conversion as the basis for determining tankship age. In supporting this interpretation, they maintained that vessel age based on a major conversion was implicit throughout 33 CFR Part 157, that it is consistent with the statute, and that to change it would unduly penalize owners who made the decision to extend the economic life of their tankships through a major conversion.

Seven commenters objected to using a major conversion as the basis for determining tankship age. They maintained that there is no statutory authority for this interpretation and that the Coast Guard made a substantive change without prior notice to the public.

The Coast Guard has carefully reexamined its position on determining the "age" of a vessel that has undergone a major conversion. The Coast Guard does not consider that basing tankship age on the completion date of a major conversion is contrary to statute. The statutes are silent on this issue. 46 U.S.C. 3705(c) and 3706(d) both state the requirement to fit SBT, CBT, or COW applies to tankships that are ". . . at least 15 years of age. . . . ." The statutes do not state how the 15 years of age is to be determined. The statutes define a "major conversion," as one that "so changes the vessel that it is essentially a new vessel . . ." (46 U.S.C. 3701(2)), and uses it to determine if a tankship is a "new" or "existing" vessel for the purposes of applying pollution prevention standards in 46 U.S.C. Chapter 37 (46 U.S.C. 3701(3)). The Coast Guard considers it illogical to consider a tankship, constructed 30 or 40 years ago, which has undergone a major conversion that was contracted for after June 1, 1979, or began after January 1, 1980, or was completed after June 1, 1982, a "new" vessel and to ignore the effects of a major conversion completed on an "existing" tankship before those dates.

The Coast Guard does not consider the actions taken to include the provisions for basing "15 years of age" on the completion date of a major conversion contrary to the rulemaking process since 5 U.S.C. 553 excludes this action from the rulemaking process. This interpretation is needed to clarify the meaning of the statute and is consistent with the application of other regulations within 33 CFR Part 157. The Coast Guard has also consistently applied the concept of considering a vessel having undergone a major conversion as a new vessel in applying construction standards in Title 46 Code of Federal Regulations. When this interpretation was omitted from the NPRM it prompted comments, which lead to its inclusion in the final rule.

Final Action

In consideration of the proceeding, the final rule amending 33 CFR Part 157, published in the **Federal Register** (50 FR 11622) on March 22, 1985 is reaffirmed and no further action will be taken.

Dated: August 5, 1985.

J.S. Gracey,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 85-19092 Filed 8-9-85; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No. 50725-5025]

Revision of Patent Fees; Correction

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule on the revision of patent fees that appears at page 31818-31826 in the **Federal Register** of Tuesday, August 6, 1985 (50 FR 31818). This action is necessary to correct typographical errors.

EFFECTIVE DATE: October 5, 1985.

FOR FURTHER INFORMATION CONTACT: Frances Michalkewicz by telephone at (703) 557-1610 or by mail marked to her attention and addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

The following corrections are made in FR Doc. 85-18720 appearing on 31818-31826 in the issue of August 6, 1985.

1. On page 31820, in the second column, in the sixth complete paragraph, second line, "to adjust the fees for the purchase" should read "to adjust the fee for the purchase."

2. On page 31820, in the third column, in the fourth complete paragraph, in the first line, "Section 1.445, paragraphs (a)(1), (a)(4)," should read "Section 1.445, paragraphs (a)(1)-(a)(4)."

3. On page 31822, in the first column, in the last complete paragraph, third line from the end, "developing and equitable" should read "developing an equitable."

4. On page 31822, in the second column, in the ninth line, "(1966-1988)" should read "(1986-1988)."

§ 1.16 [Corrected]

5. On page 31824, in the second column, § 1.16(j), in the first line, "In addition to that basic," should read "In addition to the basic."

§ 1.121 [Corrected]

6. On page 31825, in the third column, § 1.21(k), in the last line, "such item or service.." should read "such item or service...actual cost," and the footnote, " [1] Actual Cost" should be deleted.

Dated: August 7, 1985.

Donald J. Quigg,

Acting Commissioner of Patents and Trademarks.

[FR Doc. 85-19184 Filed 8-9-85; 8:45 am]

BILLING CODE 3510-16-M

POSTAL SERVICE

39 CFR Parts 775 and 776

Amendments to Environmental Procedures and Floodplain Management and Protection of Wetlands Procedures

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule eliminates the requirement for a preferred area environmental assessment report for facility actions before contending sites are determined. The environmental assessment process for a facility action will continue to be started early in the planning process; however, an environmental assessment report is not required until contending facility project sites have been determined.

EFFECTIVE DATE: September 11, 1985.

FOR FURTHER INFORMATION CONTACT: Melinda Hulsey, 202/245-4354.

SUPPLEMENTARY INFORMATION: On June 28, 1985, the Postal Service published for comment in the **Federal Register** (50 FR 26811) proposed amendments to Parts 775 and 776 of the Code of Federal Regulations to carry out the purpose described in the Summary above. Interested persons were invited to submit comments concerning the proposed amendments on or before July 29, 1985. One comment was received. This comment, from the Environmental Protection Agency, stated that the "proposed amendments will not reduce the overall adequacy of the Postal Service's environmental assessment documentation.".

In view of the above considerations, the Postal Service amends Parts 775 and 776 of Chapter I of Title 39 of the Code of Federal Regulations as follows:

List of Subjects in 39 CFR Parts 775 and 776

Environmental Impact Statements, Floodplains.

PART 775—ENVIRONMENTAL PROCEDURES

1. The authority citation for Part 775 is revised to read as set forth below and the authority citation following § 775.4 is removed.

Authority: 39 U.S.C. 401; 42 U.S.C.4331 *et seq.*; 40 CFR 1500.4(p).

2. Section 775.5 is amended by revising paragraph (b)(1) to read as follows:

§ 775.6 Environmental Evaluation Procedures.

* * * * *

(b) * * *

(1) The environmental assessment of any action which involves the choice of contending sites for a facility must be started early in the planning of the action. An environmental assessment report, however, is not required until the contending project sites have been determined. The information contained in the environmental assessment report must be used, together with other site planning information, in the selection of the final site.

* * * * *

PART 776—FLOODPLAIN MANAGEMENT AND PROTECTION OF WETLANDS PROCEDURES

3. The authority citation for Part 776 continues to read as follows:

Authority: 39 U.S.C. 401.

4. Section 776.5 is amended by revising paragraph (a) to read as follows:

§ 776.5 New construction.

(a) *Restriction of Consideration of Floodplain/Wetland.* During the evaluation of contending sites for a proposed project, floodplain and wetlands areas may be considered *only* when there is no practicable alternative site.

* * * * *

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 85-19061 Filed 8-9-85; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 1619; A-7-FRL-2880-9]

Approval and Promulgation of State Implementation Plans; Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rulemaking (FRM).

SUMMARY: In this document, EPA takes final action to approve a revision to the Missouri State Implementation Plan (SIP). This revision contains the regulations and other necessary elements of the Inspection and Maintenance Program for motor vehicles in the St. Louis area. An Inspection and Maintenance program is required as part of the SIP by the Clean Air Act. EPA approval will allow the State to satisfy this requirement. This program will help reduce ozone and carbon monoxide air pollution in the St. Louis area.

EFFECTIVE DATE: This action will be effective September 11, 1985.

ADDRESSES: Copies of the State submission and EPA's technical evaluation are available at the Environmental Protection Agency, 726 Minnesota Avenue, Kansas City, Kansas 66101, and at the Department of Natural Resources, Air Pollution Control Program, 1101 Rear Southwest Blvd., Jefferson City, MO 65102. A copy of the State's submission is also available at the Environmental Protection Agency, Public Information reference Unit, 401 M Street, SW., Washington, D.C., and the Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Daniel J. Wheeler, 913/236-2893 (FTS) 757-2893.

SUPPLEMENTARY INFORMATION: On February 11, 1985 (50 FR 5630), EPA proposed to approve the Missouri State Implementation Plan (SIP) as it pertains to the requirement for an Inspection and Maintenance (I/M) program for motor vehicles. As discussed in that proposal, a motor vehicle I/M program is required as part of the plan to attain the carbon monoxide and ozone air quality standards in the St. Louis Metropolitan Area.

On August 27, 1984, the State submitted the documentation for the St. Louis I/M program. This documentation includes legal authority, regulations, procedures, forms, manuals, equipment specifications and other items necessary to the operation of the I/M program. The program began January 1, 1984, and is currently in operation.

The requirements for an I/M program are outlined in the EPA policy "Approval of 1982 Ozone and Carbon Monoxide Plan Revisions for Areas Needing an Attainment Date Extension," published January 22, 1981 (46 FR 7781). A discussion of how the St. Louis I/M program satisfies the requirements is contained in the February 11, 1985, proposed rulemaking document. The proposal also discusses the general requirements for approval as part of the SIP and the additional emission reduction credit the State claimed for its anti-tampering program.

The February 11, 1985, proposal stated that EPA found that the I/M program meets all of the requirements, and proposed to approve it as part of the Missouri SIP. No comments have been received by EPA as a result of this proposal.

The State submission constitutes a proposed revision to the Missouri SIP. The Administrator's decision to approve or disapprove a proposed revision is based on the comments received and on a determination of whether or not the revision meets the requirements of sections 110 and 172 of the Clean Air Act, of 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans, and of the 1982 SIP policy (46 FR 7184, January 22, 1981). I hereby find the portions of the Missouri SIP described above to be approvable.

Under section 307(b)(1) of the Clean Air Act, as amended, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. This action may not be challenged later in proceedings to enforce its requirements.

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

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

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Reporting and Recordkeeping requirements.

Dated: August 2, 1985.

Lee M. Thomas,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart AA—Missouri

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.1320 is amended by adding a new paragraph (c)(51) as follows:

§ 52.1320 Identification of Plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(51) The motor vehicle inspection and maintenance program for the St. Louis area was submitted August 27, 1984, by the Department of Natural Resources.

(i) *Incorporations by reference.* (A) Amendment to Regulations 10 CSR 10–5.380, "Motor Vehicle Emissions Inspections", published in the Missouri Register January 3, 1982;

(B) Missouri Revised Statutes, Sections 307.350 through 307.395, "Motor Vehicle Safety Inspection", as revised September 1983;

(C) Regulations 11 CSR 50–2.010 through 11 CSR 50–2.410, "Missouri Motor Vehicle Inspection Regulations", as revised July 1, 1982.

(ii) *Additional material.* (A) I/M Implementation Schedule.

(B) Highway Patrol Forms.

(C) Missouri Certified Emission Analyzers.

(D) Missouri Department of Revenue Policy.

(E) Highway Patrol QC Manual.

(F) EPA Approval of RACT Compliance.

(G) Public Awareness Materials.

[FR Doc. 85–19099 Filed 8–9–85; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[TN–015; A–4–FRL–2880–4]

Approval and Promulgation of Implementation Plans; Tennessee; State and Memphis/Shelby Lead Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is today approving State Implementation Plan (SIP) revisions submitted by the State of Tennessee. The revisions establish a lead SIP for attainment and maintenance of the National Ambient Air Quality Standard (NAAQS) for lead in all areas of Tennessee not governed by local agencies, and Memphis/Shelby County.

EFFECTIVE DATE: September 11, 1985.

ADDRESSES: Copies of the materials submitted by the State may be examined during normal business hours at the following locations:

Environmental Protection Agency
Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365

Library, Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20005

Public Information Reference Unit, EPA Library, 401 M Street, SW., Washington, DC., 20460

Division of Air Pollution Control, Tennessee Department of Public Health, 150 9th Avenue, North, Nashville, Tennessee 37203

Memphis/Shelby County Health Department, 814 Jefferson Avenue, Memphis, Tennessee 38105

FOR FURTHER INFORMATION CONTACT: Mr. Raymond Gregory, EPA Region IV, Air Management Branch, at the above listed address and phone 404/881–3286, or FTS 257–3286.

SUPPLEMENTARY INFORMATION: On August 7, 1984 (49 FR 31416), the EPA announced its disapproval of the regulatory portions of the Tennessee SIP for lead, which is applicable only to the areas of the state not governed by local agencies. On August 8, 1984 (49 FR 31686), EPA approved the lead SIP which Tennessee had submitted for Memphis/Shelby County (an area with a local agency), but disapproved the plan's new source review portion. The State submitted additional information to EPA and on March 18, 1985 (50 FR 10796), EPA proposed to remove the disapprovals of August 7 and 8, 1984, thereby approving the Memphis/Shelby County plan, and the regulatory portions of the Tennessee plan.

EPA is today removing the existing disapproval of August 7, 1984 (49 FR 31416) and approving the provisions of the Tennessee Administrative Code Chapter 1200–3–22: Lead Emission Standards, which specify definitions, specific emission standards for existing, new and modified sources, source sampling requirements, and lead ambient monitoring requirements that EPA deems adequate to assure attainment and maintenance of the lead NAAQS throughout the area of the State agency's jurisdiction (excluding those counties for which EPA has already approved lead plans, i.e. Davidson, Hamilton, Knox, and Shelby). EPA today also approves final operating permits submitted by the State, that create specific emission limits applicable to existing stationary sources of lead (effective on December 5, 1984) for the three sources.

The action taken today addresses both deficient areas in the Memphis/Shelby County plan by proposing to remove the previous disapproval of August 8, 1984, and to approve a commitment by Memphis/Shelby County to review new sources of lead and modifications to lead sources according to EPA guidance. This commitment by Memphis/Shelby County was made in a letter dated December 20, 1984. Memphis/Shelby County has committed, pursuant to State new source review authority, to subject new sources of lead with potential emissions of five tons per year or more to new source review requirements.

Additionally, a commitment has been made to subject any lead source which makes a modification resulting in a potential net increase of 0.6 tons per year of lead to new source review requirements. These commitments by Memphis/Shelby County conform to EPA guidance dated July, 1983, entitled "Updated Information on Approval and Promulgation of Lead Implementation Plans."

For more background information, see the Notice of Proposed Rulemaking of March 18, 1985 (50 FR 10796). No public comment was received in response to EPA's March 18, 1985, proposal.

Final Action

Based on the foregoing, EPA hereby approves the Tennessee SIP for lead, and the Tennessee SIP for lead for Memphis/Shelby County. This action is effective September 11, 1985.

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

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

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

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Lead, Incorporation by reference.

Dated: August 5, 1985.

Lee M. Thomas,

Administrator.

PART 52—[AMENDED]

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

Subpart RR—Tennessee

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.2220 is amended by adding paragraphs (c)(66) and (c)(67) as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(66) State implementation plan for lead, submitted on December 5, 1984, by the Tennessee Department of Health and Environment.

(i) *Incorporation by reference.* (A) Amendments to the Tennessee Air Pollution Control Regulations, Chapter 1200–3–22, Lead Emission Standards, as submitted, and State-effective on December 5, 1984.

(B) Operating permits for:

(*1*) Ross Metals, Inc., issued on December 5, 1984.

(*2*) General Smelting and Refining Company, issued on December 5, 1984.

(*3*) Tennessee Chemical Company, issued on December 5, 1984.

(ii) *Additional Information.* (A) Control Strategy and modelling, submitted on June 4, 1984.

(67) Letter of commitment, submitted on December 20, 1984, by the Memphis-Shelby County Health Department.

(i) *Incorporation by Reference.* (A) Letter of commitment on new source review for lead sources, submitted on December 20, 1984, by the Memphis County Health Department.

(ii) *Additional Information.* (A) None.

§ 52.2228 [Amended]

3. In § 52.2228, paragraph (e), which deals with new source review for lead in Memphis-Shelby County, is removed.

§ 52.2229 [Removed]

4. Section 52.2229, Rules and regulations, is removed (disapproval of Tennessee lead plan).

[FR Doc. 85–19104 Filed 8–9–85; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 65

[A–5–FRL–2880–8]

Federal and State Administrative Orders Permitting a Delay in Compliance With State Implementation Plan Requirements; General Motors Corp., Detroit Diesel Allison—Redford Plant, Detroit, MI

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Final rulemaking.

SUMMARY: The Administrator of USEPA hereby issues a Delayed Compliance Order (DCO) to General Motors Corporation for its Detroit Diesel Allison—Redford Plant. The Order requires the Company to bring the volatile organic compound (VOC) emissions from its engine primer line and engine topcoat line into compliance with Michigan Rule R336.1621, which is part of the federally approved State Implementation Plan (SIP).

EFFECTIVE DATE: This final rulemaking becomes effective August 12, 1985.

FOR FURTHER INFORMATION CONTACT: Brad Bradley, U.S. Environmental Protection Agency, Air Compliance Branch (5AC–26), 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6807.

SUPPLEMENTARY INFORMATION: On May 9, 1985, the Regional Administrator of USEPA's Region V office published a notice in the **Federal Register** (49 FR 19550) setting forth the provisions of a proposed Delayed Compliance Order for General Motors Corporation, Detroit Diesel Allison—Redford Plant. The Order requires the company to bring VOC emissions from its engine primer line and engine topcoat line into compliance by December 1, 1984, with Michigan Rule R336.1621, which is a part of the federally approved Michigan State Implementation Plan. General Motors has consented to the terms of the Order.

No public comments were received. Therefore, a Delayed Compliance Order, effective this date, is issued to General Motors Corporation for its Detroit Diesel Allison—Redford Plant in Detroit, Michigan. Source compliance with the Order precludes suits under the federal enforcement and citizen suit provision of the Clean Air Act.

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 60 days from today. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2)).

List of Subjects in 40 CFR Part 65

Intergovernmental relations, Air pollution control.

This notice is issued under authority of section 113 of the Clean Air Act, as amended (42 U.S.C. 7413 and 7601)).

Dated: July 30, 1985.

Lee M. Thomas,

Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDER

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 7413 and 7601.

§ 65.270 [Amended]

2. By adding the following entry to the table in Part 65 § 65.270 Federal delayed compliance orders issued under section 113(d), (c), (3), and (4) of the Act.

Source	Location	Order No.	SIP regulation involved	Date of FR proposal	Final compliance date
General Motors Corp., Detroit Diesel Allison-Redford Plant.	Detroit, MI	To be assigned	R336.1621	5/9/85	12/1/84

[FR Doc. 85-18942 Filed 8-9-85; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 81

[A-3-FRL-2870-6]

Designation of Areas for Air Quality Planning Purposes; Commonwealth of Pennsylvania; Section 107 Redesignation

Correction

In FR Doc. 85-17877 beginning on page 30704 in the issue of Monday, July 29, 1985, make the following correction:

On page 30705, in the first column, in the tenth line from the bottom, "with" should read "and".

BILLING CODE 1505-01-M

40 CFR Part 419

[WH-FRL-2878-1]

Petroleum Refining Point Source Category; Effluent Limitations Guidelines; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: EPA is correcting several errors in the effluent limitations guidelines for the petroleum refining point source category which appeared in the **Federal Register** on July 12, 1985 (50 FR 28516).

EFFECTIVE DATE: August 12, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis Ruddy, Industrial Technology Division, at (202) 382-7131.

SUPPLEMENTARY INFORMATION: On July 12, 1985, EPA published final effluent limitations guidelines for the petroleum refining point source category (40 CFR Part 419; 50 FR 28516). The regulation contained several errors. These errors are discussed briefly below and are corrected by this notice.

A footnote reference to the substitution of Total Organic Carbon (TOC) for Chemical Oxygen Demand (COD) as a regulated pollutant contained a typographical error. The footnote should refer to § 419.13(d) instead of § 419.13(c).

In the title of § 419.24, the word "conventional" was misspelled.

In paragraph (a) of § 419.24, the acronym for best conventional pollutant control technology is incorrect. It should read "BCT".

In paragraph (a) of § 419.24, the best conventional pollutant control technology effluent limitation for total suspended solids (TSS), expressed as a maximum for any one day in metric units should read "19.5" instead of "19.3".

In Appendix A to the regulation, under Cracking and Coking Processes, the word "Catalytic" is misspelled in item 6.

The effective date of these regulations (August 26, 1985) and the issuance date for purposes of judicial review (1:00 p.m. Eastern time, July 29, 1985) of these regulations are not amended by this notice.

List of Subjects in 40 CFR Part 419

Petroleum, Water pollution control, Waste treatment and disposal.

Dated: July 26, 1985.

Edwin L. Johnson,

Acting Assistant Administrator.

For the reasons set out in the preamble, EPA is correcting 40 CFR Part 419 with respect to 50 FR 28516-26525 as follows:

PART 419—[CORRECTED]

1. In the amendment to 40 CFR 419.12 (a) and (c), 419.13(a), 419.16 (a) and (c), 419.22(a), 419.23(a), 419.26(a), 419.32(a), 419.33(a), 419.36(a), 419.42(a), 419.43(a), 419.46(a), 419.52(a), 419.53(a), and 419.56(a), on page 28523, column 3, the footnote beginning on line 5, "[1] See footnote following table in § 419.13(b)" is corrected to read "[1] See footnote following table in § 419.13(d)".

2. In 40 CFR 419.24, on page 28525, column 2, in the fourth line of the title § 419.24, "conventiona" is corrected to read "conventional".

3. In 40 CFR 419.24(a), on page 28525, column 2, in the seventh line of paragraph (a), "(BTC)" is corrected to read "(BCT)".

4. In the table to 40 CFR 419.24(a), on page 28525, column 2, last line, the BCT effluent limitation for TSS expressed as the maximum for any 1 day in metric units is corrected to read "19.5".

5. In Appendix A to 40 CFR Part 419, on page 28528, column 2, under Cracking and Coking Processes, item 6 is corrected to read "6. Fluid Catalytic Cracking".

[FR Doc. 85-19105 Filed 8-9-85; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 73, 74, 76, and 78

Oversight of the Radio, Television, and Cable Television Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order amends broadcast station regulations in Parts 73, 74, 76 and 78 of the rules of the FCC. Amendments are made to delete regulations that are no longer necessary, correct inaccurate rule texts, contemporize certain requirements and to execute revisions as needed for purposes of clarity and ease of understanding.

EFFECTIVE DATE: August 12, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Steve Crane, Policy and Rules Division, Mass Media Bureau, (202) 632-5414.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 73

Radio Broadcasting.

47 CFR Part 74

Auxiliary special broadcast services.

47 CFR Part 76

Cable TV service.

47 CFR Part 78

Cable TV relay service.

Order

In the Matter of Oversight of the Radio, TV and CATV Rules.

Adopted: July 22, 1985.

Released: August 2, 1985.

By the Chief, Mass Media Bureau.

1. In this *Order*, the Commission focuses its attention on the oversight of its radio, TV and Cable TV rules. Modifications are made herein to update, delete, clarify or correct broadcast regulations as described in the following amendment summaries:

(a) Section 0.455, Other locations at which records may be inspected, sets forth a list of records routinely available for inspection in the various Bureaus and Offices of the FCC. This rule contains inaccuracies corrected herein

by changing reference to *"Broadcast Bureau"* to read *"Mass Media Bureau"*; to delete reference to *"Cable Television Bureau* since it's now part of the Mass Media Bureau and to transfer references to cable system operator records found therein to the Mass Media Bureau list; and to revise incorrect cross-references to other rules. (See appendix item 2.)

(b) Section 73.45, paragraph (c), was revised in the Report and Order in MM Docket 84–751. There is one error in a cross reference to § 73.315 in paragraph (c). It should read § 73.316, and is herein corrected. (See appendix item 3.)

(c) In the Report and Order in BC Docket 80–90,[1] adopted May 26, 1983, the Commission converted measurements in the FM broadcast service to metric. In the amendments to the table in § 73.213, Stations and spacings below the minimum separations, an error in stating power under facilities authorized for certain A to C classes of stations was made. In the table, "Facilities To Be Authorized for Short-Spaced FM Stations," a Class C station with antenna height of 600 meters should show an authorized power of 20 kW, not 100 kW as stated, for first adjacent separation of less than 97 kilometers. It is corrected herein. (See appendix item 4.)

(d) The Report and Order in the proceeding pertaining to Multiple Ownership Rules for AM, FM, and TV stations, removed the pertinent rule sections from the separate subparts and consolidated them into a new single section applicable to all services and put it into Subpart H as § 73.3555.

In Section 73.683, there still exists a cross reference to § 73.636, the former TV multiple ownership rule. The error is corrected herein to read § 73.3555. (See appendix item 5.)

(e) The Report and Order in BC Docket 82–537, which eliminated the majority of operating and maintenance logging requirements [2] states, in paragraph 13 ". . . broadcast licensees will no longer be required to follow a schedule of meter and monitor readings, inspections, observations and certain other measurements as previously required." The paragraph ends with "Rather, licensees will be free to develop their own schedules based on the performance characteristics of their transmitting equipment." A change that should have been effected in § 73.1870, Chief operators, was inadvertently missed when the rules were drafted in the Report and Order. A weekly inspection requirement was retained (a monthly requirement for automatic transmission systems); it is removed from § 73.1870(c)(1) in this Order. (See appendix item 6.)

(f) Paragraphs (a) and (d) of § 73.3540, Application for voluntary assignment or transfer of control, contains errors that are corrected herein. In paragraph (a), the rule requires that prior consent must be obtained for assignment or transfer of control without stating from whom. It is the FCC, of course, and is made clear via the amendment herein; in paragraph (d) a cross reference to Form 316 directs the rule user to paragraph (e) for Form 316 instead of the correct paragraph, (f). Corrective revision is made accordingly. (See appendix item 7.)

(g) The requirements for making changes in licensed transmission facilities are found in § 73.1690. These requirements were formerly contained in separate rules in the separate subparts for AM, FM NCE–FM and TV stations. A cross reference existing in § 73.3544(a)(1) directs the reader to the former rule section numbers, long since removed in favor of § 73.1690. The incorrect text in paragraph (a)(1) of § 73.3544 is corrected via this Order. Also, paragraph (b)(1) [Reserved] is removed, and paragraphs (b)(2)–(5) are renumbered (b)(1)–(4). (See appendix item 8.)

(h) In the Report and Order in MM Docket 84–750, the Commission, in addition to revising certain of its application processing rules, adopted a new policy regarding the processing of commercial FM applications. It is entered as new § 73.4017 into the listing of FCC Policies via this Order. (See appendix item 9.)

(i) Prior to 1984, the FCC published, and the Government Printing Office prepared and printed, the rules of the Commission in loose leaf form. Quadrennially, a new "edition" would be printed, with correction updates released, as appropriate, throughout each 4 year period. These updates were called "transmittal sheets". To lower costs, rule sections or paragraphs therein, if removed by Commission action, would be marked "[Reserved]". This would spare the G.P.O. having to reset type for the subject rule and thereby lower the cost of production when printing the transmittal sheets. With each quadrennial edition, editors would remove [Reserved] designations, and renumber sections as needed in preparation for the every-four-year reprint.

The FCC practice of printing loose leaf editions ended with the release of the last transmittal sheets in 1983. With no further "editions" printed, many "[Reserved]" entries are left in Title 47 of the Code of Federal Regulations. They will be removed herein since no procedure exists any longer to remove them with a new loose-leaf "edition." Where following paragraphs remain in such modified rule sections, they will be appropriately redesignated. (See appendix items 10 through 44.)

2. No substantive changes are made herein which impose additional burdens or remove provisions relied upon by licensees or the public. We conclude, for the reasons set forth above, that these revisions will serve the public interest.

3. These amendments are implemented by authority delegated by the Commission to the Chief, Mass Media Bureau. Inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose, prior notice of rule making, effective date provisions and public procedure thereon are unnecessary pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. 553(b)(3)(B).

4. Since a general notice of proposed rulemaking is not required, the Regulatory Flexibility Act does not apply.

5. Therefore, it is ordered, that pursuant to sections 4(i), 303(r) and 5(c)(1) of the Communications Act of 1934, as amended, and §§ 0.61 and 0.283 of the Commission's Rules, Parts 73, 74, 76 and 78 of the FCC Rules and Regulations are amended as set forth in the attached appendix, effective upon publication in the **Federal Register.**

6. For further information on this *Order*, contact Steve Crane, (202) 632–5414, Mass Media Bureau.

Federal Communications Commission.

James C. McKinney,

Chief, Mass Media Bureau.

Appendix

1. The authority citation for Parts 0, 73, 74, 76 and 78 continues to read as follows:

Authority: Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

PART 0—[AMENDED]

2. 47 CFR 0.455 is amended by revision paragraph (b) to read as set forth below and by removing paragraph (i).

§ 0.455 Other locations at which records may be inspected.

* * * * *

(b) *Mass Media Bureau.* (1) Applications for broadcast

[1] In the Matter of Modification of FM Broadcast Station Rules to Increase the Availability of Commercial FM Broadcast Assignments.

[2] BC Docket 82–537, 48 FR 38473, August 24, 1983.

authorizations and related files are available for public inspection in the Mass Media and Dockets Reference Room. See § 0.453(a)(2). Certain broadcast applications, reports and records are also available for inspection in the community in which the main studio of the station in question is located or proposed to be located. See §§ 73.3526 and 73.3527.

(2) Ownership reports filed by licensees of broadcast stations pursuant to §73.3615.

(3) Contracts relating to network service to broadcast licensees filed on or after the 1st day of May 1969, under § 73.3613.

(4) Annual employment report filed by licensees and permittees of broadcast stations pursuant to § 73.3612.

(5) Cable TV system reports filed by operators pursuant to § 76.403.

* * * * *

PART 73—[AMENDED]

3. 47 CFR 73.45 is amended by revising paragraph (c) introductory text to read as follows:

§ 73.45 AM antenna systems.

* * * * *

(c) Should any changes be made or otherwise occur which would possibly alter the resistance of the antenna system, the licensee must commence the determination of the operating power by a method described in § 73.51(a)(1) or (d). (If the changes are due to the construction of FM or TV transmitting facilities, see §§ 73.316 and 73.685.) Upon completion of any necessary repairs or adjustments, or upon completion of authorized construction or modifications, the licensee must make a new determination of the antenna resistance using the procedures described in § 73.54. Operating power should then be determined by a direct method as described in § 73.51. Notification of the value of resistance of the antenna system must be filed with the FCC in Washington, D.C. as follows:

* * * * *

4. 47 CFR § 73.213 is amended by revising the third "A to C" entry in the table *Facilities To Be Authorized For Short-Spaced FM Stations* in paragraph (a) to read as follows.

§ 73.213 Stations at spacing below the minimum separations.

(a) * * *

FACILITIES TO BE AUTHORIZED FOR SHORT-SPACED FM STATIONS

Class of station	Separation in kilometers		Facilities authorized	
	Co-channel	First adjacent	Power (kw)	Antenna height
*	*	*	*	*
A to C		Less than 97.	* * *	* * *
			20	600 Class C.

* * * * *

5. 47 CFR § 73.683 is amended by revising paragraph (c)(2) to read as follows:

§ 73.683 Field strength contours.

* * * * *

(c) * * *

(2) In connection with problems of coverage arising out of application of § 73.3555.

* * * * *

6. 47 CFR 73.1870 is amended by revising paragraph (c)(1) to read as follows:

§ 73.1870 Chief operators.

* * * * *

(c) * * *

(1) Inspections and calibrations of the transmission system, required monitors, metering and control systems; and any necessary repairs or adjustments where indicated. (See § 73.1580.)

* * * * *

7. 47 CFR 73.3540 is amended by revising paragraphs (a) and (d) to read as follows:

§ 73.3540 Application for voluntary assignment or transfer of control.

(a) Prior consent of the FCC must be obtained for a voluntary assignment or transfer of control.

* * * * *

(d) Application for consent to the transfer of control of a corporation holding a construction permit or license must be filed on FCC Form 315 "Transfer of Control" or FCC Form 316 "Short form" (see paragraph (f) of this section).

* * * * *

8. 47 CFR 73.3544 is amended by revising paragraph (a)(1); and redesignating paragraphs (b)(2) through (b)(5) as (b)(1) through (b)(4) as follows:

§ 73.3544 Application to obtain a modified station license.

* * * * *

(a) * * *

(1) A change in the type of FM or TV transmitting antenna where prior authority from the FCC is not required to make such a change. See § 73.1690, Modification of transmission systems.

* * * * *

9. New 47 CFR 73.4017 is added to read as follows:

§ 73.4017 Application processing: Commercial FM stations.

See Report and Order, Mass Media Bureau Docket 84-750, FCC 85-125, adopted March 4, 1985. —— FCC 2d ——; 50 FR 19936, May 13, 1985.

§ 73.53 [Amended]

10. 47 CFR 73.53, Requirements for authorization of antenna monitors, is amended by redesignating paragraph (c) as paragraph (b).

§ 73.54 [Amended]

11. 47 CFR 73.54, Antenna resistance and reactance measurements, is amended by redesignating paragraph (e) as paragraph (d).

§ 73.57 [Amended]

12. 47 CFR 73.57, Remote reading antenna and common point ammeters, is amended by redesignating paragraphs (d) (2) and (3) as paragraphs (d) (1) and (2).

§ 73.58 [Amended]

13. 47 CFR 73.58, Indicating instruments, is amended by redesignating paragraphs (e) (2) and (3) as paragraphs (e)(1) and (e)(2).

§ 73.142 [Amended]

14. 47 CFR 73.142, Automatic transmission system facilities, is amended by redesignating paragraphs (d) through (j) as paragraphs (c) through (i).

§ 73.151 [Amended]

15. 47 CFR 73.151, Field strength measurements to establish peformance of directional antennas, is amended by redesignating paragraph (a)(4) as (a)(3).

§ 73.182 [Amended]

16. 47 CFR 73.182, Engineering standards of allocation, is amended by redesignating paragraphs (d) through (l) as (c) through (k); and by redesignating paragraphs (o) through (y), as (l) through (v).

§ 73.258 [Amended]

17. 47 CFR 73.258, Indicating instruments, is amended by redesignating paragraphs (d), (e) and (f) as (b), (c) and (d).

§ 73.295 [Amended]

18. 47 CFR 73.295, FM subsidiary communications services, is amended by removing paragraph (f) [Reserved], the last paragraph in the section.

§ 73.317 [Amended]

19. 47 CFR 73.317, Transmission system requirements, is amended by redesignating paragraphs (a) (4) through (10) as (a) (3) through (9); and by redesignating paragraphs (f) and (g), as paragraphs (e) and (f).

§ 73.342 [Amended]

20. 47 CFR 73.342, Automatic transmissions system facilities, is amended by redesignating paragraphs (e), (f), (g), (h) and (i) as (d), (e), (f), (g) and (h).

§ 73.344 [Amended]

21. 47 CFR 73.344, Fail-safe transmitter control for automatic transmission systems, is amended by redesignating paragraphs (a) (4), (5) and (6) as (a) (3), (4) and (5).

§ 73.542 [Amended]

22. 47 CFR 73.542, Automatic transmission system facilities, is amended by redesignating paragraphs (e), (f), (g), (h) and (i) as (d), (e), (f), (g) and (h).

§ 73.544 [Amended]

23. 47 CFR 73.544, Fail-safe transmitter control for automatic transmission systems, is amended by redesignating paragraphs (a) (4), (5) and (6) as (a) (3), (4) and (5).

24. 47 CFR 73.558, Indicating instruments, is amended by removing paragraphs (e)(1)–(2) [reserved] and (e)(3); and redesignating paragraphs (d), (e) and (f) as (b), (c) and (d), and by revising newly designated paragraph (d) to read as follows:

§ 73.558 Indicating instruments.

* * * * *

(d) In the event that any one of these indicating instruments becomes defective when no substitute which conforms with the required specifications is available, the station may be operated without the defective instrument pending its repair or replacement for a period not in excess of 60 days without further authority of the FCC. If the defective instrument is the transmission line meter of a station which determines the output power by the direct method, the operating power shall be determined by the indirect method in accordance with § 73.267(c) during the entire time the station is operated without the transmission line meter.

* * * * *

§ 73.687 [Amended]

25. 47 CFR 73.687, Transmission system requirements, is amended by redesignating paragraph (g) as (f); and by redesignating paragraphs (i) and (j) as paragraphs (g) and (h).

§ 73.1212 [Amended]

26. 47 CFR 73.1212, Sponsorship identification; list retention; related requirements, is amended by redesignating paragraph (g)(3) as (g)(2).

§ 73.1550 [Amended]

27. 47 CFR 73.1550, Extension meters, is amended by redesignating paragraph (b)(4)(iv) as (b)(4)(iii); and by redesignating paragraphs (c) (2), (3) and (4) as (c) (1), (2) and 3.

28. 47 CFR 73.1590, Equipment performance measurements, is amended by removing paragraphs (b)(1)(i)–(iv) [Reserved] and revising paragraph (b)(1) to read as follows; by removing paragraphs (b)(3)(i)–(iv) [Reserved] and paragraph (b)(3) to read as follows: by removing paragraphs (c)(1) [Reserved] and (c)(6) [Reserved] and redesignating paragraphs (c) (2), (3), (4) and (5) as (c) (1), (2), (3) and (4), and redesignating paragraph (c)(7) as (c)(5):

§ 73.1590 Equipment performance measurements.

* * * * *

(b) * * *

(1) *AM monophonic stations.* Measurements or evidence showing that spurious radiations, including radio frequency harmonics, are suppressed or are not present to a degree capable of causing objectionable interference to other radio services. Field strength measurements are preferred but observations made with a communications type receiver are acceptable. However, in particular cases involving interference or controversy, the FCC may require field strength measurements.

(2) * * *

* * * * *

(3) *FM and TV (aural).* If, after type acceptance, any changes have been made in the transmitter or associated equipment (filters, multiplexers, etc.) which could cause changes in its radiation product, data showing attenuation of spurious and harmonic radiation.

* * * * *

29. 47 CFR 73.1670 is amended by redesignating paragraph (c)(5) as (c)(4); and by revising parenthetical cross reference at the end of paragraph (c)(3) to read as follows:

§ 73.1670 Auxiliary transmitters.

* * * * *

(c) * * *

(3) * * * (See § 73.51, AM; § 73.267, FM; § 73.567, NCE-FM; and § 73.663, TV).

* * * * *

§ 73.1690 [Amended]

30. 47 CFR 73.1690, Modification of transmission systems, is amended by redesignating paragraph (e)(8) as (e)(7).

PART 74—[AMENDED]

§ 74.533 [Amended]

31. 47 CFR 74.533, Remote control and unattended operation, is amended by redesignating paragraphs (b)(2) through (4) as (b)(1) through (3).

§ 74.602 [Amended]

32. 47 CFR 74.602, Frequency assignment, is amended by redesignating paragraphs (f) through (j) as paragraphs (d) through (h).

§ 74.635 [Amended]

33. 47 CFR 74.635, Unattended operation, is amended by redesignating paragraphs (a)(2) through (4) as (a)(1) through (3).

§ 74.655 [Amended]

34. 47 CFR 74.655, Authorization of equipment, is amended by redesignating paragraph (g) as (f).

§ 74.1250 [Amended]

35. 47 CFR 74.1250, Transmitters and associated equipment, is amended by removing paragraphs (f)–(h) [Reserved] and redesignating paragraph (i) as (f).

§ 74.1263 [Amended]

36. 47 CFR 74.1263, Time of operation, is amended by redesignating paragraphs (c) and (d) as (b) and (c).

PART 76—[AMENDED]

§ 76.5 [Amended]

37. 47 CFR 76.5, Definitions, is amended by redesignating paragraphs (u), (v) and (w) as paragraphs (p), (q) and (r); by redesignating paragraphs (y), (z), (aa), (bb) and (cc) as paragraphs (s), (t), (u), (v) and (w); by redesignating paragraphs (ee) through (pp) as paragraphs (x) through (ii).

§ 76.601 [Amended]

38. 47 CFR 76.601, Performance tests, is amended by redesignating paragraph (f) as (e).

PART 78—[AMENDED]

§ 78.18 [Amended]

39. 47 CFR 78.18, Frequency assignments, is amended by redesignating paragraphs (k), (l) and (m) as (j), (k) and (l).

§ 78.19 [Amended]

40. 47 CFR 78.19, Interference, is amended by redesignating paragraphs (e) and (f) as paragraphs (d) and (e).

§ 78.53 [Amended]

41. 47 CFR 78.53, Unattended operation, is amended by redesignating paragraphs (a)(3), (4) and (5) as (a)(2), (3) and (4); and by redesignating paragraph (c) as (b).

§ 78.61 [Amended]

42. 47 CFR 78.61, Operator requirements, is amended by redesignating paragraphs (c), (d), (e) and (f) as (b), (c), (d) and (e).

[FR Doc. 85-18927 Filed 8-9-85; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 15

[FCC 85-426]

Control Data Canada, Ltd.; Petition for Waiver; Permit Operation of a Field Disturbance Sensor

AGENCY: Federal Communications Commission.

ACTION: Order Granting Waiver.

SUMMARY: The FCC is granting Control Data Canada, Ltd. (CDC) a Waiver of Part 15, Subpart F to allow the immediate marketing of CDC's perimeter protection system subject to certain technical and administrative conditions. The perimeter protection system operates on TV channels 2 through 6, and is limited to the same radiation limits as personal computing devices (Class B). The perimeter protection system is used to prevent unauthorized exist or entry at penitentiaries, nuclear power plants, or other secure facilities. The waiver is necessary in order to permit marketing of this system. The intended effect is to allow prompt introduction of such systems to the marketplace so as to make available the benefits of such systems and gain further experience with their operation.

EFFECTIVE DATE: August 2, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Julius Knapp, Office of Science and Technology, Washington, D.C. 20554, (202) 653-8247.

SUPPLEMENTARY INFORMATION:

Order Granting Waiver

In the matter of Control Data Canada, Ltd., petition for waiver of Part 15, Subpart F, to permit operation of a field disturbance sensor in the band 50 to 88 MHz.

Adopted: July 30, 1985.

Released: August 2, 1985.

By the Commission.

1. On August 24, 1984, Control Data Canada, Ltd. (CDC), filed a petition requesting the Commission to waive the rules for field disturbance sensors [1] contained in Part 15, Subpart F, to permit immediate marketing of its perimeter protection system [2] known as GUIDAR, which operates in the band 50 to 88 MHz. Concurrently, CDC submitted a petition for rule making (RM 4824) looking toward amendment of Part 15, Subpart F, to provide for the operation of perimeter protection systems in the 50 to 88 MHz frequency band.

Discussion

2. GUIDAR operates on the principle of guided radar whereby a detection zone is created between "leaky" or ported coaxial cables deployed around the protected area. The present system employs two cables in parallel that are buried approximately five feet apart and nine inches below the ground. A radio frequency (RF) pulse is transmitted into one of the cables and some of the energy is coupled via the ports or holes in the outer conductor into the ground and air near the cable. Some of this energy is reflected from objects in the ground and discontinuities in the soil, and is coupled into the second or receiving cable. When a human or other large object crosses between the cables, the change in the electromagnetic energy coupled from one cable to the other is detected and an alarm is thereby triggered.

3. All of CDC's systems presently operating under an experimental license use a vacant TV channel. From CDC's discussion in the Petition for Rule Making, it appears that a vacant TV channel provides a very stable and predictable electromagnetic environment for the operation of wideband perimeter protection systems. The frequency band 5 to 88 MHz provides the perimeter protection systems ample bandwidth to find a vacant channel for operation.

4. CDC contends that there is a vital need for improved electronic surveillance systems at prisons and other high-risk facilities and that the present VHF frequency band, 40.66 to 40.70 MHz, in which the use of perimeter protection systems is allowed, does not provide sufficient bandwidth for the operation of a system such as GUIDAR. The GUIDAR system emits a pulsed signal, which results in an emission with a bandwidth of about 2.5 MHz, which is much wider than the rules permit at 40 MHz. The increased bandwidth is necessary to determine the range resolution (i.e., the ability to determine the location of the intruder).

5. In the petition for rule making CDC proposed that a radiation limit of 12 μV/m measured quasi-peak at a distance of 30 meters at any frequency from 50 to 88 MHz, and a powerline conducted limit of 250 μV over the frequency range of 450 kHz to 30 MHz are sufficient to prevent interference to devices presently operating in the proposed frequency band. CDC points out that 12 μV/m is less than the level of radio noise permitted in Part 15, Subpart J, for Class A, or commercial, computer equipment, which is subject to a limit of 30 μV/m at 30 meters in the subject frequency range.

6. CDC performed extensive tests to demonstrate that devices operating within the proposed limits for wideband sensors will not cause interference to TV operation on the lower VHF channels. In its Petition for Rule Making, CDC asserted that the possibility of discernible interference to TV reception in urban, suburban or rural locations under either Grade A or Grade B reception is unlikely. CDC has also been operating the GUIDAR system since January 26, 1983, at two locations in the U.S., under experimental licenses granted by the Commission.[3]

In addition, the system has been in operation since 1978 at various penitentiaries in Canada. CDC claims that there has not been a single complaint of GUIDAR interfering with a television receiver or any other communications device.

Comments

7. Comments on the Petition for Waiver were filed by RCA Corporation (RCA), the Electronic Industries Association (EIA), the Senstar Security Systems Corporation (Senstar), and Rollins Protective Services Company (Rollins). None of the parties filing comments opposed the frequency band recommended by CDC. RCA recommended that there be a separation distance of 100 meters from the nearest

[1] A field disturbance sensor is defined in § 15.4(j)(1) as follows: "A restricted radiation device which establishes a radio frequency field in its vicinity and detects changes in that field resulting from movement of persons or objects within the radio frequency field."

[2] A perimeter protection system is defined in § 15.4(j)(2) as follows: "A perimeter protection system is a field disturbance sensor which uses buried leaky cables installed around a facility to detect any unauthorized entry or exit. Its use is limited to commercial and industrial locations away from residential areas."

[3] See the Petition for Rule Making, page 10, footnote 2.

residence, and an emission limitation of 12 uV/m pending the adoption of any final regulations developed through a Commission rule making proceeding. EIA also recommended a separation distance of 100 meters. Rollins and Senstar opposed the Petition for Waiver. Rollins suggested that the waiver be denied until final rules could be adopted since the CDC system is a new and unproven technology. Senstar contends that it is not a new technology, and that there is sufficient competition in the market place without permitting CDC to market its system before final rules are adopted.

Commission Decision

8. The Commission is persuaded that it would be in the public interest to grant CDC's petition for waiver, subject to certain conditions, to allow immediate use of CDC's perimeter protection system. It should be clear that the public will benefit from the additional protection provided for high risk facilities. The multiple operating frequencies will accommodate varying design characteristics, and prevent the delay of new and potentially more efficient technology into the marketplace. In addition, Pub. L. No. 98–214 encourages the development of new technologies and services to the public. From the information presented in the Petition for Rule Making, we believe that the system presents very little risk of harmful interference to licensed radio services. In view of this low probability of interference and the apparent benefits offered by this system, the public and industry should have the option of utilizing this type of sensor technology at the earliest possible date.

9. We are acting on CDC's petition for rule making in a companion Notice of Proposed Rule Making. There we are proposing to allow perimeter protection systems such as GUIDAR to operate on an unused TV channel in the bands 54 to 72 MHz and 76 to 88 MHz (TV channels 2 through 6) at a field strength limit of 10 uV/m at 30 meters. The reasons for proposing these limits are discussed in detail in the Notice of Proposed Rule Making. We are reasonably convinced that perimeter protection systems meeting the proposed technical standards hold little risk of causing interference. Further, by allowing perimeter protection systems of this type to be marketed now, we are permitting experience to be gained that may prove useful in setting final regulations for such equipment. Accordingly, CDC's request for waiver of Part 15, Subpart F, is granted subject to the conditions in paragraph 10. The Chief Scientist is authorized to grant waivers that may be submitted by other parties. The waivers would be subject to the same conditions and frequencies provided herein.

10. This waiver authorizes operation of the CDC's perimeter protection system, GUIDAR, in the band 54 to 72 MHz and 76 to 88 MHz subject to the following conditions:

(a) CDC's system shall meet the technical standards proposed by the Commission in the associated Notice of Proposed Rule Making for a perimeter protection system operating in the bands 54 to 72 MHz and 76 to 88 MHz. In addition, the cables must be buried.

(b) Perimeter protection systems shall be certified according to the requirements in § 15.312(b).

(c) Measurement of radiated emissions shall be performed in accordance with the requirements proposed in § 15.324 to the degree practicable.

(d) CDC's system shall be subject to §§ 15.3 and 15–311. In particular, any interference to an authorized radio communication service caused by the CDC system must be corrected by CDC and any interference received by the system shall be accepted.

11. Pursuant to § 1.3 of the Commission's Rules, since good cause has been shown, the CDC petition for waiver of Part 15, Subpart F, is granted subject to the conditions set out in paragraph 10. This waiver shall terminate 30 days after the effective date of any rules adopted by the Commission concerning operation of perimeter protection systems in the bands 54 to 72 MHz and 76 to 88 MHz.

12. It is further Ordered that the Chief Scientist is authorized to grant, subject to the same conditions enumerated above, similar waiver requests which are filed by other parties and adequately justified. The petitioner must file the following minimum information:

(a) A detailed description of the proposed system.

(d) A statement as to why the present rules are unsatisfactory and why it is in the public interest to grant the request.

(c) A statement that the proposed system will comply with the conditions set out in paragraph 10.

13. Pursuant to § 1.427(b), [4] since it relieves a regulatory restriction, this Order shall become effective immediately.

14. Further information about this waiver may be obtained from the Technical Standards Branch, Office of Science and Technology, FCC, Washington D.C. 20554, phone (202) 653–8247.

[4] See also 5 U.S.C. 553(d)(1).

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 85–19059 Filed 8–9–85; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 90

[PR Docket No. 85–6; RM–4834; RC 85–389]

Application Processing Procedures for the 800 MHz Private Land Mobile Band

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has adopted a *Report and Order* amending Part 90 subpart M of the rules governing the application processing procedures for the 800 MHz private land mobile band to encourage the expansion of fully loaded trunked systems.

EFFECTIVE DATE: September 11, 1985.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nia Chirigos Cresham, Private Radio Bureau, Land Mobile & Microwave Division, Rules Branch, (202) 634–2443.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 90

Private land mobile radio services, Radio.

Report and Order

In the matter of amendment of Part 90 Subpart M of the Commission's rules governing the application processing procedures for the 800 MHz private land mobile band; PR Docket 85–6, RM–4834.

Adopted: July 25, 1985.

Released: August 5, 1985.

By the Commission.

Introduction

1. This proceeding concerns the amendment of the Commission's rules governing the application processing procedures for the 816–821 MHz and 861–866 MHz private land mobile bands.[1] The Commission released a *Notice of Proposed Rule Making* on January 15, 1985, which summarized the evolution of our processing procedures for these frequencies and requested comments on several proposed changes to these procedures.[2] We believe it

[1] 47 CFR 90.360.

[2] *Notice of Proposed Rule Making.* Docket No. 85–6, 50 FR 2837 (January 22, 1985).

would be helpful to review our current processing procedures prior to discussing the changes proposed in the *Notice of Proposed Rule Making* and our Implementation of those changes in light of the comments.

Background

2. In June of 1970, the Commission reallocated 115 MHz of spectrum in the 806–947 MHz band to land mobile use.[3] Private land mobile radio received 30 MHz (600 channels).[4] The first 300 channels were made available according to the technology employed by the system: 200 channels were allocated for trunked systems and 100 channels were allocated for conventional systems. The Commission assigned a greater number of channels to trunked systems because trunking technology allows a greater number of users of mobile radios to be accommodated on a given number of channels. For this reason, applicants for trunked channels could apply for assignments of 5, 10, 15 or 20 channels, while applicants for conventional systems were limited to maximum assignments of 5 channels.[5]

3. By 1978, there were shortages of conventional channels in the metropolitan areas, and the Commission released 50 of the remaining 300 channels reserved for private land mobile radio and designated them for conventional use.[6] By late 1979, waiting lists began to form for trunked channels in the major metropolitan areas. Applications on the waiting list were processed on a "first-in, first-out" basis, as provided in the *Second Report and Order* in Docket No. 18262, *supra*.

4. In order to allevlate the spectrum shortage, the Commission released the remaining 250 private land mobile channels in July of 1982.[7] These "new" channels were not divided according to system technology, but were grouped into four service categories: 70 channels for Public Safety/Special Emergency, 50 channels for Industrialized/Land Transportation, 50 channels for Business, and 80 channels for Specialized Mobile Radio (SMR) systems. Applicants in each of these categories could choose trunked or conventional technology. However, an applicant requesting more than 5 channels was required to trunk them. SMRS applicants were limited to receiving 5 channels at a time to promote more immediate implementation of channels assigned.[8]

5. We also established a uniform loading standard of 70 mobiles for conventional systems, modified the application procedures for trunked systems, and determined not to assign more than 5 channels to a single licensee in any market area until the first 5 channels reached a 90% loading level. Due to the changes contained in the *Second Report and Order* of Docket No. 79–191, we allowed existing trunked licensees to operate under the old rules contained in Subpart M, Part 90 of our rules, for a period of 5 years. Existing trunked systems licensed under Subpart M would be governed by it until September 1, 1987. At that time, all 800 MHz systems would be governed by Subpart S, which would also govern the newly released frequencies.[9]

6. Finally, the *Second Report and Order* of Docket No. 79–191 delineated the procedures for the filing and processing of applications for the 800 MHz channels. Applicants on waiting lists for already released conventional channels were permitted to modify their applications and still keep their place in the processing line. Applications on waiting lists for already released trunked channels were to be processed in order of receipt as frequencies became available. The waiting lists were comprised of both existing licensees of fully loaded trunked systems seeking to expand and applicants seeking to establish new systems. These waiting list applications were not considered for the newly released channels, but the waiting list applicants were permitted to submit new applications if they wished to be considered for the newly released channels.[10] The filing window for the 250 newly released channels was from November 15, 1982 through December 15, 1982. Those applications which were acceptable for filing were to be processed in order of receipt. If more applications were received than there were frequencies available for assignment in an area, all applications would be treated as if they were received at the same time.

7. Our processing procedures were modified and amended by a *Memorandum Opinion and Order* in Docket No. 79–191 which responded to requests for reconsideration or clarification of the *Second Report and Order*.[11] We decided to allow existing trunked system licensees to apply for admission to the waiting list for the 200 trunked channels governed by Subpart M when they reached the 70% loading level. To receive additional channels they had to be 80% loaded.[12]

8. We created a "day-to-day window" for the 250 channels governed by Subpart S. Applications would only be accepted on dates when frequencies were available and would be date-stamped upon receipt in the Licensing Division of the Private Radio Bureau in Gettysburg, PA. All applications filed on the same date for an area would be considered together. If there were sufficient channels available on that date, all the applications would be granted. If there were not sufficient channels to grant all applications filed on the same date for the same area, applicants would be subject to comparative hearing or lottery. All applications filed after that date for that area would be dismissed.[13]

9. We also delineated our processing procedures for the 15 areas where applications were filed for more new channels than were available in the commercial (SMRS) pool.[14] We decided to judge the applicants based on two comparative criteria: (1) Whether the proposed system was trunked or conventional, and (2) whether the application submitted was to expand a fully loaded trunked system. If the proposed system were trunked, it would receive one comparative point. If the system were both trunked and expanding a fully loaded system, it would receive the maximum of two comparative points. We established these comparative criteria to encourage

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[3] *First Report and Order and Second Notice of Inquiry*, Docket No. 18262, 35 FR 8844 (June 4, 1970).

[4] *Second Report and Order*, Docket No. 18262, 46 FCC 2d 752 (1974); reconsidered, *Memorandum Opinion and Order*, Docket No. 18262, 51 FCC 2d 945 (1975).

[5] *Second Report and Order*, Docket No. 18262, *supra*, at paragraphs 64 and 66.

[6] *Order*, Docket No. 18262, 43 FR 35394 (August 9, 1978).

[7] *Second Report and Order*, Docket No. 79–191, 47 FR 41002 (September 16, 1982).

[8] For a discussion of why the channels were divided into pools and why SMRS applicants were limited to five channels at a time, *see Second Report and Order*, Docket No. 79–191, 47 FR 41, 002 (September 16, 1982). *Also see generally, Notice of Proposed Rule Making*, Docket No. 79–191, 44 FR 50876 (August 30, 1979); *Report and Order*, Docket No. 79–191, 45 FR 81204 (December 10, 1980); *Further Notice of Proposed Rule Making*, Docket No. 79–191, 46 FR 37927 (July 23, 1981).

[9] *Second Report and Order*, Docket No. 79–191, at paragraph 113, footnote 78, page 37; 47 CFR § 90.380, 90.611.

[10] When a grant was made from either the old or the new channels, the second application was dismissed and the applicant could not apply for frequencies again until the newly granted channels were loaded to the prescribed number of mobile stations. *Second Report and Order*, Docket No. 79–191, at paragraphs 113, 114. *See also*, In the Matter of Application for Review of Bellar Communications, Inc., FCC 84–593, released December 6, 1984.

[11] *Memorandum Opinion and Order*, Docket No. 79–191, 48 FR 51917 (November 15, 1983).

[12] *Id.* at paragraphs 13 and 14.

[13] Public Notice 3526, released April 11, 1983.

[14] *Id.*

the expansion of fully loaded existing trunked systems and the development of new trunked systems. Applications would be ranked based on the number of comparative points received, and grants would be made to those with the highest number of points. If there were not sufficient channels available in a geographic area to grant all SMRS applications with the same number of comparative points, grants among the tied groups would be made by lottery.[15]

10. We have conducted our lottery proceedings for the 15 areas where applications were filed for more new channels than were available in the commercial (SMRS) pool. Thus, all areas are now subject to the day-to-day window described in paragraph 8 above.[16]

11. As we stated in the *Notice of Proposed Rule Making* in this proceeding, the Commission currently maintains waiting lists of applicants for the original 200 trunked channels governed by Subpart M, in areas where there are not frequencies available for assignment. We do not maintain any lists for the new channels governed by Subpart S, since applications are accepted only on dates when frequencies are available.

12. The waiting lists for the 200 trunked channels governed by Subpart M are comprised of both existing fully loaded licensees and new applicants. Assignments are made on a "first-in, first-out" basis with no preference given to existing licensees who seek to expand their systems. This is in contrast to our procedures for the 250 channels governed by Subpart S, where a preference is given to fully loaded trunked licensees seeking to expand their systems.

13. The *Notice of Proposed Rule Making* in this proceeding was released in response to a Petition for Rule Making filed by Advanced Radio Communications Services of Florida, Inc., Transi-Tronics, Inc., and B & L Service Company (Petitioners).[17] The Petitioners requested that the waiting lists for the old 200 channels be limited to licensees of existing fully loaded trunked systems and that applications proposing the establishment of new SMR systems be prohibited, other than the "grandfathering" of those applicants for new systems already on the list. The applicants for new systems would be considered for assignment only after all fully loaded trunked licensees had been considered. The Petitioners also requested that waiting lists be applied to the new channels.

14. In the *Notice* we proposed to provide a preference to all waiting list applicants seeking to expand fully loaded trunked systems. In doing so, we pointed out that the old 200 channels are grouped by technology rather than by service groups. Therefore, these 200 channels are available to an applicant in any radio service which desires to use trunking technology and are not restricted to SMRS applicants, as requested by the Petitioners.[18] We were not persuaded that we should change our processing procedures for the new channels at this time.[19] We also proposed that systems which had lost channels due to a failure to meet the required loading level of 70 percent within the specified time period, would not be allowed on the waiting list for a period of one year from the date of channel cancellation.[20]

15. Finally, we proposed that the existing waiting list and all future applications filed with the Commission for the old channels would be ranked in two groups of descending priority: (1) Applications from entities expanding fully loaded trunked systems [21]; and (2) all other applications. Applications within each of these two groups would be placed in chronological order, based on the date of receipt at the Licensing Division of the Private Radio Bureau in Gettysburg, Pennsylvania. Frequencies would be granted to the highest ranking eligible applicant able to use them, based on the site specified and the Commission's mileage separation standards.

Comments

16. We received six comments and three reply comments.[22] Four of the six commenters were in favor of the proposals and stated that the expansion of trunked systems improves efficiency and furthers the public interest. The Petitioners were in favor of providing the preference as proposed and requested that we also implement a waiting list for the new channels. The Petitioners asked that we specifically address the issue of whether an applicant on the waiting list can decline frequencies for technical reasons and keep its place on the list. Finally, the Petitioners stated that the one year waiting period proposed for systems which have lost channels due to inadequate loading was too long. They suggested a waiting period of 6 months.

17. Metro mobile also supported the use of a priority system, but stated that a one year waiting period for licensees who had lost channels was to long. Metro Mobile suggested that systems that fail to meet the minimum loading standards should lose their entitlement to a preference for one year, but should be allowed to apply for additional channels and be placed on the waiting list. Both Clement and B & L fully supported the proposal. B & L pointed out that the Commission must be wary of those SMR applicants who fail to remove themselves from the waiting list if they acquire channels by assignment from another licensee during the pendency of their application on the list.

18. Alexandria was opposed to the proposal and argued that it would foreclose their opportunity to receive 800 MHz trunked frequencies as a new applicant. Mobile Relay also opposed the proposal for this reason. Mobile Relay suggested that only qualified companies in the radio business in each local area should be allowed to apply for frequencies.

19. Two of the three replies received were in favor of the proposal. Metrocom stated that the expansion of trunked systems provides increased service to the user, and suggested that we institute the use of waiting lists for the new channels. Metrocom also supported the imposition of a one year waiting period prior to admission to the waiting list for those systems which have lost channels due to failure to load. ASNA supported the *Notice*, but felt that a 6 month waiting period was more suitable than a one year waiting period. ASNA also requested that we clarify the issue of an applicant's ability to refuse frequencies

[15] *Memorandum Opinion and Order*, Docket No. 79-191, at paragraph 36.

[16] Public Notice 4403, released May 7, 1985.

[17] Each of the Petitioners is a licensed SMRS in southern Florida.

[18] Petition for Rule Making, RM-4834, filed July 20, 1984, at pages 4, 5 and 12.

[19] *Notice of Proposed Rule Making*, Docket No. 85-6, at paragraph 20.

[20] Otherwise, systems which have had channels reclaimed would be fully loaded due to their reduced number of channels and could be placed above applications for new systems already on the list. 47 CFR 90.366 and 90.631; *Notice of Proposed Rule Making*, Docket No. 85-6 at paragraph 20.

[21] Applicants with existing trunked systems loaded to 70 mobiles per channel would be eligible for admission to the waiting list. Only applicants with systems loaded to 80 mobiles per channel would be eligible to receive additional frequencies. 47 CFR 90.364(b) (2) and (3), 90.366(c).

[22] We received comments from the following parties: Advanced Radio Communications Services of Florida, Inc., Transi-Tronics, Inc., and B & L Service Company (Petitioners); City of Alexandria, Virginia (Alexandria); B & L Communications, Inc., Cunningham Communications, Inc., William Dodd, Jr., and Maryland Communications, Inc., (B & L); Metro Mobile Communications, Inc., (Metro Mobile); Mobile Relay Associates (Mobile Relay); and A.J.F. Clement (Clement). We received reply comments from Metrocom, Inc. (Metrocom); The American SMR Network Association, Inc. (ASNA); and IBM Research and Development, Inc. (IBM).

for technical reasons and stay on the list.

20. IBM opposed the implementation of the *Notice* at the present time and asked that it be deferred to the allocation of the 900 MHz spectrum.[23] IMB also requested that we promote emerging technologies by applying a preference for systems which accommodate the greatest number of users per channel, rather than relying on whether the system is using trunking technology. IMB pointed out that high technology systems, such as digital communications, can accommodate more users on a single channel than a 5 channel trunked system can accommodate. Finally, IBM requested tht we consider assigning "odd-lot" channels from the channel recovery program to single channel applicants who use new technologies and apply the same loading standards that are applied to trunked systems.

Decision

21. After extensive consideration of the comments, we have determined to adopt the proposed changes to our application processing procedures for the 816–821 MHz and 861–866 MHz bands, with some modifications. We will give a preference to fully loaded trunked systems. This preference will apply to applicants currently on the waiting list and future applicants for the old 200 trunked channels. Where a trunked system has failed to meet our minimum loading standards and has had authorized channels reclaimed, that licensee will not be allowed on the waiting list for a period of 6 months from the date of the issuance of the superseding license. We will consider requests from applicants on the waiting list to decline particular frequencies for technical reasons. If the applicant provides sufficient justification to the Private Radio Bureau, it may decline channels and remain on the waiting list. We will defer a decision on granting a preference to systems using new technologies and will consider this issue in Docket No. 84–1233, *supra*. We decline to implement new processing procedures for the 250 channels governed by Subpart S at this time.

Discussion

22. The Private Radio Bureau currently maintains waiting lists for the old 200 trunked channels governed by Subpart M. These waiting lists are administered on a first-in, first-out basis. While this procedure has been administratively effective, it does not promote the Commission's goal of spectrum efficiency. Our rules require existing systems to be loaded to 70% of their authorized capacity prior to applying for admission to the waiting list and to be loaded to at least 80% of their authorized capacity in order to be eligible to receive additional frequencies.[24] The commenters argue that by the time a licensee loads its system to 70%, it is placed at the end of a long waiting list comprised predominantly of new applicants, and is unable to receive additional channels in a timely manner. As a consequence, the users experience congestion on the system, and the licensee is unable to expand the system to provide service to others.

23. Our loading requirements have ensured that the frequencies we have allocated are used to the fullest extent possible. However, we also want to assign frequencies in a manner which allows them to be used by a large number of users in the most spectrally efficient way. Therefore, in order to create a method of assigning frequencies which will promote our goal of spectrum efficiency, we are establishing preferences which are similar to the comparative criteria we established in our *Memorandum Opinion and Order* in Docket No. 79–191.[25] In that docket we decided to judge the applicants on two criteria: (1) Whether the proposed system was trunked or conventional; and (2) whether the application submitted was to expand a fully loaded trunked system. These criteria were established in order to encourage the expansion of fully loaded trunked systems. The awarding of preferences has been effective in assigning frequencies for the 250 channels governed by Subpart S in areas where there were more applicants than available spectrum. We believe that using this approach for the 200 channels governed by Subpart M will allow fully loaded trunked systems to expand and provide more service to a greater number of users. It will also provide for the orderly, expeditious and equitable assignment of the old 200 trunked frequencies as they become available by combining the use of comparative selection and chronological waiting lists.

24. We have also decided to impose a waiting period of 6 months on those applicants who have lost channels due to inadequate loading before they can apply for admission to the waiting list. In the *Notice* we had proposed a waiting period of one year. Several of the commenters argued that this was too long. We have examined our processing procedures and have determined that 6 months provides sufficient time to offer and grant recovered channels to others on the list prior to readmitting a system which becomes fully loaded due to a channel recovery action. Therefore, we will not allow systems which have lost channels due to inadequate loading to apply for admission to the waiting list for a period of 6 months from the date of the issuance of the superseding license.

25. Some of the commenters requested that we clarify our procedures for waiting list applicants who are unable for technical reasons to use channels which are offered to them by the Commission. We will require applicants to submit technical justification for their refusal of the available channels. We will consider the justification provided and issue a decision as to whether the justification is persuasive. If it is not, declination of the channels will result in removal from the waiting list.

26. Some of the commenters requested that we initiate a waiting list and preferences for the 250 channels governed by Subpart S, and combine it with the waiting list for the 200 trunked channels governed by Subpart M. As we pointed out in the *Notice of Proposed Rule Making* and again in this *Report and Order*, there are differences in the allocation plans for the 200 channels governed by Subpart M and the 250 channels governed by Subpart S. The old 200 channels are grouped by technology and are available to any system in any radio service which is using trunked technology. The 250 channels which were allocated in 1982 were grouped into service pools. The processing procedures for those 250 channels are applicable to all the service pools, including Public Safety/Special Emergency, Industrial/Land Transportation, Business, and SMR systems. The users in each of these categories are able to choose trunked or conventional technology, in contrast to

[23] We have proposed the alocation of 12 MHz of spectrum in the 900–902 MHz and 935–941 MHz bands for private land mobile use. A 12.5 kHz channeling plan has been proposed for this spectrum. Comments were invited on other channelizations such as 5, 6.25, 7.5, 10 and 15 kHz. The channels would be apportioned as follows: 30% for the Public Safety; 30% for Specialized Mobile Radio Service (SMRS); 20% for Industrial/Land Transportation; and 20% for Business. The regulatory structure in Subpart S, Part 90 of the rules which is currently applied to applicants and licensees of the 806–821 MHz and 851–866 MHz bands would apply to the new spectrum. We have also proposed to award a comparative point to applicants proposing significantly more spectrally efficient operation than required by the rules. Comments have been requested on this issue, including suggestions on preference standards and administrative processes. *See Notice of Proposed Rule Making*, Docket No. 84–1233, 50 FR 1582 (January 11, 1985).

[24] 47 CFR 90.364(b) (2) and (3). 47 CFR 90.366(c).

[25] *Memorandum Opinion and Order*, Docket No. 79–191, *supra*, at paragraph 36.

the users on the waiting list for the 200 trunked channels. The commenters focused only on the amendment of the procedures for SMRS applications. However, if we were to amend the processing procedures for these 250 frequencies in order to create preferences and waiting lists, we would have to consider the impact on all the service groups, including public safety, and not just the commercial or SMRS pool. Therefore, we are not persuaded that an amendment to our processing procedures for the 250 channels in Subpart S is appropriate at this time.

27. We are also not convinced by the arguments of Alexandria and Mobile Relay that applying a preference to the 200 trunked frequencies governed by Subpart M will foreclose the opportunity for new applicants to receive trunked frequencies in the 800 MHz band. There are 250 channels governed by Subpart S which are designated by service groups and may be utilized for trunked or conventional technology by eligible applicants. We find Mobile Relay's request that we allow only qualified radio business companies in each local area to apply for frequencies to be beyond the scope of this proceeding.

28. We received reply comments from IBM which requested that the Commission withhold its decision in this proceeding until it has established allocation preferences in the 900 MHz allocation proceedings.[26] IBM indicated its concern that by implementing our proposal, the Commission would create a disadvantage for IBM in competing for 800 MHz frequency assignments. IBM also requested that we consider granting a preference to emerging technologies. This is the same request it has made in comments to the 900 MHz allocation proceeding. We will consider its request in that proceeding, but we are not persuaded to delay our action here. If we decide to implement a preference for "high technology systems" at 900 MHz and it appears that that preference would also be appropriate at 800 MHz, we will revisit our procedures for the 800 MHz band. IBM is not precluded from obtaining 800 MHz frequencies, since this *Report and Order* will apply only to the 200 trunked frequencies governed by Subpart M, and IBM has stated that it is able to use conventional single-channel assignments for its system. Our action in this proceeding would not affect those frequencies.

29. We will therefore review the existing waiting list and rank applicants according to the following priorities:

(1) Applications from entities expanding fully loaded trunked systems; [27]

(2) All other applications.

All new applications filed with the Commission for the 816–821 MHz and 861–866 MHz bands will be ranked according to the same priorities. Applications within each of these two groups will be placed in chronological order, based on the date of receipt at the Licensing Division of the Private Radio Bureau in Gettysburg, Pennsylvania. Frequencies will be granted to the highest ranking eligible applicant which is able to use them, based on the site specified and the Commission's mileage separation standards.

30. This approach will allow fully loaded trunked systems to expand and provide more service to a greater number of users. It will also provide for the orderly, expeditious and equitable assignment of the old 200 trunked frequencies as they become available by combining the use of comparative selection and chronological waiting lists.

Final Regulatory Flexibility Analysis

Objectives

31. The Commission is revising its rules governing the application processing procedures for private land mobile radio systems in the 816–821 MHz and 861–866 MHz bands in order to encourage larger and more effective use of radio by enhancing the ability of existing licensees to expand their operations and provide more efficient service to the public. The new rules will modify the assignment procedures for the old 200 trunked frequencies governed by Subpart M in a manner that is consistent with our comparative preference procedures used in the commercial pool for the new frequencies.

Description, Potential Impact and Number of Small Entities Affected

32. We did not receive any comments which specifically addressed our Initial Regulatory Flexibility Analysis. However, we feel that this action may affect both small and large businesses, licensees and users since it will give priority to fully loaded trunked systems requiring additional frequencies in areas where frequencies are unavailable. While this will make the acquisition of frequencies in these areas slightly more difficult for new entrants, it will promote spectrum efficiency by creating larger trunked systems. This action should improve the quality of communications service available to users who are currently on congested systems. Most of these users are small businesses. Therefore, on balance, we believe the favorable impacts outweigh those that may be unfavorable.

Any Significant Alternatives Minimizing the Impact on Small Entities and Consistent With the Stated Objectives

33. There are no significant alternatives besides those considered and rejected in this *Report and Order*.

Paperwork Reduction Act Statement

34. The decision 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 recordkeeping, labeling, disclosure or record retention requirements, and will not increase or decrease burden hours imposed on the public.

35. Accordingly, it is ordered, that effective September 11, 1985, Part 90 is amended as set forth in the attached Appendix and that this proceeding is terminated. Authority for this action is found in sections 4(i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303.

36. For further information on this proceeding contact Nia Chirigos Cresham, Rules Branch, Land Mobile and Microwave Division, Private Radio Bureau, Federal Communications Commission, Washington, DC 20554, (202) 634–2443.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 90 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

Subpart M—Special Regulations Governing Licensing and Use of Frequencies in the 816–821/861–866 MHz Bands for Trunked Systems Authorized Prior to September 1, 1987

1. The authority citation for Part 90 continues to read as follows:

Authority: Sec. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303, unless otherwise noted.

2. In § 90.360, paragraph (c) is revised to read as follows:

[26] IBM has also filed comments in the 900 MHz allocation proceeding. *Notice of Proposed Rule Making*, Docket No. 84–1233, *supra*.

[27] Applicants with existing trunked systems loaded to 70 mobiles per channel will be eligible for admission on the waiting list. Only applicants with systems loaded to 80 mobiles per channel will be eligible to receive additional frequencies. 47 CFR 90.364(b) (2) and (3), 90.366(c).

§ 90.360 Processing of applications.

* * * * *

(c) Each application will then be reviewed to determine whether it can be granted. Frequencies may be specified by the applicant pursuant to the applicable provisions of § 90.621 of the rules or the applicant may elect to have the Commission select the frequencies. Frequencies will be selected in accordance with the Commission's assignment policies and loading criteria. If the application cannot be granted due to a lack of available frequencies the application will be placed in queue on a waiting list. Applications will be ranked in two groups of descending priority. The first group will be comprised of all licensees of trunked systems with 70 or more mobile units per channel. Only those licensees whose systems are loaded to at least 80 mobiles per channel will be assigned additional frequencies. The second group will be comprised of all other applicants. Each application will be placed in its appropriate group in the order it was received at the Licensing Division in Gettysburg, Pennsylvania. When frequencies become available they will be assigned to the highest ranking applicant which is eligible to use them based on channel loading, the site specified, the Commission's mileage separation standards, and other applicable standards. Trunked systems which have had authorized channels reclaimed due to a failure to meet the loading requirements in §§ 90.366 or 90.631 will not be permitted on the waiting list for a period of 6 months from the date of the issuance of the superseding license.

* * * * *

[FR Doc. 85-18930 Filed 8-9-85; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 531

[Docket No. LVM 82-01; Notice 5]

Passenger Automobile Average Fuel Economy Standards; Final Decision To Grant Exemption

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

ACTION: Final rule; granting exemption from average fuel economy standard and establishing an alternative standard.

SUMMARY: This rule is issued in response to a petition filed by Rolls-Royce Motors, Ltd. (Rolls-Royce) requesting that it be exempted from the generally applicable average fuel economy standard of 27.5 miles per gallon (mpg) for 1986 model year passenger automobiles, and that a lower alternative standard be established for it. This rule grants Rolls-Royce that exemption and establishes an alternative standard of 11.0 mpg for Rolls-Royce for the 1986 model year.

DATES: Effective date: September 11, 1985. This exemption and alternative standard apply to Rolls-Royce for the 1986 model year.

ADDRESS: Petitions for reconsideration may be submitted within 30 days after this rule is published in the **Federal Register** to: Administrator, NHTSA, 400 Seventh Street, SW., Washington, D.C. 20590. It is requested, but not required, that 10 copies be submitted.

FOR FURTHER INFORMATION CONTACT: Mr. Orron Kee, Office of Market Incentives, NHTSA, 400 Seventh Street, SW., Washington, D.C. 20590 (202-755-9384).

SUPPLEMENTARY INFORMATION: NHTSA is exempting Rolls-Royce from the generally applicable average fuel economy standard for 1986 model year passenger automobiles and establishing an alternative standard applicable to Rolls-Royce for that model year. This exemption is issued under the authority of section 502(c) of the Motor Vehicle Information and Cost Savings Act, as amended ("the Act") (15 U.S.C. 2002(c)). Section 502(c) provides that a passenger automobile manufacturer which manufactures fewer than 10,000 vehicles annually may be exempted from the generally applicable average fuel economy standard for a particular model year if that standard is greater than the low volume manufacturer's maximum feasible average fuel economy and if NHTSA establishes an alternative standard applicable to that manufacturer at its maximum feasible average fuel economy. In determining the manufacturer's maximum feasible average fuel economy, section 502(e) of the Act (15 U.S.C. 2002(e)) requires NHTSA to consider:

(1) Technological feasibility;

(2) Economic practicability;

(3) The effect of other Federal motor vehicle standards on fuel economy; and

(4) The need of the Nation to conserve energy.

This final decision was preceded by a proposed decision announcing the agency's tentative conclusion that Rolls-Royce should be exempted from the generally applicable 1986 passenger automobile average fuel economy standards, and that an alternative standard of 11.0 mpg should be established for Rolls-Royce in the 1986 model year; 50 FR 5405, February 8, 1985. No comments were received on the proposed decision.

The agency is adopting the tentative conclusions set forth in the proposed decision as its final conclusions, for the reasons set forth in the proposed decision. Based on the conclusions that the maximum feasible average fuel economy level for Rolls-Royce in the 1986 model year is 11.0 mpg, that other Federal motor vehicle standards will not affect achievable fuel economy beyond the extent considered in the proposed decision, and that the national effort to conserve energy will not be affected by granting this requested exemption, NHTSA hereby exempts Rolls-Royce from the generally applicable passenger automobile average fuel economy standard for the 1986 model year and establishes an alternative standard of 11.0 mpg for Rolls-Royce in the 1986 model year.

NHTSA has analyzed this decision, and determined that neither Executive Order 12291 nor the Department of Transportation regulatory policies and procedures apply, because this decision is not a "rule," which term is defined as "an agency statement of general applicability and future effect." This exemption is not generally applicable, since it applies only to Rolls-Royce. If the Executive Order and the Department policies and procedures were applicable, the agency would have determined that this action is neither "major" nor "significant." The principal impact of this exemption is that Rolls-Royce will not be required to pay civil penalties if it achieves its maximum feasible average fuel economy, and purchasers of its vehicles will not have to bear the burden of those civil penalties in the form of higher prices. Since this decision sets an alternative standard at the level determined to be Rolls-Royce's maximum feasible average fuel economy, no fuel would be saved by establishing a higher alternative standard. The impacts for the public at large will be minimal.

The agency has also considered the environmental implications of this decision in accordance with the National Environmental Policy Act and determined that this decision will not significantly affect the human environment. Regardless of the fuel economy of a vehicle, it must pass the emission standards which measure the amount of emissions per mile travelled. Thus, the quality of the air is not affected by this exemption and alternative standard. Further, since

Rolls-Royce's 1986 automobiles cannot achieve better fuel economy than 11.0 mpg, granting this exemption will not affect the amount of gasoline available.

Since the Regulatory Flexibility Act may apply to a decision exempting a manufacturer from a generally applicable standard, I certify that this decision will not have a significant economic impact on a substantial number of small entities. This decision does not impose any burdens on Rolls-Royce. It does relieve the company from having to pay civil penalties in the 1986 model year. Small organizations and small governmental jurisdictions generally are not purchasers of Rolls-Royce automobiles. In any event, since the prices of 1986 Rolls-Royce automobiles are not affected by this decision, the purchasers will not be affected.

List of Subjects in 49 CFR Part 531

Energy conservation, Gasoline, Imports, Motor vehicles.

In consideration of the foregoing, 49 CFR Part 531 is amended by revising § 531.5(b)(2) to read as follows:

PART 531—PASSENGER AUTOMOBILE AVERAGE FUEL ECONOMY STANDARDS

1. The authority citation for Part 531 is revised to read as follows:

Authority: 15 U.S.C. 2002; delegation of authority at 49 CFR 1.50.

2. § 531.5(b)(2) is revised to read as follows:

§ 531.5 Fuel economy standards.

* * * * *

(b) The following manufacturers shall comply with the standards indicated below for the specified model years:

* * * * *

(2) Rolls-Royce Motors, Inc.

Model year	Average fuel economy standard (miles per gallon)
1978	10.7
1979	10.8
1980	11.1
1981	10.7
1982	10.6
1983	6.9
1984	10.0
1985	10.0
1986	11.0

* * * * *

Issued on: August 6, 1985.

Diane K. Steed,

Administrator.

[FR Doc. 85-19079 Filed 8-9-85; 8:45 am]

BILLING CODE 4910-59-M

Proposed Rules

Federal Register
Vol. 50, No. 155
Monday, August 12, 1985

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 Parts 1000 and 1140

[Docket No. AO-387]

Milk in the Hawaii Marketing Area; Hearing on Proposed Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public hearing on proposed rulemaking.

SUMMARY: This hearing is being held to consider a proposed milk order that would regulate the handling of milk in an area designated as the Hawaii marketing area. Three producer cooperative associations requested the proposed order. The marketing area of the order proposed by the cooperatives would include the counties of Hawaii and Oahu. A further proposal by Meadow Gold Dairies-Hawaii would include the county of Kauai in the marketing area of the proposed order. The proponents contend that a milk order is needed to establish and maintain orderly marketing conditions and an effective pricing regulation for the marketing of milk in the area. The text of the proposals to be considered is set forth in this document.

DATE: The hearing will convene on Tuesday, October 1, 1985.

ADDRESS: The hearing will be held in Room C-270 of the Federal Building, 300 Ala Moana Blvd., Honolulu, Hawaii 96850.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-2089.

SUPPLEMENTARY INFORMATION: Notice is hereby given of a public hearing to be held in Room C-270 of the Federal Building, 300 Ala Moana Blvd., Honolulu, Hawaii 96850, beginning at 9:00, local time, on October 1, 1985, with respect to a proposed marketing agreement and order regulating the handling of milk in the Hawaii marketing area.

The hearing is called 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 orders (7 CFR Part 900).

The hearing is for the purpose of:

(a) Receiving evidence with respect to economic and marketing conditions which relate to the proposed marketing agreement and order, hereinafter set forth, and any appropriate modifications thereof;

(b) Determining whether the handling of milk in the area proposed for regulation is in the current of interstate commerce or directly burdens, obstructs, or affects interstate or foreign commerce;

(c) Determining whether there is need for a marketing agreement or order regulating the handling of milk in the area; and

(d) Determining whether the proposed marketing agreement and order or appropriate modifications thereof will tend to effectuate the declared policy of the Act.

Actions under the Federal milk order program are subject to the "Regulatory Flexibility Act" (Pub. L. 96-354). This act seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purpose of the Federal order program, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

Copies of the transcript of testimony taken at the hearing will not be available for distribution through the Hearing Clerk's Office. If you wish to purchase a copy, arrangements may be made with the reporter at the hearing.

List of Subjects in 7 CFR Parts 1000 and 1140

Milk marketing orders, Milk, Dairy products.

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

The proposals, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by 50th State Dairy Farmers Cooperative, Oahu Dairy Cooperative, and Big Island Dairy Farmers Association

Proposal No. 1

PART 1140—MILK IN THE HAWAII MARKETING AREA

General Provisions

§ 1140.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order. [1]

Definitions

§ 1140.2 Hawaii marketing area.

"Hawaii marketing area" (hereinafter called the "marketing area") means all the territory in the State of Hawaii which is located within the boundaries of the counties listed below, including all piers, docks, or wharves connected thereto, and any craft moored thereat and vessels anchored in any harbor within the boundaries of the marketing area, and including all portions of the territory occupied by government (Federal, State, or other) reservations, facilities, installations, or institutions: The counties of Oahu and Hawaii.

§ 1140.3 Route disposition.

"Route disposition" means any delivery of a fluid milk product classified as Class I milk from a plant to a retail or wholesale outlet (including any delivery through a distribution point, by a vendor, from a plant store, or through a vending machine). The term "route disposition" does not include a delivery to a plant described in § 1140.7(a).

[1] The provisions of Part 1000 (7 CFR Part 1000) are set forth immediately following Proposal No. 1

§ 1140.4 Plant.

"Plant" means the buildings, facilities, and equipment constituting a single operating unit or establishment at which milk or milk products (including filled milk) are received in bulk form, and/or processed or packaged.

§ 1140.5 Distributing plant.

"Distributing plant" means a plant in which any approved fluid milk product or filled milk is processed or packaged, and from which fluid milk products are disposed of on routes in the marketing area during the month.

§ 1140.6 Supply plant.

"Supply plant" means a plant from which an approved fluid milk product or filled milk is transferred in bulk form during the month to a pool distributing plant.

§ 1140.7 Pool plant.

"Pool plant" means any plant, except a plant described in paragraph (c) of this section, which meets the following standards:

(a) A distributing plant from which:

(1) Route disposition (except filled milk) in the marketing area during the month equals not less than 20 percent of the receipts at the plant of approved fluid milk products during such month; and

(2) Total route disposition (except filled milk) during the month equals not less than 60 percent of the approved fluid milk products received at such plant during the month.

(b) A supply plant from which during the month the volume of fluid milk products, except filled milk, transferred to pool distributing plants is 60 percent or more or the approved fluid milk products received from diary farmers during the month.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A distributing plant qualified pursuant to paragraph (a) of this section that also meets the pool plant requirements of another Federal order, and from which the Secretary determines a greater quantity of Class I fluid milk, except filled milk, was disposed of as route disposition during the month in such other Federal order marketing area than was disposed of as route disposition in this marketing area, and which is fully subject to the classification and pricing provisions of such other order;

(3) A distributing plant which is qualified as a pool plant under this order, but which is nevertheless fully regulated under another Federal order;

(4) A supply plant qualified pursuant to paragraph (b) of this section that also meets the pool plant requirements of another Federal order and which, despite the requirements of this part is nevertheless fully regulated and pooled under the other order.

§ 1140.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a distributing plant that does not qualify as a pool plant and is neither an other order plant or a producer-handler plant, from which during the month an average of more than 300 pounds daily of fluid milk products are disposed of as route disposition in the marketing area.

(d) "Unregulated supply plant" means a supply plant that does not qualify as a pool plant, and is not an other order plant or a producer-handler plant.

§ 1140.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any cooperative association with respect to milk that it receives for its account from the farm of a producer for delivery to a pool plant of another handler in a tank truck owned and operated by, or under the control of, such cooperative association, unless both the cooperative association and the operator of the pool plant notify the market administrator prior to the time that such milk is delivered to the pool plant that the plant operator will be the handler for such milk;

(c) Any person in his capacity as the operator of a partially regulated distributing plant;

(d) Any person in his capacity as a producer-handler;

(e) Any person in his capacity as the operator of another order plant described in § 1140.8(a); and

(f) Any person in his capacity as the operator of an unregulated supply plant.

§ 1140.10 Producer-handler.

"Producer-handler" means any person who meets all of the following conditions:

(a) Operates a dairy farm and a distributing plant at which approved milk of his own production is processed and packaged, and from which there is route disposition in the marketing area;

(b) Receives no milk or fluid milk product during the month from any source except his own farm production and transfers from pool plants, other order plants, or a handler described in § 1140.9(b);

(c) Does not receive transfers of fluid milk products during the month in excess of 5% of his Class I utilization, or 3,000 pounds whichever is less;

(d) Does not reconstitute or convert any milk product into a fluid milk product nor add any milk product to a fluid milk product except nonfat dry milk solids, which are added for the sole purpose of increasing the solids content thereof; and

(e) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary for his production of milk, and the operation of the processing and packaging business are exclusively the personal enterprise of, and at the risk of such person.

§ 1140.11 Approved fluid milk product.

"Approved fluid milk product" means any fluid milk product that is approved by a duly constituted regulatory authority having jurisdiction in the marketing area for fluid consumption within such jurisdiction.

§ 1140.12 Producer.

Except as provided in paragraph (b) hereof, "Producer" means any person who:

(a) Produces milk approved by a duly constituted regulatory authority for consumption in the marketing area as fluid milk, which is;

(1) Received at a pool plant directly from such person's farm; or

(2) Received by a handler described in § 1140.9(b);

(b) "Producer" shall not include:

(1) A producer-handler as defined under any order (including this part) issued pursuant to the Act; or

(2) Any person with respect to milk produced by him that is delivered to a pool plant from an other order plant if such person is qualified as a producer under the other order, and such milk is allocated to Class II or Class III milk under § 1140.44 of this part.

§ 1140.13 Producer milk.

"Producer milk" means the skim milk and butterfat in milk produced by a producer that is:

(a) Received at a pool plant directly from the farm of such producer;

(b) Received at a pool plant from a handler described in § 1140.9(b);

(c) Received at handler described in § 1140.9(b) in excess of the quantity delivered to pool plants;

(d) Diverted from a pool plant by the operator of a pool plant to the pool plant of another handler, such milk to be deemed to have been received by the diverting handler at the location of the plant to which diverted.

§ 1140.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk fluid cream products from any source other than producers, handlers described in § 1140.9(b), pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1140.40(b)(1);

(c) Products (other than fluid milk products and products specified in § 1140.40(b)(1)) from any source (including those products produced at the plant) which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1140.40(b)(1) for which the handler fails to establish a disposition.

§ 1140.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form: milk, skim milk, lowfat milk, milk drinks, buttermilk, mixtures of cream and milk or skim milk containing less than 18 percent butterfat (including those which are sterilized or aseptically packaged), filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in consumer-type packages), or reconstituted.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use and milk or milk products (including fluid milk) that are sterilized and packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1140.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 18 percent or more butterfat, with or without the addition of other ingredients.

§ 1140.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring), resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1140.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of dairy farmers, including producers, which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk for its members; and

(c) To have its entire activities under the control of its members.

Handler Reports

§ 1140.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report to the market administrator in the detail and on forms prescribed by the market administrator, the following information for such month:

(a) Each handler shall, with respect to each of its pool plants, report the quantities of skim milk and butterfat contained in, or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler to the pool plants(s) of other handlers.

(2) Receipts of milk from handlers described in § 1140.9(b);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1140.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1140.9(b) shall report:

(1) The quantities of skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to its receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1140.31 Payroll reports.

On or before the 12th day after the end of each month, each handler described in § 1140.9 (a) and (b) shall submit his producer payroll to the market administrator. The producer payroll report shall include the following information for each producer for such month:

(a) The name and address of the producer;

(b) The total pounds of milk received from such producer or diverted for the handler's account, the pounds of butterfat contained therein, and the number of days on which milk was received from each producer;

(c) The price per hundredweight and the amount of payment made to each cooperative association and to each producer (other than the handler's own-farm production); and

(d) The nature and amount of any deductions or charges involved in such payments.

§ 1140.32 Other reports.

In addition to the reports required pursuant to §§ 1140.30 and 1140.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's status under this part and

his obligation, if any, to the market administrator.

Classification of Milk

§ 1140.40 Classes of utilization.

Except as provided in § 1140.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1140.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In inventory of fluid milk products in packaged form; and

(3) not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen desert mixes;

(iii) Any concentrated milk product in bulk fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk fluid form that is used to produce a Class III product;

(v) Evaporated milk or skim milk (plain or sweetened) in a consumer-type package and condensed milk or skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any other dairy product not otherwise specified in this section;

(2) In inventory at the end of the month of bulk fluid milk products and bulk cream;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance, and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1140.15; and

(6) In shrinkage assigned pursuant to § 1140.41(a) to the receipts specified in § 1140.41(a)(2) and in shrinkage specified in § 1140.41(b) and (c).

§ 1140.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1140.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another pool plant and milk received from handlers described in § 1140.9(b);

(2) Plus 1.5 percent the skim milk and butterfat, respectively, in milk received from handlers described in §1140.9(b) and in milk diverted to the plant from another pool plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage shall be 2 percent

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operator of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity of which Class II or Class III classification is requested by the handlers; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in subparagraphs (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1140.9(b), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage for the cooperative assciation shall be zero.

§ 1140.42 Classification of transfers and diversions to pool plants.

(a) *Transfers and diversions to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers or diversions shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and

butterfat, respectively, remaining in such class at the transferee-plant or divertee-plant after the computation pursuant to § 1140.44(a)(12) and the corresponding step of § 1140.44(b);

(2) If the transferor-plant or divertor-plant received during the month other source milk to be allocated pursuant to § 1140.44(a)(7) or the corresponding step of § 1140.44(b), the skim milk or butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler or divertor-handler received during the month other source milk to be allocated pursuant to § 1140.44(a) (11) or (12) or the corresponding steps of 1140.44(b), the skim milk and butterfat so transferred or diverted, up to the total of the skim milk or butterfat, respectively, in such receipts of other source milk shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant or divertee-plant.

(b) *Transfers to other order plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraphs (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allcoation provisions of the other order;

(4) If information concerning the classes to which such transfers were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I subject to adjustments when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1140.40.

(c) *Transfers to producer-handlers and distributing plants that are not fully regulated under a Federal order.* Skim milk or butterfat that is transferred by handler described in § 1140.9 (a) or (b) to a producer-handler or a distributing plant that is not fully regulated under a Federal order shall be classified:

(1) As Class I milk, if moved in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferre's utilitzation of skim milk and butterfat in each class in series beginning with Class III, shall be assigned to the extent possible to its receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers to nonpool plants.* Skim milk or butterfat transferred in the following forms from a pool plant to a nonpool plant that is not a producer-handler plant or an other order plant shall be classified:

(1) As Class I milk if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred in the form of a bulk fluid milk product, or transferred in the form of a bulk fluid cream product unless the following conditions apply:

(i) If the conditions described in paragraphs (d)(2)(i) (a) and (b) of this section are met, transfers in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraphs (d)(2) (ii) through (viii) of this section;

(*a*) The transferor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1140.30 for the month within which such utilization occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of approved milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of approved milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of approved milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and

other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants to the extent possible, first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this paragraph any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities that are set forth in this paragraph.

(e) *Transfers by a handler described in § 1140.9(b) to pool plants.* Skim milk and butterfat transferred in the form of bulk milk by a handler described in § 1140.9(b) to another handler's pool plant shall be classified pursuant to § 1140.44 pro rata with producer milk received at the transferee-handler's plant.

§ 1140.43 General classification rules.

In determining the classification of producer milk pursuant to § 1140.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical errors all reports filed pursuant to § 1140.30 and shall compute separately for each pool plant, and for each handler pursuant to § 1140.9(b), the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1140.40, 1140.41, and 1140.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk of a handler pursuant to § 1140.9(b) shall be determined separately from the operations of any pool plant operated by such handler.

§ 1140.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk for each handler described in § 1140.9(a) for each of the handler's pool plants separately, and for each handler described in § 1140.9(b) by allocating the handler's receipts of skim milk and butterfat to its utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1140.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1140.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) With respect to a plant that was fully regulated in the preceding month under this or any other Federal milk order providing for a similar allocation of beginning inventories of packaged fluid milk products:

(i) Subtract from the remaining pounds of skim milk in Class I the pounds of skim milk in packaged fluid milk products in inventory at the beginning of the month; and

(ii) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1140.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product) that is used to produce, or added to, any product specified in § 1140.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of fluid milk products and products specified in § 1140.40(b)(1) that were not subtracted pursuant to paragraphs (a) (4), (5), and (6) of this section; and

(ii) Receipts of fluid milk products (except filled milk) for which approved milk product status is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under and federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III;

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraphs (a)(8)(ii) (a) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this

allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from another order plant that are in excess of bulk fluid milk products transferred to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in bulk fluid milk products and bulk cream (and for the first month in which a plant becomes a pool plant, the pounds of fluid milk products and products specified in § 1140.40(b)(1) in packaged form) in inventory at the beginning of the month;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provision of paragraphs (a)(11 (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2), (7)(v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received.

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to paragraph (a)(1) hereof exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased by an amount equal to such excess quantity to be extracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step shall be adjusted by an offsetting amount at the handler's other pool plants in sequence, beginning with the plant having the smallest location adjustment; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this paragraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity, such increase to be offset first by decreasing the skim milk pounds in Class III and then in Class II if necessary. In case such offset is made, the pounds of skim milk remaining in each class at this allocation setp at the handler's other pool plants shall be adjusted in the reverse direction by a similar amount, in sequence, beginning with the plant having the smallest location adjustment.

(12) Subtract in the manner specified herein from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred to such plant that were not subtracted pursuant to paragraphs (a)(7)(vi) and (8)(iii) of this section;

(i) Subject to the provisions of paragraphs (a)(12) (ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the combined quantity being subtracted first from Class III and then from Class II. The classification of skim milk to be subtracted pursuant hereto shall be determined based on whichever of the following subsections results in the smallest assignment of such skim milk to Class I.

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1140.45(a) or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section cause the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined to exceed the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes the pounds of skim milk in Class II and Class III combined shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In this case, the pounds of skim milk remaining in each class at this allocation step at one of the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case the pounds of skim milk remaining in each class at this allocation step shall be adjusted in the reverse direction at one of the handler's other pool plants, if any;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1140.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of

skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk and milk received from a handler described in § 1140.9(b) in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section, and the corresponding step of paragraph (b) of this section.

§ 1140.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1140.44(a)(12) and the corresponding step of § 1140.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1140.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler as described in § 1140.9(a) who has shipped fluid milk products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) Report to each cooperative association that so requests, on or before the 12th day after the end of each month, the amount and class utilization of producer milk delivered by members of such cooperative association to each handler receiving such milk. For the purpose of this report, the milk so received shall prorated to each class in accordance with the total utilization of producer milk by such handlers.

Class Prices

§ 1140.50 Class prices.

Subject to the provisions of § 1140.52, the class prices for the month per hundredweight of milk shall be as follows:

(a) *Class I price.* For the first 18 months this order is effective, the Class I price shall be $21.37 [2]

(b) *Class II price.* The Class II price shall be the Class III price for the preceding month plus $1.00.

(c) *Class III price.* The Class III price for the month shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. The butterfat differential per one-tenth percent butterfat to be used for adjusting to the 3.5 percent butterfat basis shall be the figure, (rounded to the nearest one-tenth cent) arrived at by multiplying the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month, by 0.12.

§ 1140.51 [Reserved]

§ 1140.52 Plant location adjustments to handlers.

(a) For milk received from producers at a pool plant located outside the state of Hawaii, and which is assigned as Class I milk pursuant to paragraph (b) of this section, the Class I price shall be reduced at the following rate: $5.25 plus 2.0 cents per hundredweight for each ten miles or fraction thereof of distance between the plant and the nearest commercial shipping dock from which milk was, or might have been, transported by oceangoing vessel to the marketing area.

(b) For purpose of calculating such adjustment, bulk transfers of fluid milk products between pool plants shall be assigned any Class I utilization at the transferee plant, which is in excess of the sum of receipts at such plant from producers and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to transferor-plants at which no location adjustment credit is applicable, and then in sequence, beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the Class I price shall not be less than the Class III price.

§ 1140.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I and Class II prices for the following month, and the Class III price for the preceding month.

§ 1140.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Determination of Base

§ 1140.60 Computation of producer bases.

Subject to the rules set forth in § 1140.61 the market administrator shall compute a daily milk base for each producer in the manner provided in paragraphs (a) and (b) of this section:

(a) A daily milk base shall be computed each year during the month of March for each producer from whom at least 180 days' milk production was received at a pool plant(s) during the 12 months ended with the preceding January 31. This base shall become effective on the first day of April next following, and continue in force through March 31 of the following year: *Provided,* That upon the effective date of this part, the market administrator shall assign a base to each producer who has a quota under the Hawaii State Milk Act which base shall be equal to such quota, and for any producer who has no such quota, he shall compute a base for each dairy farmer who would have been a producer under § 1140.12 had this part been effective on and after February 1st of the second preceding year, such computation to be based on data concerning deliveries of milk to plants which would have qualified as pool plants during that period.

(b) The daily bases shall be computed by dividing each eligible producer's deliveries of producer milk during the months of February, March, September, October, November, and December of the preceding year, and January of the current year, by 212.

(c) Any producer who is not eligible to have a base computed pursuant to this section, or who otherwise elects to do

[2] The Class I price to be proposed for the Hawaii Federal Milk Marketing Order will be updated at the hearing to reflect conditions at that time.

so, may have his base computed during any base year by multiplying his deliveries of producer milk by .50.

(d) As soon as possible after bases are computed pursuant to this section, the market administrator shall notify each producer, his handler, the cooperative association, if any, of which he is a member, each handler to whom he shipped milk, and the State of Hawaii if payment is to be made to the producer pursuant to § 1140.62, of the pounds of base assigned to the producer, and in case of any transfers of such base the name and address of the transferee, and the pounds of base transferred.

§ 1140.61 Base rules.

The following base rules shall be observed in the assignment of bases:

(a) A base may be transferred in whole or in part upon written notice to the market administrator on or before the last day of the month to which the transfer will apply, provided that such transfer shall be in amounts not less than 100 pounds, or the total base of the transferring producer, whichever is less.

(b) The transferring producer's history of milk production as of the date of transfer, subsequent to the last day of the preceding December shall be transferred along with the base in the same proportion which the pounds of base being transferred represents of the transferring producer's total base.

(c) Only persons qualified as producers under this part may hold base, and no producer who has transferred base to another producer during the preceding 12 months may acquire additional base pursuant to transfer under this section.

(d) The base of any producer who has produced no milk qualified under § 1140.13 for 90 consecutive days shall, if not transferred, be forfeited.

(e) A producer who suffers hardship under this section as a result of conditions beyond his control may petition a committee which the Director of the Dairy Division, AMS, USDA, shall appoint, for relief. He shall be granted such consideration as the committee may deem appropriate: *Provided,* That if the producer feels the ruling of the committee is unfair, he may petition the said director for review of the committee's determination.

§ 1140.62 Payments to producers under State of Hawaii quota plan.

Except as provided under paragraph (a) of this section, all money due a producer pursuant to § 1140.72 shall be paid by the market administrator to the Division of Milk Control, State of Hawaii, in lieu of payments directly to such producer or his cooperative association.

(a) Any producer or cooperative association may elect to receive the payment due for milk delivered by such producer, or by producer members of such cooperative association, during any month by providing the market administrator with written notice of such election on or before the close of business on the 15th day of the month for which the payment is to be made.

Determination of Handler Obligations and Producer Prices

§ 1140.65 Computation of handler's pool obligation.

The pool obligation of each pool handler described in § 1140.9(a) and (b) for producer milk received during each month shall be a sum of money computed pursuant to paragraphs (a) through (f) of this section.

(a) Multiply the quantity of producer milk in each class as computed pursuant to § 1140.44(c) by the appropriate class price as adjusted pursuant to § 1140.52, and combine the resulting amounts into one sum;

(b) Add any amount obtained by multiplying the pounds of overage deducted from each class pursuant to § 1140.44(a)(14) and the corresponding step of § 1140.44(b) by the appropriate class price as adjusted pursuant to § 1140.52(a);

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1140.44(a)(9) and the corresponding step of § 1140.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1140.44(a)(7)(i) through (iv) and the corresponding step of § 1140.44(b);

(e) Add the amount obtained from multiplying the difference between the Class I price and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1140.44(a)(7) (v) and (vi) and the corresponding step of § 1140.44(b); and

(f) Add the amount obtained from multiplying the Class I price by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1140.44(a)(11) and the corresponding step of § 1140.44(b), excluding skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

§ 1140.66 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) For each month the market administrator shall compute the weighted average prices per hundredweight of milk of 3.5 percent butterfat content received from producers as follows:

(1) Combine into one total the values computed pursuant to § 1140.65 for all handlers who made reports pursuant to § 1140.30, and who made payments pursuant to § 1140.71 for the preceding month;

(2) Subtract, if the average butterfat content of the milk specified in paragraph (a)(1) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the buterfat differential computed pursuant to § 1140.75 and multiplying the result by the total hundredweight of such milk;

(3) Add the aggregate value of the location adjustments computed pursuant to § 1140.74.

(4) Add an amount representing not less than one-half the unobligated balance on hand in the producer-settlement fund;

(5) Divide the resulting amount by the sum of the following for all handlers included in such computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1140.65(f); and

(6) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (a)(4) of this section. The result shall be known as the weighted average price for all milk.

(b) For each month the market administrator shall compute the uniform prices per hundredweight for base milk and excess milk of 3.5 percent butterfat content received from producers as follows:

(1) From the net amount computed pursuant to paragraph (a)(1) through (3) of this section, subtract the following:

(i) The amount computed by multiplying the hundredweight of milk specified in paragraph (a)(5)(ii) of this section by the weighted average price for all milk;

(ii) The amount obtained by multiplying the hundredweight of excess milk delivered by all producers times an appropriate class price, f.o.b. the pool plant at which received, by assigning it in series commencing with the Class III price, thence to Class II, and finally to Class I;

(2) Divide the value remaining after subparagraph (1) hereof by the total hundredweight of base milk and subtract not less than 4 cents, nor more than 5 cents. This result shall be known as the base milk price per hundredweight of milk of 3.5 percent butterfat; and

(3) Divide the amount obtained in subparagraph (1)(ii) of this paragraph by the total hundredweight of excess milk and subtract any fractional part of 1 cent. This result shall be known as the uniform price per hundredweight of excess milk of 3.5 percent butterfat content.

§ 1140.67 Announcements of base and excess prices, and of butterfat differential.

The market administrator shall announce publicly on or before:

(a) The 5th day after the end of each month the butterfat differential computed pursuant to § 1140.75 for such month; and

(b) The 10th day after the end of each month the base and excess prices computed pursuant to § 1140.66(b) for such month.

Payments for Milk

§ 1140.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit the appropriate payments made by handlers pursuant to §§ 1140.71, 1140.76 and 1140.77, and out of which he shall make the appropriate payments pursuant to §§ 1140.72 and 1140.77. Payments due a person from the fund shall be offset by any payments due to the fund from such person.

§ 1140.71 Payments to the producer-settlement fund.

On or before the 11th day after the end of each month, each handler shall pay to the market administrator his pool obligation computed pursuant to § 140.65, less:

(a) The amount of the deductions and payments authorized by individual producers or cooperative associations which are itemized on the handler's producer payroll; and

(b) The value at the weighted average price computed pursuant to § 1140.66 (a)(5) applicable at the location of the plants from which received with respect to other source milk for which values are computed pursuant to § 1140.56(f).

(c) In the calculation of the total amount of the deductions and charges to be subtracted, the deductions and charges to be considered with respect to each individual producer shall not be greater than the total value of the milk received from such producer.

§ 1140.72 Payments from the producer-settlement fund.

(a) The market administrator shall compute the payment due each producer for milk received during the preceding month from such producer by a handler(s) who made the payments for such month pursuant to § 1140.71 by multiplying the hundredweight of such milk by the appropriate base or excess price(s) computed pursuant to § 1140.66 adjusted by the butterfat differential pursuant to § 1140.75 and, in the case of the base price, by the location differential pursuant to § 1140.74; and less any charges or deductions made pursuant to § 1140.71(a);

(b) On or before the 14th day after the end of each month the market administrator shall pay direct to each producer who has not authorized a cooperative association to receive payment for such producer or for milk for which payment will not be made to the Division of Milk Control, State of Hawaii Department of Agriculture in accordance with § 1140.62, the amount of the payment calculated for such producer pursuant to paragraph (a) of this section, subject to the provisions of § 1140.80; and

(c) On or before the 12th day after the end of each month, the market administrator, subject to the provisions of § 1140.80, shall pay:

(1) To each cooperative association authorized to receive payments due producers who market their milk through such cooperative association, and which has requested that it receive such payment, an amount equal to the aggregate of the payments calculated pursuant to paragraph (a) of this section for all producers certified to the market administrator by such cooperative association to receive such payments; and

(2) To the Division of Milk Control, Hawaii State Department of Agriculture, for each producer and cooperative association for milk for which direct payment has not been requested pursuant to § 1140.62 the aggregate of the payments otherwise due such individual producers and cooperative associations pursuant to paragraph (b) or (c)(1) of this section.

§ 1140.73 Partial payments to producers and to cooperative associations.

(a) On or before the 28th day of each month, each handler shall, subject to paragraph (b) of this section, make payment to each producer, who had not discontinued shipping milk to such handler before the 15th day of the month, for milk received from such producer during the first 15 days of the month, at not less than the Class I price for the month less $2.00 per hundredweight, less any properly authorized deductions.

(b) In making payments to producers pursuant to paragraph (a) of this section, each handler shall, on or before the second day prior to the date specified in such paragraph, pay to each cooperative association that so requests for those producers for whom it markets milk, and who are certified to the market administrator by the cooperative association to receive such payment, an amount equal to the sum of the individual payments otherwise due such producers pursuant to paragraph (a) of this section and,

(c) On or before the second day prior to the date payment is made pursuant to paragraph (a) of this section, each handler shall make payment to a cooperative association for milk received from such association in its capacity as a handler as defined in § 1140.9(b) for milk received during the first 15 days of the month at not less than the Class I price less $2.00 per hundredweight.

§ 1140.74 Location adjustments to producers and on nonpool milk.

(a) In making payments pursuant to § 1140.72 the market administrator shall reduce the uniform base prices computed pursuant to § 140.66 by the location differential applicable at the plant where such milk was first physically received from producers at the rates set forth in § 1140.52(a).

(b) The weighted average price applicable to other source milk shall be adjusted at the rates set forth in § 1140.52(c) applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price shall not be less than the Class III price.

§ 1140.75 Butterfat differential to producers.

In making payments pursuant to § 1140.72 for milk containing more or less than 3.5 percent butterfat, the

applicable prices shall be increased or decreased, respectively, for each one-tenth of 1 percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago as reported by the Department for the month.

§ 1140.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant as defined under § 1140.8(c) shall pay on or before the 25th day after the end of the month to the market administrator for deposit into the producer-settlement fund the amount computed as follows:

(a) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(b) Subtract the pounds of fluid milk products received at the partially regulated distributing plant as Class I milk:

(1) From pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(2) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(c) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(d) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(e) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant the weighted average price or the Class III price, whichever is higher.

§ 1140.77 Adjustment of accounts.

(a) Whenever audit by the market administrator of any handler's reports, books, records, or accounts or other verification discloses errors resulting in moneys due a producer, a cooperative association, or the market administrator from such handler or due such handler from the market administrator, the market administrator shall promptly notify such handler of any amount so due, and payment thereof shall be made on or before the next date for making payments as set forth in the provisions under which such error occurred; and

(b) Any unpaid balance due from a handler pursuant to §§ 1140.71, 1140.73, 1140.76, 1140.77, 1140.80 and 1140.81 shall be increased 1 percent per month on the next day following the due date of such unpaid obligation and any balance remaining unpaid shall likewise be increased on the first day of each month thereafter until paid.

Administrative Assessment and Marketing Service Deduction

§ 1140.80 Decuction for marketing services.

(a) In making payments to producers pursuant to § 1140.72, the market administrator shall deduct 6 cents per hundredweight, or such lesser amount as may be prescribed by the Secretary, with respect to the milk of producers (except the own-farm production of a handler) for whom the marketing services set forth in paragraph (b) are not being performed by a cooperative association; and

(b) The moneys retained by the market administrator pursuant to paragraph (a) of this section shall be expended by the market administrator for market information and for the verification of weights, samples and tests of milk of any producer for whom a cooperative association is not performing the same services on a comparable basis as determined by the Secretary.

§ 1140.81 Assessment for order administration.

As his pro rata share of the expense of administration of the order each handler shall pay to the market administrator on or before the 13th day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including such handler's own production) except the milk of a handler under § 1140.9(b) for which another handler is required to pay this assessment;

(b) Other source milk allocated to Class I pursuant to § 1140.44(a) (7) and (11), and the corresponding steps of § 1140.44(b), except such other source milk on which no handler obligation applies pursuant to § 1140.65(f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant to which a payment might apply under § 1140.76(a) (4) or (5) and the comparable step in 1140.77(b).

PART 1000—GENERAL PROVISIONS OF FEDERAL MILK MARKETING ORDERS [1]

§ 1000.1 Scope and purpose of Part 1000.

This part sets forth certain terms, definitions, and provisions which shall be common to and part of each Federal milk marketing order except as specifically defined otherwise, or modified, or otherwise provided, in an individual order.

§ 1000.2 Definitions.

The following terms shall have the following meanings as used in the order:

(a) *Act.* "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

(b) *Order.* "Order" means the applicable part of Title 7 of the Code of Federal Regulations issued pursuant to section 8c of the Act as a Federal milk marketing order (as amended).

(c) *Department.* "Department" means the U.S. Department of Agriculture.

(d) *Secretary.* "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated to act in his stead.

(e) *Person.* "Person" means any individual, partnership, corporation, association, or other business unit.

§ 1000.3 Market administrator.

(a) *Designation.* The agency for the administration of the order shall be a market administrator selected by the Secretary and subject to removal at the Secretary's discretion. The market administrator shall be entitled to compensation determined by the secretary.

(b) *Powers.* The market administrator shall have the following powers with respect to each order under his administration:

(1) Administer the order in accordance with its terms and provisions;

(2) Makes rules and regulations to effectuate the terms and provisions of the order;

(3) Receive, investigate, and report complaints of violations to the Secretary; and

[1] These provisions are included solely for information of interested parties. They may not be changed on the basis of this proceeding.

(4) Recommend amendments to the Secretary.

(c) *Duties.* The market administrator shall perform all the duties necessary to administer the terms and provisions of each order under his administration, including, but not limited to, the following:

(1) [Reserved]

(2) Employ and fix the compensation of persons necessary to enable him to exercise his powers and perform his duties;

(3) Pay out of funds provided by the administrative assessment, except expenses associated with functions for which the order provides a separate charge, all expenses necessarily incurred in the maintenance and functioning of his office and in the performance of his duties, including his own compensation;

(4) Keep records which will clearly reflect the transactions provided for in the order, and upon request by the Secretary, surrender the records to his successor or such other person as the Secretary may designate;

(5) Furnish information and reports requested by the Secretary and submit his records to examination by the Secretary;

(6) Announce publicly at his discretion, unless otherwise directed by the Secretary, by such means as he deems appropriate, the name of any handler who, after the date upon which he is required to perform such act, has not:

(i) Made reports required by the order;

(ii) Made payments required by the order;

(iii) Made available records and facilities as required pursuant to § 1000.5;

(7) Prescribe reports required of each handler under the order. Verify such reports and the payments required by the order by examining records (including such papers as copies of income tax reports, fiscal and product accounts, correspondence, contracts, documents or memoranda of the handler, and the records of any other persons that are relevant to the handler's obligation under the order), by examining such handler's milk handling facilities; and by such other investigation as the market administrator deems necessary for the purpose of ascertaining the correctness of any report or any obligation under the order. Reclassify skim milk and butterfat received by any handler if such examination and investigation discloses that the original classification was incorrect.

(8) Furnish each regulated handler a written statement of such handler's accounts with the market administrator promptly each month. Furnish a corrected statement to such handler if verification discloses that the original statement was incorrect; and

(9) Prepare and disseminate publicly for the benefit of producers, handlers, and consumers such statistics and other information concerning operation of the order and facts relevant to the provisions thereof (or proposed provisions) as do not reveal confidential information.

§ 1000.4 Continuity and separability of provisions.

(a) *Effective time.* The provisions of the order or any amendment to the order shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

(b) *Suspension or termination.* The Secretary shall suspend or terminate any or all of the provisions of the order whenever he finds that such provision(s) obstructs or does not tend to effectuate the declared policy of the Act. The order shall terminate whenever the provisions of the Act authorizing it cease to be in effect.

(c) *Continuing obligations.* If upon the suspension or termination of any or all of the provisions of the order, there are any obligations arising under the order, the final accrual or ascertainment of which requires acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination.

(d) *Liquidation.* (1) Upon the suspension or termination of any or all provisions of the order, the market administrator, or such other liquidating agent designated by the Secretary, shall if so directed by the Secretary liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition; and

(2) If a liquidating agent is so designated, all assets and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

(e) *Separability of provisions.* If any provision of the order or its application to any person or circumstances is held invalid, the application of such provision and of the remaining provisions of the order to other persons or circumstances shall not be affected thereby.

§ 1000.5 Handler responsibility for records and facilities.

Each handler shall maintain and retain records of his operations and make such records and his facilities available to the market administrator. If adequate records of a handler, or of any other persons, that are relevant to the obligation of such handler are not maintained and made available, any skim milk and butterfat required to be reported by such handler for which adequate records are not available shall not be considered accounted for or established as used in a class other than the highest priced class.

(a) *Records to be maintained.* (1) Each handler shall maintain records of his operations (including, but not limited to, records of purchases, sales, processing, packaging, and disposition) as are necessary to verify whether such handler has any obligation under the order, and if so, the amount of such obligation. Such records shall be such as to establish for each plant or other receiving point for each month:

(i) The quantities of skim milk and butterfat contained in, or represented by, products received in any form, including inventories on hand at the beginning of the month, according to form, time, and source of each receipt;

(ii) The utilization of all skim milk and butterfat showing the respective quantities of such skim milk and butterfat in each form disposed of or on hand at the end of the month; and

(iii) Payments to producers, dairy farmers and cooperative associations, including the amount and nature of any deductions and the disbursement of money so deducted.

(2) Each handler shall keep such other specific records as the market administrator deems necessary to verify or establish such handler's obligation under the order.

(b) *Availability of records and facilities.* Each handler shall make available all records pertaining to such handler's operations and all facilities the market administrator finds are necessary for such market administrator to verify the information required to be reported by the order and/or to ascertain such handler's reporting, monetary or other obligation under the order. Each handler shall permit the market administrator to weight, sample,

and test milk and milk products and observe plant operations and equipment and make available to the market administrator such facilities as are necessary to carry out his duties.

(c) *Retention of records.* All records required under the order to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the month to which such records pertain. If, within such 3-year period, the market administrator notifies the handler in writing that the retention of such records, or of specified records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such records, or specified records, until further written notification from the market administrator. The market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

§ 1000.6 Termination of obligations.

The provisions of this section shall apply to any obligation under the order for the payment of money:

(a) Except as provided in paragraph (b) and (c) of this section, the obligation of any handler to pay money required to be paid under the terms of the order shall terminate 2 years after the last day of the month during which the market administrator receives the handler's report of receipts and utilization on which such obligation is based, unless within such 2-year period, the market administrator notifies the handler in writing that such money is due and payable. Service of such written notice shall be complete upon mailing to the handler's last known address and it shall contain but need not be limited to the following information:

(1) The amount of the obligation;

(2) The month(s) on which such obligation is based; and

(3) If the obligation is payable to one or more producers or to a cooperative association (except an obligation to be prorated to producers under an individual handler pool), the name of such producer(s) or such cooperative association, or if the obligation is payable to the market administrator, the account for which it is to be paid;

(b) If a handler fails or refuses, with respect to any obligation under the order, to make available to the market administrator all records required by the order to be made available, the market administrator may notify the handler in writing, within the 2-year period provided for in paragraph (a) of this section, of such failure or refusal. If the market administrator so notifies a handler, the said 2-year period with respect to such obligation shall not begin to run until the first day of the month following the month during which all such records pertaining to such obligation are made available to the market administrator;

(c) Notwithstanding the provisions of paragraph (a) and (b) of this section, a handler's obligation under the order to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed; and

(d) Unless the handler files a petition pursuant to section 8c(15)(A) of the Act and the applicable rules and regulations (7 CFR 900.50 et seq.) within the applicable 2-year period indicated below, the obligation of the market administrator:

(1) To pay a handler any money which such handler claims to be due him under the terms of the order shall terminate 2 years after the end of the month during which the skim milk and butterfat involved in the claim were received; or

(2) To refund any payment made by a handler (including a deduction or offset by the market administrator) shall terminate 2 years after the end of the month during which payment was made by the handler.

Proposed by Real Fresh, Inc.

Proposal No. 2

Change paragraphs (a) and (b) of proposed § 1140.15, Fluid milk product, as follows:

§ 1140.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form: milk, skim milk, lowfat milk, milk drinks, buttermilk, mixtures of cream and milk or skim milk containing less than 18 percent butterfat, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in consumer-type packages), or reconstituted.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), products especially prepared for formula feeding of infants, or dietary use, and milk or milk products (including fluid milk) that are sterilized and packaged in hermetically sealed glass or all-metal containers or which are aseptically packaged, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

Proposal No. 3

Change paragraph (a) of proposed § 1140.52, Plant location adjustments to handlers, to read as follows:

§ 1140.52 Plant location adjustments to handlers.

(a) For milk received from producers at a pool plant located outside the State of Hawaii, and which is assigned as a Class I milk pursuant to paragraph (b) of this section, the Class I price shall be reduced at the following rate:

$5.25 plus 2.0 cents per hundredweight for each ten miles or fraction thereof of distance between such plant and the Honolulu, Hawaii, city hall as determined by the market administrator.

* * * * *

Proposed by Meadow Gold Dairies—Hawaii

Proposal No. 4

Add to proposed § 1140.2, Hawaii marketing area, the county of Kauai.

Proposed by Foremost Dairies, Inc.

Proposal No. 5

Add a new paragraph (d) to proposed § 1140.40, as follows:

§ 1140.40 Classes of utilization.

* * * * *

(d) *Class IV milk.* Class IV milk shall be all skim milk which is:

(1) Disposed of for fertilizer or livestock feed; or

(2) Dumped after such notification as the market administrator may require.

Proposal No. 6

Add a new paragraph (d) to proposed § 1140.50, as follows:

§ 1140.50 Class prices.

* * * * *

(d) *Class IV price.* The Class IV price for the month shall be $0.10.

Proposed by 50th State Dairy Farmers Cooperative and Oahu Dairy Cooperative

Proposal No. 7

§ 1140.50 [Amended]

Add to proposed § 1140.50(a), as follows:

The minimum price for Class I milk to be fixed under this part shall be adjusted each month during the first 12 months the order is in effect as follows:

(1) Increase the Class I price during any month for which there is a plus amount computed by subtracting from the average price paid ungraded milk producers in the states of Wisconsin and Minnesota for 3.5 percent butterfat milk as reported by the U.S. Department of Agriculture for the 2nd preceding month the average of such price during the 12 month period ending with the third month prior to the effective date of this order.

(2) Beginning with the first day of the 6th month after the effective date of this order the increase in the Class I price pursuant to paragraph (a) of this proposal shall be no less than the increase, if any, in the average cost of producing 100 pounds of milk in the State of Hawaii during the five month period subsequent to the effective date of this order, such increased cost to be determined by a formula reflecting the cost of feed grains, the cost of dairy farm labor, the prices of electricity and fuel, and such other appropriate costs measured by official price quotations and appropriate weighting factors as shall be presented at the hearing.

Proposal No. 8

§ 1140.76 [Amended]

Change proposed § 1140.76 to assure that:

The order shall provide for a payment computed at the rate necessary to assure that the supply of milk produced within the milkshed area from which the pool plants routinely called upon to make supplemental deliveries of fluid milk products to marketing area retail and wholesale outlets receive their producer milk, will be adequate that all consumers of such products may be assured of adequate volumes of the respective fluid milk products to meet their needs fully at all times.

Data on which this rate may be computed will be presented at the hearing.

Copies of this notice may be procured from the Hearing Clerk, Room 1079, South Building, United States Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

From the time that a hearing notice is issued until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture.
Office of the Administator, Agricultural Marketing Service.
Office of the General Counsel.
Dairy Division, Agricultural Marketing Service (Washington office only).

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C. on: August 6, 1985.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 85-19073 Filed 8-9-85; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 330

Recordkeeping Requirements for Deposits Placed by Deposit Brokers

Correction

In FR Doc. 85-18402, beginning on page 31380 in the issue of Friday, August 2, 1985, make the following corrections:

1. On page 31381, in the third column, in the second indented paragraph, in the twelfth line, "50 FR 19 1985 (1985)" should read "50 FR 19185 (1985)".

2. On page 31382, in the second column, in the third complete paragraph, in the seventh line, "facilities" should read "failures".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-NM-79-AD]

Airworthiness Directives; Avions Marcel Dassault-Breguet Aviation (AMD) Falcon 10 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require a one-time test of the automatic extension of the leading edge slats on certain Falcon 10 airplanes, for proper operation and correction of any wiring discrepancies which may exist. This action is necessary to ensure proper extension of the leading edge slats in the event of a hydraulic system failure and to reduce the potential for stalling the airplane.

DATE: Comments must be received on or before October 1, 1985.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85-NM-79-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from the AMD-BA Representative, 40 J.J.C., Teterboro Airport, New Jersey 07608. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Harold N. Wantiez, Standardization Branch, ANM-113; telephone (206) 431-2977. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM)

by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85–NM–79–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

The French Direction Generale de l'Aviation Civile (DGAC) has, in accordance with existing provisions of a bilateral agreement, notified the FAA of an unsafe condition which may exist on certain AMD Falcon 10 airplanes. Because of wiring anomalies, the automatic leading edge slat extension may not function when required in the event of a hydraulic system failure. In order to prevent this from occurring, the DGAC has issued a Consigne de Navigabilité which requires a test of the system operation and modification, as necessary, in accordance with AMD Service Bulletin F10–27–31(–247).

This airplane model is manufactured in France and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require a one-time test of the leading edge slats in accordance with the previously mentioned service bulletin.

It is estimated that 158 airplanes would be affected by this AD, that it would take approximately 1 manhour per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $6,320.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, AMD Falcon 10 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

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

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

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

2. By adding the following new airworthiness directive:

Avions Marcel Dassault-Breguet Aviation: Applies to AMD Falcon 10 series airplanes, serial numbers 1 through 206 inclusive, certificated in any category. Compliance is required within 60 days after the effective date of this AD. To detect an incorrectly wired automatic leading edge slat system, accomplish the following unless previously accomplished:

A. Test the automatic leading edge slat extension system and correct, if necessary, in accordance with AMD Service Bulletin F10–27–31(–247), dated July 18, 1984.

B. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

Issued in Seattle, Washington, on August 2, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85–19020 Filed 8–9–85; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 85–NM–65–AD]

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes an amendment to an existing airworthiness directive applicable to Boeing Model 737 airplanes. The existing AD requires inspection and repair, as necessary, of the Body Station (BS) 1016 pressure bulkhead. Since the addition of the Model 737–300 series to the fleet, the FAA has determined that the applicability statement in the AD may be unnecessarily broad. This proposal would limit the applicability of the existing AD to conform with that which is presently specified in the manufacturer's service bulletin.

DATES: Comments must be recieved on or before October 4, 1985.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85–NM–65–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington, 98124, or may be examined at the Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Carlton Holmes, Airframe Branch, ANM–120S; telephone (206) 431–2926. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Region Counsel, Attention: Airworthiness Rules Docket No. 85–NM–65–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

On September 21, 1984, the FAA issued amendment 39–4923 (49 FR

38534), AD 84-20-03, which requires inspection and repair of the Body Station 1016 pressure bulkhead. The amendment was prompted by numerous reports of corrosion and cracking in the lower lobe of the aft pressure bulkhead at Body Station 1016. Although the manufacturer's service bulletin is only applicable to certain Boeing Model 737 airplanes, the applicability provision of the AD specifies *all* Model 737 airplanes. Since the adoption of AD 84-20-03, the manufacturer has introduced the new Model 737-300 series. The FAA has not determined that the service bulletin is necessary for the newer model. Therefore, the proposed amendment would limit the applicability of the AD to those airplanes specified in the manufacturer's service bulletin.

Since the proposed amendment would reduce the applicability of an existing AD, there would be no significant economic or regulatory impact upon affected operators.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 737 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

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

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 1983); 14 CFR 11.85.

2. By amending Airworthiness Directive 84-20-03, Amendment 39-4923 (49 FR 38534; October 1, 1984), by revising the applicability statement preceding paragraph A. to read as follows:

Boeing: Applies to Model 737 series airplanes, certificated in any category, as listed in Boeing Service Bulletin 737-53-1075, Revision 1, dated September 2, 1983, with more than 20,000 flight hours or 7 years time in service, whichever occurs first.

Compliance is required as indicated. To ensure the continuing structural integrity of the aft pressure bulkhead, accomplish the following:

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at the FAA, Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on August 5, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85-19023 Filed 8-9-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-AWP-28]

Proposed Alteration of Transition Area; Santa Rosa, CA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to expand the transition area at Sonoma County Airport, Santa Rosa, California. The transition area is required to contain the ILS Runway 32 Instrument Flight Rule (IFR) approach at Sonoma County Airport. This action is necessary to ensure segregation of aircraft using approach procedures in instrument weather conditions and other aircraft operating in visual weather conditions.

DATES: Comments must be received on or before August 31, 1985.

ADDRESS: Send comments on the proposal in triplicate to: Federal Aviation Administration, Manager, Airspace and Procedures Branch, AWP-530, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009-2007.

The official docket may be examined in the Office of the Western-Pacific Regional Counsel, Room 6W14, at 15000 Aviation Boulevard, Hawthorne, California.

An informal docket may also be examined during normal business hours at the Airspace and Procedures Branch, Room 6E4, at the above address.

FOR FURTHER INFORMATION CONTACT: Curtis Alms, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration (FAA), 15000 Aviation Boulevard, Hawthorne, California 90261; telephone (213) 536-6649.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 85-AWP-28." The postcard will date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above, both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace and Procedures Branch, 15000 Aviation Boulevard, Hawthorne, California 90261. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a transition area to accommodate aircraft executing ILS

Runway 32 IFR arrival operations at Sonoma County Airport, Santa Rosa, California. This action is necessary to ensure aircraft operating under IFR would have exclusive use of that airspace when visibility is less than three miles, thereby enhancing the safety of such operations. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

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

List of Subjects in 14 CFR Part 71

Control zones, Transition areas, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the FAR as follows:

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

Authority: 49 U.S.C. 1348(a), 354(a) 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

2. Section 71.181 is amended as follows:

Santa Rosa, California—[Revised]

"The airspace extending upward from 700 feet above the surface beginning at lat. 38°27'40" W.; long. 122°44'20" W; thence clockwise via the 5-mile radius arc of the Sonoma County Airport (lat. 38°30'30" N., long. 122°48'45" W.); to lat. 38°26'30" N., long. 122°48'40" W.; to lat. 38°24'30" N., long. 122°47'30" W.; to lat. 38°26'20" N., long. 122°43'20" W.; thence to the point of beginning."

Issued in Los Angeles, California on July 24, 1985.

Wayne C. Newcomb,

Acting Director, Western-Pacific Region.

[FR Doc. 85–19022 Filed 8–9–85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 85–ASO–14]

Proposed Designation of Transition Area, Sylvania, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate the Sylvania, Georgia, transition area to accommodate Instrument Flight Rule (IFR) operations at Plantation Airpark Airport. This action will lower the base of controlled airspace from 1,200 to 700 feet above the surface in the vicinity of the airport. An instrument approach procedure, based on the proposed Sylvania Non-directional Radio Beacon (RBN), is being developed to serve the airport and the controlled airspace is required for protection of IFR aeronautical activities.

DATES: Comments must be received on or before: September 12, 1985.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Manager, Airspace and Procedures Branch, ASO-530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763–7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Supervisor, Airspace Section, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. _____." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch (ASO-530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that will designate the Sylvania, Georgia, transition area. This action will provide controlled airspace for aircraft executing a new instrument approach procedure to plantation Airpark Airport. If the proposed designation of the transition area is found acceptable, the operating status of the airport will be changed to IFR. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in FAA Order 7400.6A dated January 2, 1985.

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

certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the critieria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

The Proposed Amendment

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

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

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); (14 CFR 11.65); 49 CFR 1.47.

2. By amending § 71.181 as follows:

Sylvania, GA—[New]

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Plantation Airpark Airport (Lat. 32°38'43" N., Long. 81°35'48" W); within 3 miles each side of the 059° bearing from the Sylvania RBN (Lat. 32°38'56" N., Long. 81°35'38" W.), extending from the 6.5-mile radius area to 8.5 miles west of the RBN.

Issued in East Point, Georgia, on July 29, 1985.

Thomas H. Protiva,

Acting Director, Southern Region.

[FR Doc. 85-19019 Filed 8-9-85; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 6

Enforcement of Nondiscrimination on the Basis of Handicap in Federal Trade Commission Programs

AGENCY: Federal Trade Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed regulation provides for the enforcement of section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap, as it applies to programs or activities conducted by the Federal Trade Commission.

DATE: To be assured of consideration, comments must be in writing and must be received on or before December 10, 1985. Comments should refer to specific sections in the regulation.

ADDRESSES: Comments should be sent to:

Secretary, Federal Trade Commission, 6th & Pennsylvania Avenue, Washington, D.C. 20580

Attention: Enforcement of Nondiscrimination on the Basis of Handicap in FTC Programs.

Comments received will be available for public inspection in Room 130, Federal Trade Commission, 6th & Pennsylvania Avenue, Washington, D.C. 20580. Upon request, copies of this notice will be made available on tape at the above address for those with impaired vision.

FOR FURTHER INFORMATION CONTACT: Jerome A. Tintle, Office of General Counsel, Federal Trade Commission, Washington, D.C. 20580 [202-523-3521]; TDD (202) 523-3638.

SUPPLEMENTARY INFORMATION:

Background

The purpose of this proposed rule is to provide for the enforcement of section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), as it applies to programs and activities conducted by the Federal Trade Commission. As amended by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (Sec. 119, Pub. L. 95-602, 92 Stat. 2982), section 504 of the Rehabilitation Act of 1973 states that

> No otherwise qualified handicapped individual in the United States, . . . shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance *or under any program or activity conducted by any Executive agency or by the United States Postal Service. The head of each such agency shall promulgate such regulations as may be necessary to carry out the amendments to this section made by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978. Copies of any proposed regulation shall be submitted to appropriate authorizing committees of the Congress, and such regulation may take effect no earlier than the thirtieth day after the date on which such regulation is so submitted to such committees.*
>
> (29 U.S.C. 794) (amendment italicized).

The substantive nondiscrimination obligations of the agency, as set forth in this proposed rule, are identical, for the most part, to those established by Federal regulations for programs or activities receiving Federal financial assistance. *See* 28 CFR Part 41 (section 504 coordination regulation for federally assisted programs). This general parallelism is in accord with the intent expressed by supporters of the 1978 amendment in floor debate, including its sponsor, Rep. James M. Jeffords, that the Federal Government should have the same section 504 obligations as recipients of Federal financial asistance. 124 Cong. Rec. 13,901 (1978) (remarks of Rep. Jeffords); 124 Cong. Rec. E2668, E2670 (daily ed. May 17, 1978) *id.*; 124 Cong. Rec. 13,897 (remarks of Rep. Brademas); *id.* at 38,552 (remarks of Rep. Sarasin).

This regulation has been reviewed by the Department of Justice. It is an adaptation of a prototype prepared by the Department of Justice under Executive Order 12250 (45 FR 72995, 3 CFR, 1980 Comp., p. 298) and distributed to Executive agencies.

This regulation has also been reviewed by the Equal Employment Opportunity Commission under Executive Order 12067 (43 FR 28967, 3 CFR, 1978 Comp., p. 206).

Because the Federal Trade Commission is expressly excluded from the coverage of Executive Order 12291 (46 FR 13193, 3 CFR, 1981 Comp., p. 127) and because this regulation is not a major rule within the meaning of the Executive Order, a regulatory impact analysis has not been prepared.

This regulation does not have an impact on small entities. It is not, therefore, subject to the Regulatory Flexibility Act (5 U.S.C. 601-612).

Section-by-Section Analysis

Section 6.101 Purpose.

Section 6.101 states the purpose of the proposed rule, which is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

It should be noted that the agency, in making its programs and activities accessible to handicapped persons, may take only such steps as are within its authority and do not interfere with the agency's law enforcement responsibilities in a manner not intended by section 504. The agency, for example, has no authority to make alterations or additions to the buildings and facilities that it occupies. This authority is vested exclusively in the General Services Administration (GSA). The agency will, of course, cooperate with GSA in every way possible to introduce any structural changes required by section 504 and these regulations. It cannot, however, commit itself, or even appear to be committing

itself, by regulation to do so on its own. Also, section 504 conceivably could be interpreted to impose such an obligation upon the agency in a particular case as would preclude the agency from carrying out its law enforcement mission in the case. The agency believes that Congress, in amending section 504 to cover Executive agencies, did not intend this result. Although such a situation may not arise, the agency believes that its regulations should make provision for it. Accordingly, these limitations upon the agency's ability to comply with section 504, although implicit as a matter of law, are expressly set forth in § 6.101.

Section 6.102 Application.

The proposed regulation applies to all programs or activities conducted by the agency.

Section 6.103 Definitions.

"Agency" means the Federal Trade Commission.

"Assistant Attorney General." "Assistant Attorney General" refers to the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

"Auxiliary aids." "Auxiliary aids" mean services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in and enjoy the benefits of the agency's programs or activities. The definition provides examples of commonly used auxiliary aids. Although auxiliary aids are required explicitly only by § 6.160(a)(l), they may also be necessary to meet other requirements of the regulation.

"Complete complaint." The definition of "complete complaint" enables the agency to determine the beginning of its obligation to investigate a complaint (*see* § 6.170(d)).

"Facility." The definition of "facility" is similar to that in the section 504 coordination regulation for federally assisted programs, 28 CFR 41.3(f), except that the term "rolling stock or other conveyances" has been added and the phrase "or interest in such property" has been deleted to clarify its coverage. The phrase, "or interest in such property" is deleted, because the term "facility", as used in this regulation, refers to structures and not to intangible property rights. It should, however, be noted that the regulation applies to all programs and activities conducted by the agency regardless of whether the facility in which they are conducted is owned, leased, or used on some other basis by the agency. The term "facility" is used in §§ 6.149, 6.150 and 6.170(f).

"Handicapped person." The definition of "handicapped person" is identical to the definition appearing in the section 504 coordination regulation for federally assisted programs (28 CFR 41.31).

"Qualified handicapped person." The definition of "qualified handicapped person" is a revised version of the definition appearing in the section 504 coordination regulation for federally assisted programs (28 CFR 41.32).

Paragraph (1) deviates from existing regulations for federally assisted programs because of intervening court decisions. It defines "qualified handicapped person" with regard to any program under which a person is required to perform services or to achieve a level of accomplishment. In such programs a qualified handicapped person is one who can achieve the purpose of the program without modifications in the program that would result in a fundamental alteration in its nature. This definition reflects the decision of the Supreme Court in *Southeastern Community College* v. *Davis*, 442 U.S. 397 (1979). In that case, the Court ruled that a hearing-impaired applicant to a nursing school was not a "qualified handicapped person" because her hearing impairment would prevent her from participating in the clinical training portion of the program. The Court found that, if the program were modified so as to enable the respondent to participate (by exempting her from the clinical training requirements), "she would not receive even a rough equivalent of the training a nursing program normally gives," *Id.* at 410. It also found that "the purpose of [the] program was to train persons who could serve the nursing profession in all customary ways," *id* at 413, and that the respondent would be unable, because of her hearing impairment, to perform some functions expected of a registered nurse. It therefore concluded that the school was not required by section 504 to make such modifications as would result in "a fundamental alteration in the nature of the program." *Id.* at 410.

We have incorporated the Court's language in the definition of "qualified handicapped person" in order to make clear that such a person must be able to participate in the program offered by the agency. The agency is required to make modifications in order to enable a handicapped applicant to participate, but is not required to offer a program of a fundamentally different nature. The test is whether, with appropriate modifications, the applicant can achieve the purpose of the program offered; not whether the applicant could benefit or obtain results from some other program that the agency does not offer. Although the revised definition allows exclusion of some handicapped people from some programs, it requires that a handicapped person who is capable of achieving the purpose of the program must be accommodated, provided that the modifications do not fundamentally alter the nature of the program.

The agency has the burden of demonstrating that a proposed modification would constitute a fundamental alteration in the nature of its program or activity. Furthermore, in demonstrating that a modification would result in such an alteration, the agency must follow the procedures established in § 6.150(a) and § 6.160(d), which are discussed below, for demonstrating that an action would result in undue financial and administrative burdens. That is, the decision must be made by the agency head in writing after consideration of all resources available for the program or activity and must be accompanied by an explanation of the reasons for the decision. If the agency head determines that an action would result in a fundamental alteration, the agency must consider options that would enable the handicapped person to achieve the purpose of the program but would not result in such an alteration.

For programs or activities that do not fall under the first paragraph, paragraph (2) adopts the existing definition of "qualified handicapped person" with respect to services (28 CFR 41.32(b)) in the coordination regulation for programs receiving Federal financial assistance. Under this definition a qualified handicapped person is a handicapped person who meets the essential eligibility requirements for participation in the program or activity.

"Section 504." This definition makes clear that, as used in this regulation, "section 504" applies only to programs or activities conducted by the agency and not to programs or activities to which it provides Federal financial assistance.

Section 6.110 Self-evaluation.

The agency shall conduct a self-evaluation of its compliance with section 504 within one year of the effective date of this regulation. The process shall include consultation with interested persons, including consultation with handicapped persons or organizations representing handicapped persons. The self-evaluation requirement is present in the existing section 504 coordination regulation for programs or activities receiving Federal financial assistance. (28 CFR 41.5(b)(2).) Experience has demonstrated the self-evaluation process to be a valuable means of establishing a working relationship with

handicapped persons that promotes both effective and efficient implementation of section 504.

Section 6.111 Notice.

Section 6.111 requires the agency to disseminate sufficent information to employees, applicants, participants, beneficiaries, and other interested persons to apprise them of rights and protections afforded by section 504 and this regulation. Methods of providing this information include, for example, the publication of information in handbooks, maunals, and pamphlets that are distributed to the public to describe the agency's programs and activities; the display of informative posters in service centers and other public places; or the broadcast of information by television or radio.

Section 6.130 General prohibitions against discrimination.

Section 6.130 is an adaptation of the corresponding section of the section 504 coordination regulation for programs or activities receiving Federal financial assistance (28 CFR 41.51).

Paragraph (a) restates the nondiscrimination mandate of section 504. The remaining paragraphs in § 6.130 establish the general principles for analyzing whether any particular action of the agency violates this mandate. These principles serve as the analytical foundation for the remaining sections of the regulation. Whenever the agency has violated a provision in any of the subsequent sections, it has also violated one of the general prohibitions found in § 6.130. When there is no applicable subsequent provision, the general prohibitions stated in this section apply.

Paragraph (b) prohibits overt denials of equal treatment of handicapped persons. The agency may not refuse to provide a handicapped person with an equal opportunity to participate in or benefit from its program simply because the person is handicapped. Such blatantly exclusionary practices often result from the use of irrebuttable presumptions that absolutely exclude certain classes of disabled persons (*e.g.*, epileptics, hearing-impaired persons, persons with heart ailments) from participation in programs or activities without regard to an individual's actual ability to participate. Use of an irrebuttable presumption is permissible only when in all cases a physical condition by its very nature would prevent an individual from meeting the essential eligibility requirements for participation in the activity in question. It woud be permissible, therefore, to exclude without an individual evaluation all persons who are blind in both eyes from eligibility for a license to operate a commercial vehicle in interstate commerce; but it may not be permissible to automatically disqualify all those wo are blind in just one eye.

Section 504, however, prohibits more than just the most obvious denials of equal treatment. It is not enough to admit persons in wheelchairs to a program if the facilities in which the program is conducted are inaccessible. Paragraph (b)(1)(iii), therefore, requires that the opportunity to participate or benefit afforded to a handicapped person be as effective as that afforded to others. The later sections on program accessibility (§§ 6.149–6.151) and communications (§ 6.160) are specific applications of this principle.

Despite the mandate of paragraph (d) that the agency administer its programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons, paragraph (b)(1)(iv), in conjunction with paragraph (d), permits the agency to develop separate or different aids, benefits, or services when necessary to provide handicapped persons with an equal opportunity to participate in or benefit from the agency's program or activities. Paragraph (b)(1)(iv) requires that different or separate aids, benefits, or services be provided only when necessary to ensure that the aids, benefits, or services are as effective as those provided to others. Even when separate or different aids, benefits, or services would be more effective, paragraph (b)(2) provides that a qualified handicapped person still has the right to choose to participate in the program that is not designed to accommodate handicapped persons.

Paragraph (b)(1)(v) prohibits the agency from denying a qualified handicapped person the opportunity to participate as a member of a planning or advisory board.

Paragraph (b)(1)(vi) prohibits the agency from limiting a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving any aid, benefit, or service.

Paragraph (b)(3) prohibits the agency from utilizing criteria or methods of administration that deny handicapped persons access to the agency's programs or activities. The phrase "criteria or methods of administration" refers to official written agency policies and the actual practices of the agency. This paragraph prohibits both blatantly exclusionary policies or practices and nonessential policies and practices that are neutral on their face, but deny handicapped persons an effective opportunity to participate.

Paragraph (b)(4) specifically applies the prohibition enunciated in § 6.130(b)(3) to the process of selecting sites for construction of new facilities or existing facilities to be used by the agency. Paragraph (b)(4) does not apply to construction of additional buildings at an existing site.

Paragraph (b)(5) prohibits the agency, in the selection of procurement contractors, from using criteria that subject qualified handicapped persons to discrimination on the basis of handicap.

Paragraph (c) provides that programs conducted pursuant to Federal statute or Executive order that are designed to benefit only handicapped persons or a given class of handicapped persons may be limited to those handicapped persons.

Section 6.140 Employment.

Section 6.140 prohibits discrimination on the basis of handicap in employment by Executive agencies. This regulation is in accord with a decision of the Fifth Circuit that holds that, despite the resulting overlap of coverage with section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), Congress intended section 504 to cover the employment practices of Executive agencies. The court also held that in order to give effect to both section 504 and section 501, the administrative procedures of section 501 must be followed in processing section 504 complaints. *Prewitt* v. *United States Postal Service*, 662 F.2d 292 (5th Cir. 1981). Consistent with that decision, this section provides that the standards, requirements and procedures of section 501 of the Rehabilitation Act, as established in regulations of the Equal Employment Opportunity Commission (EEOC) at 29 CFR Part 1613, shall be those applicable to employment in federally conducted programs or activities. In addition to this section, § 6.170(b) of this regulation specifies that the agency will use the existing EEOC procedures to resolve allegations of employment discrimination. Responsibility for coordinating enforcement of Federal laws prohibiting discrimination in employment is assigned to the EEOC by Executive Order 12067 (43 FR 28967, 3 CFR, 1978 Comp., p. 206). Under this authority, the EEOC establishes government-wide standards on nondiscrimination in employment on the basis of handicap.

Section 6.149 Program accessibility: Discrimination prohibited.

Section 6.149 states the general nondiscrimination principle underlying

the program accessibility requirements of §§ 6.150 and 6.151.

Section 6.150 Program accessibility: Existing facilities.

This regulation adopts the program accessibility concept found in the existing section 504 coordination regulation for programs or activities receiving Federal financial assistance (28 CFR 41.56–41.58), with certain modifications. Thus, § 6.150 requires that the agency's program or activity, when viewed in its entirety, be readily accessible to and usable by handicapped persons. The regulation also makes clear that the agency is not required to make each of its existing facilities accessible (§ 6.150(a)(1)). However, § 6.150, unlike 28 CFR 41.56–57, places explicit limits on the agency's obligation to ensure program accessibility (§6.150(a)(2)).

Paragraph (a)(2) generally codifies recent case law that defines the scope of the agency's obligation to ensure program accessibility. This paragraph provides that in meeting the program accessibility requirement the agency is not required to take any action that would result in a fundamental alteration in the nature of its program or activity or in undue financial and administrative burdens. A similar limitation is provided in § 6.160(d). This provision is based on the Supreme Court's holding in *Southeastern Community College* v. *Davis*, 442 U.S. 397 (1979), that section 504 does not require program modifications that result in a fundamental alteration in the nature of a program, and on the Court's statement that section 504 does not require modifications that would result in "undue financial and administrative burdens." 442 U.S. at 412. Since *Davis*, circuit courts have applied this limitation on a showing that only one of the two "undue burdens" would be created as a result of the modification sought to be imposed under section 504. *See, e.g., Dopico* v. *Goldschmidt*, 687 F.2d 644, (2d Cir. 1982); *American Public Transit Association* v. *Lewis (APTA)*, 655 F.2d 1272 (D.C. Cir. 1981). Thus, in *APTA* the United States Court of Appeals for the District of Columbia Circuit applied the *Davis* language and invalidated the section 504 regulations of the Department of Transportation (DOT). The court in *APTA* noted "that at some point a transit system's refusal to take modest, affirmative steps to accommodate handicapped persons might well violate section 504, but DOT's rules do not mandate only modest expenditures. The regulations require extensive modifications of existing systems and impose extremely heavy financial burdens on local transit authorities." 655 F.2d at 1278.

The inclusion of paragraph (a)(2) is an effort to conform the agency's regulation implementing section 504 to the Supreme Court's interpretation of the statute in *Davis* as well as to the decisions of lower courts following the *Davis* opinion. This paragraph acknowledges, in light of recent case law, that in some situations, certain accommodations for a handicapped person may so alter an agency's program or activity, or entail such extensive costs and administrative burdens that the refusal to undertake the accommodations is not discriminatory. The failure to include such a provision could lead to judicial invalidation of the regulation or reversal of a particular enforcement action taken pursuant to the regulation.

This paragraph, however, does not establish an absolute defense; it does not relieve the agency of all obligations to handicapped persons. Although the agency is not required to take actions that would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens, it nevertheless must take any other steps necessary to ensure that handicapped persons receive the benefits and services of the federally conducted program or activity.

It is our view that compliance with § 6.150(a) would in most cases not result in undue financial and administrative burdens on the agency. In determining whether financial and administrative burdens are undue, all agency resources available for use in the funding and operation of the conducted program or activity should be considered. The burden of proving that compliance with § 6.150(a) would fundamentally alter the nature of a program of activity or would result in undue financial and administrative burdens rests with the agency. The decision that compliance would result in such alteration or burdens must be made by the agency head and must be accompanied by a written statement of the reasons for reaching that conclusion. Any person who believes that he or she or any specific class of persons has been injured by the agency head's decision or failure to make a decision may file a complaint under the compliance procedures established in § 6.170.

Paragraph (b) sets forth a number of means by which program accessibility may be achieved, including redesign of equipment, reassignment of services to accessible buildings, and provision of aides. In choosing among methods, the agency shall give priority consideration to those that will be consistent with provision of services in the most integrated setting appropriate to the needs of handicapped persons. Structural changes in existing facilities are required only when there is no other feasible way to make the agency's program accessible. The agency may comply with the program accessibility requirement by delivering services at alternate accessible sites or making home visits as appropriate.

Paragraphs (c) and (d) establish time periods for complying with the program accessibility requirement. As currently required for federally assisted programs by 28 CFR 41.57(b), the agency must make any necessary structural change in facilities as soon as practicable, but in no event later than three years after the effective date of this regulation. Where structural modifications are required, a transition plan shall be developed within six months of the effective date of this regulation. Aside from structural changes, all other necessary steps to achieve compliance shall be taken within sixty days.

Section 6.151 Program accessibility: New construction and alterations.

Overlapping coverage exists with respect to new construction under section 504, section 502 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 792), and the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157). Section 6.151 provides that those buildings that are constructed or altered by, on behalf of, or for the use of the agency shall be designed, constructed, or altered to be readily accessible to and usable by handicapped persons in accordance with 41 CFR 101–19.600 to 101–19.607. This standard was promulgated pursuant to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157). We believe that it is appropriate to adopt the existing Architectural Barriers Act standard for section 504 compliance because new and altered buildings subject to this regulation are also subject to the Architectural Barriers Act and because adoption of the standard will avoid duplicative and possibly inconsistent standards.

Existing buildings leased by the agency after the effective date of this regulation are not required to meet the new construction standard. They are subject, however, to the requirements of § 6.150.

Section 6.160 Communications.

Section 6.160 requires the agency to take appropriate steps to ensure effective communication with personnel of other Federal entities, applicants,

participants, and members of the public. These steps shall include procedures for determining when auxiliary aids are necessary under § 6.160(a)(1) to afford a handicapped person an equal opportunity to participate in, and to enjoy the benefits of the agency's program or activity. They shall also include an opportunity for handicapped persons to request the auxiliary aids of their choice. This expressed choice shall be given primary consideration by the agency (§ 6.160(a)(1)(i)). The agency shall honor the choice unless it can demonstrate that another effective means of communication exists or that use of the means chosen would not be required under § 6.160(d). That paragraph limits the obligation of the agency to ensure effective communication in accordance with *Davis* and that circuit court opinions interpreting it (*see supra* preamble § 6.150(a)(1)(2)). Unless not required by § 6.160(d), the agency shall provide auxiliary aids at no cost to the handicapped person.

It is our view that compliance with § 6.160 would in most cases not result in undue financial and administrative burdens on the agency. In determining whether financial and administrative burdens are undue, all agency resources available for use in the funding and operation of the conducted program or activity should be considered. The burden of proving that compliance with § 6.160 would fundamentally alter the nature of a program or activity or would result in undue financial and administrative burdens rests with the agency. The decision that compliance would result in such alteration or burdens must be made by the agency head and must be accompanied by a written statement of the reasons for reaching that conclusion. Any person who believes that he or she or any specific class of persons has been injured by the agency head's decision or failure to make a decision may file a complaint under the compliance procedures established in § 6.170.

In some circumstances, a notepad and written materials may be sufficient to permit effective communication with a hearing-impaired person. In many circumstances, however, they may not be, particularly when the information being communicated is complex or exchanged for a lengthy period of time (e.g., a meeting) or where the hearing-impaired applicant or participant is not skilled in spoken or written language. Then, a sign language interpreter may be appropriate. For vision-impaired persons, effective communication might be achieved by several means, including readers and audio recordings. In general, the agency intends to make clear to the public (1) the communications services it offers to afford handicapped persons an equal opportunity to participate in or to benefit from its programs or activities, (2) the opportunity to request a particular mode of communication, and (3) the agency's preferences regarding auxiliary aids if it can demonstrate that several different modes are effective.

The agency shall ensure effective communication with vision-impaired and hearing-impaired persons involved in hearings conducted by the agency. Auxiliary aids must be afforded where necessary to ensure effective communication at the proceedings. If sign language interpreters are necessary, the agency may require that it be given reasonable notice prior to the proceeding of the need for an interpreter. Moreover, the agency need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature. (§ 6.160(a)(1)(ii)). For example, the agency need not provide eyeglasses or hearing aids to applicants or participants in its programs. Similarly the regulation does not require the Commission to provide wheelchairs to persons with mobility impairments.

Paragraph (b) requires the agency to provide information to handicapped persons concerning accessible services, activities, and facilities. Paragraph (c) requires the agency to provide signs at inaccessible facilities that direct users to locations with information about accessible facilities.

Section 6.170 Compliance procedures.

Paragraph (a) specifies that paragraphs (l) through (1) of this section establish the procedures for processing complaints other than employment complaints. Paragraph (b) provides that the agency will process employment complaints according to procedures established in existing regulations of the EEOC (20 CFR Part 1613) pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

The agency is required to accept and investigate all complete complaints (§ 6.170(d)). If it determines that it does not have jurisdiction over a complaint, it shall promptly notify the complainant and make reasonable efforts to refer the complaint to the appropriate entity of the Federal government (§ 6.170(e)).

Paragraph (f) requires the agency to notify the Architectural and Transportation Barriers Compliance Board upon receipt of a complaint alleging that a building or facility subject to the Architectural Barriers Act or section 502 was designed, constructed, or altered in a manner that does not provide ready access to and use by handicapped persons.

Paragraph (g) requires the agency to provide to the complainant, in writing, findings of fact and conclusions of law, the relief granted if noncompliance is found, and notice of the right to appeal (§ 6.170(g)). One appeal within the agency shall be provided (§ 170(i)). The appeal will not be heard by the same person who made the initial determination of compliance or noncompliance (§ 170(i)).

Paragraph (1) permits the agency to delegate its authority for investigating complaints to other Federal agencies. However, the statutory obligation of the agency to make a final determination of compliance or noncompliance may not be delegated.

List of Subjects in 16 CFR Part 6

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

For the reasons set forth in the preamble, Chapter I of Title 16 of the Code of Federal Regulations is proposed to be amended as follows:

A new Part 6 is added to read as follows:

PART 6—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE FEDERAL TRADE COMMISSION

Sec.

Authority: 29 U.S.C. 794.

§ 6.101 Purpose.

This part effectuates section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service. The agency intends to comply fully with section 504 insofar as compliance is within the agency's authority and does not interfere with the agency's law enforcement responsibilities in a manner not intended by section 504.

§ 6.102 Application.

This part applies to all programs or activities conducted by the agency.

§ 6.103 Definitions.

For purposes of this part, the term—

"Agency" means the Federal Trade Commission.

"Assistant Attorney General" means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

"Auxiliary aids" mean services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and to enjoy the benefits of programs or activities conducted by the agency. For example, auxiliary aids useful for persons with impaired vision include readers, Brailled materials, audio recordings, telecommunication devices and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDD's), interpreters, notetakers, written materials, and other similar services and devices.

"Complete complaint" means a written statement that contains the complainant's name and address and describes the agency's alleged discriminatory action in sufficient detail to inform the agency of the nature and date of the alleged violation of section 504. It shall be signed by the complainant or by someone authorized to do so on his or her behalf.

"Facility"means all or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other conveyances, or other real or personal property.

"Handicapped person" means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. As used in this definition, the phrase:

(1) "Physical or mental impairment" includes—

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. Ther term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular, dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, and drug addition and alcoholism.

(2) "Major life activities" include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) "Is regarded as having an impairment" means—

(i) Has a physical or mental impairment that does not substantially limit major life activities but is treated by the agency as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in subparagraph (1) of this definition but is treated by the agency as having such an impairment.

"Qualified handicapped person" means—

(1) With respect to any agency program or activity under which a person is required to perform services or to achieve a level of accomplishment, a handicapped person who meets the essential eligibility requirements and who can achieve the purpose of the program or activity without modifications in the program or activity that the agency can demonstrate would result in a fundamental alteration in its nature; and

(2) With respect to any other program or activity, a handicapped person who meets the essential eligibility requirements for participation in, or receipt of benefits from, that program or activity.

"Section 504" means section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112, 87 Stat. 394 (29 U.S.C. 794)), as amended by the Rehabilitation Act Amendments of 1974 (Pub. L. 93-516, 88 Stat. 1617), and the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (Pub. L. 95-602, 92 Stat. 2955). As used in this part, section 504 applies only to programs or activities conducted by Executive agencies and not to federally assisted programs.

§ 6.110 Self-evalution.

(a) The agency shall, within one year of the effective date of this part, evaluate its current policies and practices, and the effects thereof, that do not or may not meet the requirements of this part, and, to the extent modification of any such policies and practices is required, the agency shall proceed to make the necessary modifications.

(b) The agency shall provide an opportunity to interested persons, including handicapped persons or organizations representing handicapped persons, to participate in the self-evaluation process by submitting comments (both oral and written).

(c) The agency shall, for at least three years following completion of the evaluation required under paragraph (a) of this section, maintain on file and make available for public inspection:

(1) A description of areas examined and any problems identified, and

(2) A description of any modifications made.

§ 6.111 Notice.

The agency shall make available to employees, applicants, participants, beneficiaries, and other interested persons such information regarding the provisions of this part and its applicability to the programs or activities conducted by the agency, and make such information available to them in such manner as the agency head finds necessary to apprise such persons of the protections against discrimination assured to them by section 504 and this regulation.

§ 6.112–6.129 [Reserved]

§ 6.130 General prohibitions against discrimination.

(a) No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the agency.

(b)(1) The agency, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap—

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons than is provided to others unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

(v) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(vi) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(2) The agency may not deny a qualified handicapped person the opportunity to participate in programs or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities.

(3) The agency may not, directly or through contractual or other arrangements, utilize criteria or methods of administration the purpose or effect of which would—

(i) Subject qualified handicapped persons to discrimination on the basis of handicap; or

(ii) Defeat or substantially impair accomplishment of the objectives of a program or activity with respect to handicapped persons.

(4) The agency may not, in determining the site or location of a facility, make selections of which the purpose or effect would—

(i) Exclude handicapped persons from, deny them the benefits of, or otherwise subject them to discrimination under any program or activity conducted by the agency; or

(ii) Defeat or substantially impair the accomplishment of the objectives of a program or activity with respect to handicapped persons.

(5) The agency, in the selection of procurement contractors, may not use criteria that subject qualified handicapped persons to discrimination on the basis of handicap.

(c) The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or Executive order to handicapped persons or the exclusion of a specific class of handicapped persons from a program limited by Federal statute or Executive order to a different class of handicapped persons is not prohibited by this part.

(d) The agency shall administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons.

§ 6.131–6.139 [Reserved]

§ 6.140 Employment.

No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity conducted by the agency. The definitions, requirements and procedures of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), as established by the Equal Employment Opportunity Commission in 29 CFR Part 1613, shall apply to employment in federally conducted programs or activities.

§ 6.141–148 [Reserved]

§ 6.149 Program accessibility: Discrimination prohibited

Except as otherwise provided in §§ 6.150, no qualified handicapped person shall, because the agency's facilities are inaccessible to or unstable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity conducted by the agency.

§ 6.150 Program accessibility: Existing facilities.

(a) *General.* The agency shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by handicapped persons. This paragraph does not—

(1) Necessarily require the agency to make each of its existing facilities accessible to and usable by handicapped persons, or

(2) Require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the agency has the burden of proving that compliance with § 6.150(a) would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the agency head after considering all agency resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or such burdens, the agency shall take any other action that would not result in such an alteration or such burdens, but would, nevertheless, ensure that handicapped persons receive the benefits and services of the program or activity.

(b) *Methods.* The agency may comply with the requirements of this section through such means as redesign of equipment, reassignment of services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, use of accessible rolling stock, or any methods that result in making its programs or activities readily accessible to and usable by handicapped persons. The agency is not require to make structural changes in existing facilities where other methods are effective in achieving compliance with this section. The agency, in making alterations to existing buildings, shall meet accessibility requirements to the extent compelled by the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157) and any regulations implementing it. In choosing among available methods for meeting the requirements of this section, the agency shall give priority to those methods that offer programs and activities to qualified handicapped persons in the most integrated setting appropriate.

(c) *Time period for compliance.* The agency shall comply with the obligations established under this section within sixty days of the effective date of this part except tht where structural changes in facilities are undertaken, such changes shall be made within three years of the effective date of this part,

but in any event as expeditiously as possible.

(d) *Transition plan.* In the event that structural changes to facilities will be undertaken to achieve program accessibility, the agency shall develop, within six months of the effective date of this part, a transition plan setting forth the steps necessary to complete such changes. The plan shall be developed with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons. A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum—

(1) Identify physical obstacles in the agency's facilities that limit the accessibility of its programs or activities to handicapped persons;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period;

(4) Indicate the official responsible for implementation of the plan; and

(5) Identify the persons or groups with whose assistance the plan was prepared.

§ 6.151 Program accessibility: New construction and alterations.

Each building or part of a building that is constructed or altered by, on behalf of, or for the use of the agency shall be designed, constructed, or altered so as to be readily accessible to and usable by handicapped persons. The definitions, requirements, and standards of the Architectural Barriers Act (42 U.S.C. 4151–4157), as established in 41 CFR 101–19.600 to 101–19.607, apply to buildings covered by this section.

§ 6.152–6.159 [Reserved]

§ 6.160 Communications

(a) The agency shall take appropriate steps to ensure effective communication with applicants, participants, personnel of other Federal entities, and members of the public.

(1) The agency shall furnish appropriate auxiliary aids where necessary to afford a handicapped person an equal opportunity to participate in, and enjoy the benefits of, a program or activity conducted by the agency.

(i) In determining what type of auxiliary aid is necessary, the agency shall give primary consideration to the requests of the handicapped person.

(ii) The agency need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature.

(2) Where the agency communicates with applicants and beneficiaries by telephone, telecommunications devices for deaf persons (TDD's), or equally effective telecommunication systems shall be used.

(b) The agency shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities.

(c) The agency shall provide signs at a primary entrance to each of its inaccessible facilities, directing users to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be used at each primary entrance of an accessible facility.

(d) This section does not require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program of activity, or in undue financial and administrative burdens. In those circumstances where agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the agency has the burden of proving that compliance with § 6.160 would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the agency head after considering all agency resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action required to comply with this section would result in such an alteration, or such burdens, the agency shall take any other action that would not result in such alteration or burdens, but would, nevertheless, ensure that, to the maximum extent possible, handicapped persons receive the benefits and services of the program or activity.

§ 6.161–6.169 [Reserved]

§ 6.170 Compliance procedures.

(a) Except as provided in paragraph (b) of this section, this section applies to all allegations of discrimination on the basis of handicap in programs or activities conducted by the agency.

(b) The agency shall process complaints alleging violations of section 504 with respect to employment according to the procedures established by the Equal Employment Opportunity Commission in 29 CFR Part 161 pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

(c) The head of the agency shall designate an official to be responsible for coordinating implementation of this section.

(d) The agency shall accept and investigate all complete complaints for which it has jurisdiction. All complete complaints must be filed within 180 days of the alleged act of discrimination. The agency may extend this time period for good cause.

(e) If the agency receives a complaint over which it does not have jurisdiction, it shall promptly notify the complainant and shall make reasonable efforts to refer the complaint to the appropriate government entity.

(f) The agency shall notify the Architectural and Transportation Barriers Compliance Board upon receipt of any complaint alleging that a building or facility that is subject to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157), or section 502 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 792), is not readily accessible to and usable by handicapped persons.

(g) Within 180 days of the receipt of a complete complaint for which it has jurisdiction, the agency shall notify the complainant of the results of the investigation in a letter containing—

(1) Findings of fact and conclusions of law;

(2) A description of a remedy for each violation found; and

(3) A notice of the right to appeal.

(h) Appeals of the findings of fact and conclusions of law or remedies must be filed by the complainant within 90 days of receipt from the agency of the letter required by § 6.170(g). The agency may extend this time for good cause.

(i) Timely appeals shall be accepted and processed by the head of the agency.

(j) The head of the agency shall notify the complainant of the results of the appeal within 60 days of the receipt of the request. If the head of the agency determines that additional information is needed from the complainant, the agency head shall have 60 days from the date of receipt of the additional information to make his or her determination on the appeal.

(k) The time limits cited in (g) and (j) above may be extended with the

permission of the Assistant Attorney General.

(l) The agency may delegate its authority for conducting complaint investigations to other Federal agencies, except that the authority for making the final determination may not be delegated.

§§6.171-6.999 [Reserved]

(15 U.S.C. 46(g))

By direction of the Commission, dated July 3, 1985.

Emily H. Rock,

Secretary.

[FR Doc. 85-18372 Filed 8-9-85; 8:45 am]

BILLING CODE 6750-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA Docket No. AM045PA; A-3-FRL-2880-7]

Pennsylvania State Implementation Plan; Proposed Approval of Revisions

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to withdraw its former approval of State and local odor emission control regulations as part of the Pennsylvania State Implementation Plan (SIP). EPA believes that these regulations should not be included in the Pennsylvania SIP because they bear no relation to attainment and maintenance of the National Ambient Air Quality Standards (NAAQS).

The public is invited to submit comments on the matters discussed here and EPA's proposed action.

DATE: Comments must be submitted on or before September 11, 1985.

ADDRESSES: Copies of the relevant regulations and accompanying support material are available for public inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region III, Air Management Division, 841 Chestnut Building, Eighth Floor, Philadelphia, PA 19107; Attn: Donna Abrams (3AM11).

FOR FURTHER INFORMATION CONTACT: Donna Abrams (3AM11) at the EPA, Region III address above or call (215) 597-9134.

All comments on the proposed action submitted within 30 days of publication of this notice will be considered and should be directed to Mr. Glenn Hanson, Chief, PA/WV Section at the EPA, Region III address above, EPA Docket No. AM045PA.

SUPPLEMENTARY INFORMATION: Under section 110(a)(1) of the Clean Air Act, each state must submit to EPA an SIP that provides for attainment and maintenance of the National Ambient Air Quality Standards (NAAQS). On January 27, 1972, the Pennsylvania Department of Environmental Resources (DER), on behalf of the Commonwealth of Pennsylvania, submitted its SIP to EPA for review and approval. DER's SIP submittal included the Commonwealth's odor emission regulation and the City of Philadelphia's odor emission regulation (hereinafter collectively referred to as the "State odor emission regulations").

EPA initially approved portions of the Pennsylvania SIP, via a national notice, on May 31, 1972 (See 37 FR 10889). In this notice, EPA approved all portions of the State plans unless they were specifically disapproved. These exceptions did not include the State odor emission regulations. Therefore, they were approved by EPA as part of the Pennsylvania SIP.

EPA reaffirmed its approval of the Pennsylvania SIP, including the State odor emission regulations, on November 23, 1973. *See* 38 FR 32893. In this notice, EPA approved Pennsylvania's plan for attainment and maintenance of the national standards except for specific portions which were listed in the notice. These specific exceptions did not include the State odor emission regulations.

On September 20, 1978, DER submitted to EPA a revision to the Pennsylvania SIP that, among other things, modified the State odor emission regulations by exempting agricultural sources from the control requirements. *See* 40 CFR 52.2020(c)(21) (1984). EPA later approved this SIP revision. *See* 45 FR 56060 (August 22, 1980).

EPA recognizes the problem raised by its approval of the State odor emission regulations. In reviewing SIPs, EPA is governed by the criteria in section 110(a)(2) of the Clean Air Act, which require measures for the attainment and maintenance of the primary and secondary NAAQS. In order for EPA to properly approve a State rule as part of the SIP, the rule must have a significant relationship to attainment and maintenance of an NAAQS.

EPA believes that the State odor emission regulations bear no significant relationship to the attainment and maintenance of any NAAQS. In general, EPA believes that there is no direct or indirect relationship between the State odor emission regulations cited below and any criteria pollutant.

The regulations, pertaining to odor emission control, which would be affected are:

(a) 25 PA Code Section 123.31—Odor Emissions;

(b) Regulation I (Philadelphia Air Management Code), Section I(A)(3)—Air Contaminant;

(c) Regulation I (Phila. AMC), Section I(A)(4)—Air Pollution;

(d) Regulation I (Phila. AMC), Section I(A)(5)—Air Pollution Nuisance;

(e) Regulation I (Phila. AMC), Section I(A)(25)—Odor;

(f) Regulation I (Phila. AMC), Section X—Compliance with regulations of Pennsylvania Air Quality Board;

(g) Regulation XI (Phila. AMC), Section III(C)—Odor Emissions.

Because the State odor emission regulations are presently part of the Federally approved Pennsylvania SIP, EPA is now proposing deletion of those portions of these regulations pertaining to odor emission controls and is soliciting public comments on whether the odor emission control regulations contribute in any way to the attainment or maintenance of any NAAQS. Absent some showing that the odor emission regulations contribute significantly to the attainment or maintenance of an NAAQS, EPA intends to delete them from the Pennsylvania SIP.

Interested parties are invited to submit comments on this action. EPA will consider comments received within 30 days of publication of this notice.

Under 5 U.S.C. section 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.) The action, if promulgated, would if anything, provide relief from regulatory burdens.

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

List of Subjects in 40 CFR Part 52

Intergovernmental relations, Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxides, Lead, Particulate matter, Carbon monoxide, Hydrocarbon.

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

Dated: July 9, 1985.

Stanley L. Laskowski,

Acting Regional Administrator.

[FR Doc. 85-19106 Filed 8-9-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[Gen. Docket No. 85-231; RM-4824; FCC 85-427]

Operation of Field Disturbance Sensors in the Band 54-72 and 76-88 MHz

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The FCC is proposing to expand existing provisions for operation of perimeter protection systems under Part 15, Subpart F. The proposal responds to a petition filed by Control Data Canada, Ltd. (CDC). Perimeter protection systems are used to prevent unauthorized exit or entry at penitentiaries, nuclear power plants, or other secure facilities. The proposal would permit perimeter protection systems to operate on TV channels 2 through 6, limited to the same radiation limits as personal computing devices (Class B). This action is necessary to permit introduction of more sophisticated perimeter protection systems which are not accommodated under the present rules. The intended effect is to allow for the introduction of different types of systems to the marketplace.

DATES: Comments are due by October 11, 1985, and replies by November 12, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Julius Knapp, Office of Science and Technology, Washington, D.C. 20554, (202) 653-8247.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 15

Communications equipment, Certification.

Notice of Proposed Rule Making

In the Matter of Amendment of Part 15, Subpart F, to permit operation of field disturbance sensors in the band 54 to 72, and 76 to 88 MHz (Gen. Docket No. 85-231; RM-4824).

Adopted: July 30, 1985.
Released: August 5, 1985.

By the Commission.

Introduction

1. This Notice of Proposed rule Making is issued in response to a petition for rule making [1] submitted by Control Data Canada, Ltd. (CDC), requesting an amendment of Part 15, Subpart F, to authorize the operation of a wideband coupled transmission line field disturbance sensor (CTLFDS) in the frequency band 50–88 MHz.[2] The petition was put on public notice on July 13, 1984.[3] The Commisson received comments from RCA Corporation (RCA), to which CDC filed reply comments.

2. CDC has developed a CTLFDS, denoted as "GUIDAR," that can be used to provide security surveillance for prisons and to protect high risk sites such as nuclear power stations from terrorism, theft, and vandalism. GUIDAR operates on a principle of guided radar whereby a detection zone is created between "leaky" or ported coaxial cables deployed around the protected area. The present system employs two cables in parallel that are buried approximately five feet apart and nine inches below the ground. A radio frequency (RF) pulse is transmitted into one of the cables and some of the energy is coupled via the ports or holes in the outer conductor into the ground and air near the cable. Some of this energy is reflected from objects in the ground and discontinuities in the soil, and is coupled into the second or receiving cable. When a human or other large object crosses between the cables, the change in the electromagnetic energy coupled from one cable to the other is detected and thereby triggers an alarm. It is possible for such systems to cover a perimeter up to two miles in length. The present system requires the use of line amplifiers if the cables are more than a half mile long. This is necessary to maintain a uniform signal for the entire system.

3. CDC indicated that the ability of the system to detect actual intrusions and to ignore objects that could cause a false alarm is affected by the frequency of operation. At frequencies below 30 MHz, sensitivity to humans drops dramatically. Operation at frequencies above 100 MHz increases the system's sensitivity to small animals, resulting in numerous false alarms. Also, at frequencies above 100 MHz the signal loss of the cable becomes significant. In light of these constraints, CDC states that such systems must operate somewhere between about 30 and 100 MHz.

4. Perimeter protection systems are included in a special category of devices termed field disturbance sensors, which are governed by the rules in Part 15, Subpart F.[4] These rules permit operation of a perimeter protection system in the band 40.66 to 40.70 MHz.[5] CDC contends that this band is not sufficiently wide to permit operation of a system such as GUIDAR. The GUIDAR system utilizes a pulsed signal which results in an emission with bandwidth of 2.5 MHz, considerably more than the .04 MHz bandwidth permitted at 40 MHz. A pulsed signal is employed in order to be able to detect the exact location along the perimeter where the intrusion has occurred.

5. CDC proposes that the provisions for perimeter protection systems be expanded to permit operation anywhere between 50 and 88 MHz. It is unclear why CDC has selected the segment 50 to 88 MHz rather than 30 to 50, or 88 to 100 MHz. Briefly, this region of the spectrum is allocated as follows: 30–50 MHz—land mobile; 50–54 MHz—amateur radio; 54–72 MHz—TV channels 2 through 4; 72–76 MHz—radio astronomy and aeronautical navigation; 76–88 MHz—TV channels 5 and 6; and, 88–100 MHz—FM broadcast. The table of frequency allocations in Part 2 of the Rules should be consulted for details. One factor influencing the request was that such systems are susceptible to high field strengths, which are employed in the land mobile service in the range 30 to 50 MHz. While high signal levels also exist in the TV bands, this potential problem is avoidable because the perimeter protection system can be set to operate on a vacant channel and TV transmitters are fixed in location. CDC contends that perimeter protection systems can operate in the band 50 to 88 MHz without causing interference to the

[1] (Petition filed on June 28, 1984.)

[2] At the same time, CDC also filed a petition for waiver so that it could immediately market and operate its newly developed perimeter protection system. The petition for waiver was put on public notice on August 21, 1984, Public Notice No. 6131.

[3] (Public Notice No. 1468.)

[4] A field disturbance sensor is defined in § 15.4(j)(1) as follows: "A restricted radiation device which establishes a radio frequency field in its vicinity and detects changes in that field resulting from movement of persons or objects within the radio frequency field." A perimeter protection system is defined in § 15.4(j)(2) as follows: "A perimeter protection system is a field disturbance sensor which uses buried leaky cables installed around a facility to detect any unauthorized entry or exit. Its use is limited to commercial and industrial locations away from residential areas."

[5] The rules for field disturbance sensors provide for operation in a number of frequency bands, and aside from the frequency band at 40 MHz, none of the bands are in or near the region where CDC says its systems must operate, namely, between 30 and 100 MHz. A field disturbance sensor may alternatively be operated on any frequency, subject to the condition that emissions may not exceed 15 uV/m at a distance of $(\lambda)/2\pi$ [equivalent in feet to 157/f(in MHz)] from the sensor; however, as a practical matter, since the effective emission level becomes more stringent as frequency increases, most operation under this requirement is only feasible at frequencies below about 2 MHz.

radio services in this region, provided that radiated emissions are limited to 12 uV/m measured at a distance of 30 meters from any part of the system. This proposal is apparently based on the operating characteristics of the GUIDAR system. CDC notes that its proposed limit is less than the level of radio noise permitted in Part 15, Subpart J, for Class A, or commercial, computer equipment, which is subject to a limit of 30 uV/m at 30 meters in the subject frequency range. CDC also recommends a power line conducted limit of 250 uV over the frequency range of 450 kHz to 30 MHz.

6. CDC performed extensive tests to demonstrate that the proposed limits for wideband sensors will not cause interference to TV operation on the lower VHF channels. Due to the variations in background noise and the field strength levels of TV signals, CDC performed tests under controlled laboratory environmental conditions to determine the interference potential of CTLFDS. CDC asserts that the tests demonstrate that the possibility of discernible interference to TV reception in urban, suburban or rural locations under either Grade A or Grade B reception is unlikely. CDC has also been operating the GUIDAR system since January 26, 1983, at two locations in the U.S. under experimental licenses granted by the Commission.[6] In addition, the system has been in operation since 1978 at various penitentiaries in Canada. CDC claims that there has not been a single complaint of GUIDAR interfering with a television receiver or any other communications device. CDC states that it was not necessary to perform interference tests for the non-TV services in light of a report submitted to the Commission by the Computer Business Equipment Manufacturers Association (CBEMA)[7] showing that computer equipment, emitting at the higher levels than requested by CDC, did not cause interference to other services.

7. RCA Corporation (RCA) suggested that the operation of such devices be restricted to 100 meters from residential areas. CDC, in its reply comments, agreed that the operation of these devices could be restricted to 100 meters or more from residential areas. RCA also commented that measurements on just one or just a few installations should not be considered sufficient assurance that the system will comply with the emission limits wherever it is installed. RCA speculates that the level of emission will vary depending on how the system is installed and the physical characteristics of the facility. Therefore, RCA asserts that every installation should be tested individually to determine compliance.

Discussion

8. The principal benefit to be gained in expanding our current provisions for perimeter protection systems would be to permit use of more sophisticated systems, e.g. systems that can detect precisely where an intrusion has occurred. In view of the public benefits to be derived from improved security at facilities such as prisons and nuclear plants, we find it appropriate to accommodate such systems to the extent possible.

9. Of all the radio services in the frequency range in which such systems might possibly operate, it appears that the least likely chance of interference occurring would be to permit the operation of perimeter protection systems on vacant TV broadcast channels 2 thru 6. We have reservations about also permitting these systems to operate in the 50–54 MHz amateur radio band because these systems could extend for considerable distance around the perimeter of a large facility, thereby increasing the likelihood that an amateur transmitter could come in close proximity to some part of the system. As for the band 72–76 MHz band, the radio astronomy and aeronautical navigation services operating in this band attempt to receive very weak signals and therefore could not tolerate even small levels of interfering signals from CTLFDS. Beyond these concerns, we note that CDC has not explained why the entire range 50 to 88 MHz is needed; its system employs a signal only 2.5 MHz wide. Permitting operation on TV channels 2 thru 6 should be more than sufficient since this ensures that in any given area there will be at least two vacant TV channels on which a perimeter protection system could be set to operate, with two channels allowing for the eventuality where circumstances call for two systems to be set up side by side.

10. We do not feel that the emissions standards should be based on the operating characteristics of a given manufacturer's system; rather, we wish to focus on the standards that are appropriate for controlling interference. We note CDC's reference to the standards in Part 15, Subpart J, governing radio noise from computer equipment. The criteria used to develop the computing device limits are in many ways similar to the situation presented here. We agree that those standards may have relevance to interference control for CTLFDS, although with computers we were dealing with point sources of radiation. Here we are dealing with what, in effect, is a distributed antenna system. In the frequency range of interest here, our standard for equipment used in a business or industrial environment (Class A equipment) is 30 uV/m at a distance of 30 meters from the equipment; our standard for equipment used in a residential environment is equivalent to 10 uV/m at 30 meters. The limits are different because industrial equipment is assumed to be generally located farther away from potential victim receivers than residential equipment. The Class A limits provide interference protection at separation distances of 30 meters or greater and the Class B limits provide interference protection at distances of 10 meters or greater. The question is, which standard is more appropriate for CTLFDS?

11. The present definition of a perimeter protection system restricts such systems to use in "commercial or industrial location away from residential areas." In fact, the applications that CDC describes for this system fall within this definition and can be characterized as operating in industrial locations. However, we can envision this same technology eventually being used for residential security systems and possibly being mass marketed. The establishment of a two tiered limit for residential vs. industrial equipment, as we have done for computers, may not be appropriate for CTLFDS. Unlike computers, there would probably be, in practice, very little to distinguish an industrial from a residential CTLFDS system. We see little reason to preclude use of such systems in residential areas. Accordingly, in order to ensure that such systems can be installed in any location with little risk of interference, we are proposing to modify the definition of a perimeter protection system to remove the restriction against residential operation and we are proposing the more stringent limit of 10 uV/m at 30 meters. This is the same limit that we permit for Class B computing devices. The proposed limit is only slightly less than the 12 uV/m at 30 meters requested by CDC and with so small a change we expect that the system could easily be designed for compliance and still function properly. Furthermore, the 10 uV/m standard is consistent with existing standards and because it has proven satisfactory is residential areas.

[6] The two locations are Gracie Mansion, the official residence of the Mayor of New York, and Rikers Island, a correctional facility in New York City.

[7] (See Petition, page 23.)

In addition, the operation of perimeter protection systems is limited to vacant TV channels. As to RCA's suggestion to require systems to be located 100 meters from residential areas, such a requirement is superfluous in light of our proposal and, in any event, would probably prove unenforceable.

12. Since we are not proposing any specific modulation or bandwidth for systems operating in the proposed bands, many new products may be developed. We are proposing certification as the equipment authorization procedure in order to gain experience and confidence that this equipment can be expected to meet the standards. Currently, all field disturbance sensors and most low power communications devices operating under Part 15 are subject to certification. We see no reason to deviate from this policy in this instance.

13. When we originally established rules for perimeter protection systems in the Report and Order in Docket 82-827 *, we restricted such systems to use of buried cable. The reason for this restriction was concern about variations in performance of the system at different heights above ground. At that time, we indicated that we would revisit this issue in a future proceeding. In its Petition for Rule Making, CDC envisions several methods for mounting coupled transmission lines including buried cables, air mounted cables, and combinations of the two methods. Rather than address this issue in a separate proceeding, we are proposing that the definition of perimeter protection systems be changed to permit above ground installations.

14. We are proposing that the measurement procedures described in § 15.234 be used for perimeter protection systems operating in the proposed bands with only a few revisions as shown in the Appendix. The current procedures require that the frequency stability, bandwidth, and RF power output be measured at the transmitter or at each repeater (line amplifier). Since many of these systems will probably be buried, it may be difficult to measure emissions at these locations. Therefore, we are proposing that these measurements be made at four equally spaced locations along the cable whenever it is not possible or practical to make the measurements at the transmitter or repeaters in order to simplify the measurement procedure used to certify the system. This would apply to all perimeter protection systems operating in the lower VHF bands.

15. Since we are proposing to permit the operation of CTLFDS above ground, which may also include a combination of above and below ground installations, we specifically request comments on the measurement procedures that should be used to certify these systems. If a system has cables installed above ground or with a combination of above and below ground installations, is the current procedure of testing at three installations sufficient? If not, how many configurations should be tested? RCA's suggestion to require tests of every individual system would clearly represent a significant burden on manufacturers. Should the Commission require the manufacturer to specify the type of installation in the instruction manual, and add a note to the certification grant indicating the type of installation permitted? CDC indicated that it had observed some unusual effects when cables are brought very close to a dielectric interface. Cables lying on the surface are located at the interface betweern two dielectrics (air and soil). CDC believes that cable should not be tested lying on the ground, and air mounted cables should be tested at the height at which they are intended to be used. We request comments on the installation and measurement procedures to be used for systems having cables installed above ground or a combination of above and below ground. In addition, we specifically request comments on the effect that the ground conductivity may have on such measurements.

16. CDC requested that the field intensity measurement instrument have a quasi-peak detector function rather than a peak detector function. Measurements for perimeter protection systems operating in the 40.66 to 40.70 MHz band are presently made with a peak detector; however, measurements of computer noise are current made using a quasi-peak detector. The quasi-peak detector is weighted to correlate roughly with the interference effect of broadband emissions on receivers, particularly TV receivers. Since we are proposing operation of these systems in TV bands under the same limits used for residential computers, use of a quasi-peak detector is more appropriate and we therefore are proposing its use.

Procedural Matters

17. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 601 et seq. the Commission issues the following initial regulatory flexibility analysis:

I. Reason for Action

CDC filed a petition requesting that the Commission permit the operation of perimeter protection systems in the lower VHF frequency band.

II. The Objective

The Commission is proposing to allow operation of perimeter protection systems in the 54–72 MHz, and 76–88 MHz frequency bands.

III. Legal Basis

Action proposed is in accordance with sections 4(i), 302(a), 303(g), and 303(r) of the Communications Act of 1934, as amended.

IV. Entities Affected: Nature of Economic Impact Significant Alternatives

The proposal expands Part 15 of the FCC Rules by providing for operation of perimeter protection systems in the new frequency bands. All manufacturers can benefit from this expansion. With respect to existing users of the bands, we received no adverse comments on the operation of perimeter protection systems.

V. Recording, Recordkeeping and Other Compliance Requirements

The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980. There are no changes in the forms, information collection, recordkeeping, labeling, disclosure, or record retention requirements. Therefore, there are no changes to the burden hours imposed on the public.

18. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rule making until the time that a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding

* See the Report and Order in Docket 82-827, 49 FR 35634.

must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face the the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally § 1.1231 of the Commission's Rules 47 CFR 1.1231.

19. Pursuant to the applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, interested parties may file comments, on or before October 11, 1985, and reply comments on or before November 12, 1985. All relevant and timely comments will be considered before final action is taken in this proceeding. To file formally in the proceeding, participants must file an original and five copies of all comments, reply comments, and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the Dockets Reference Room (Room 239) of the Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554. For further information on this proceeding, contact the Office of Science & Technology, tel: (202) 653–8247.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 15, Subpart F is proposed to be amended as set forth below:

1. The authority citation for 47 CFR Part 15 continues to read as follows:

Authority: Secs. 4.303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303; Interpret or apply sec. 301, 48 Stat. 1081; 47 U.S.C. 301, unless otherwise noted.

§ 15.4 [Amended]

2. Section 15.4 is amended by revising paragraph (j)(2) to read as follows:

* * * * *

(j) * * *

(2) A perimeter protection system is a field disturbance sensor which uses leaky cables installed around an area to detect any unauthorized entry or exit.

* * * * *

2. Section 15.310 is revised to read as follows:

§ 15.310 Technical requirements for a perimeter protection system.

(a) A perimeter protection system may operate on a frequency of 40.68 MHz ±20 kHz, or in the frequency bands 54–72 MHz and 76–88 MHz. The frequency tolerance of the carrier frequency shall be ±0.01% for systems operating on 40.68 MHz. This tolerance shall be maintained over the temperature range of −20°C to to +50°C at normal supply voltage and for a variation in the primary supply voltage from 85 to 115% of the rated supply voltage at a temperature of +20°C.

(b) The field strength of the radiated emission from any part of the system shall not exceed the limits specified in the following subparagraphs when measured in accordance with the applicable procedures in Section 15.324 of this part.

(1) For systems operating on 40.68 MHz, the field strength on the fundamental carrier frequency shall not exceed 50 microvolts per meter (peak) at a distance of 30 meters. Harmonics and spurious emissions on frequencies outside the band 40.66 to 40.70 MHz shall not exceed 5 microvolts per meter (peak) at 30 meters.

(2) For systems operating in the 54 to 72 MHz and 76 to 88 MHz frequency bands, no emissions shall exceed 10 microvolts per meter (quasi-peak) at 30 meters within the band. Harmonics and spurious emisisons on frequencies outside the band shall be 20 dB below the level of the unmodulated carriers.

Note: Operation in the 54 to 72 and 76 to 88 MHz frequency band must be on a vacant TV channel (channels 2 thru 6).

(c) For a perimeter protection system designed to be connected to a low voltage public utility power line, the powerline conducted emissions shall not exceed 250 microvolts over the frequency range from 450 kHz to 30 MHz when measured in accordance with the procedure specified in FCC Measurement Procedure MP–4 entitled, "FCC Measurements of Radio Noise Emissions From Computing Devices."

3. Section 15.324 is amended by revising paragraphs (b) and (c), redesignating paragraphs (d) and (e) as (e) and (f), and adding a new paragraph (d) respectively to read as follows:

§ 15.324 Measurement requirements for a perimeter protection system.

* * * * *

(b) Emissions from the system shall be measured with a spectrum analyzer, radio noise meter, or other appropriate instrument. The 6 dB bandwidth of the instrument shall be not less than 100 kHz over the frequency range of 30 to 1000 MHz.

Note: A peak detector must be used for systems operating at 40.68 MHz. A quasi-peak detector must be used for systems opeating in the 54–72 MHz, and 76–88 MHz frequency bands. See American National Standards Specifications for Electromagnetic-Interference and Field Strength Instrumentation, 10 kHz to 10 GHz. ANSI C63.2 (1980).

(c) For systems operating at 40.68 MHz, measurements of the frequency stability, bandwidth, and RF power output shall be made at the transmitter and each repeater, or at four equally spaced locations along the cable. The fundamental operating frequency, associated harmonics and spurious emissions within 30 dB of the level of the fundamental carrier shall be recorded. For measurement of radiated emissions, a calibrated tuned dipole or an appropriate broadband antenna shall be used. The antenna shall be varied in height and rotated for the measurement of horizontally or vertically polarized waves to obtain the maximum radiated emission at each frequency.

(d) For systems operating in the 54 to 72 and 76 to 88 MHz frequency band, measurement of the bandwidth and RF power output shall be made at the transmitter and each repeater, or at four equally spaced locations along the cable. Harmonics and spurious emissions within 20 dB of the level of the fundamental carrier shall be recorded. For measurement of harmonics and spurious emissions, use the peak value of the emission as shown on a spectrum analyzer.

* * * * *

[FR Doc. 85–19055 Filed 8–9–85; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Extension of Comment Period on Proposal To List the Bay Checkerspot Butterfly as Endangered and To Designate its Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Service extends the comment period on a proposed rule to list the bay checkerspot butterfly as

endangered and designate its critical habitat.

DATES: The comment period is extended until August 22, 1985.

ADDRESS: Comments and other information concerning the proposal should be forwarded to the Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 N.E. Multnomah Street, Portland, Oregon 97232.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne S. White, Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 NE Multnomah Street, Suite 1692, Portland, Oregon 97232 (503/231–6131 or FTS 429–6131).

SUPPLEMENTARY INFORMATION:

Background

The bay checkerspot butterfly *Euphydryas editha bayensis)* has been reduced in both population size and geographical range. Of 16 colonies formerly known, 11 have recently become extinct. Colonies have been eliminated in the course of freeway construction, subdivision construction and the introduction of exotic plants, and livestock overgrazing coupled with drought.

On September 11, 1984 (49 FR 35665), the Service published a proposed rule to list as endangered and designate critical habitat for the bay checkerspot butterfly. The original comment period for this proposal closed on November 13, 1984. This period was extended on October 26, 1984 (49 FR 43076), until November 23, 1984, to allow for a public meeting that was held in San Mateo, California, on November 13, 1984. The comment period was subsequently reopened on March 14, 1985 (50 FR 10276, at the request of counsel for United Technologies Corporation (UTC). Because UTC and other interested parties have apparently experienced difficulty in providing information to the Service regarding this proposal within the allotted comment periods, and because the Service desires to avail itself of the most complete and current information available in deciding a final course of action, the period for comment on this proposal is extended to August 22, 1985. All information received by August 22, 1985 will be considered. The Service hereby requests all interested parties to provide any additional information regarding the status or range of the bay checkerspot butterfly or its critical habitat.

Authority: Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*; Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L.96–159, 93 Stat. 1255; Pub. L. 97–304, 96 Stat. 1411).

List of Subjects in 50 CFR Part 17

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

Dated: August 8, 1985.

P. Daniel Smith,

Acting Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85–19262 Filed 8–9–85; 8:51 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 50720–5120]

Groundfish of the Gulf of Alaska; Correction

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

ACTION: Proposed rule; correction.

SUMMARY: This document corrects two sentences in the regulatory text of the proposed rule to implement Amendment 14 to the Fishery Management Plan for Groundfish of the Gulf of Alaska that was published July 26, 1985, 50 FR 30481.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg, 907–586–7229.

SUPPLEMENTARY INFORMATION: In FR Doc. 85–17826, page 30485, column 3, paragraph 2, the sentence beginning on line 11 should read, "The first part requires the operators of catcher/processors and motherships to so indicate on their applications for Federal fishing permits, showing their capability and intent to preserve their catch at sea." In the same paragraph, the sentence beginning on line 27 should read, "The third part requires each operator of a catcher/processor or mothership that retains fish at sea for more than 14 days from the time it is caught or received to provide the Regional Director a weekly written report of the amounts of groundfish caught by species or species group in metric tons by fishing area."

Dated: August 7, 1985.

Joseph W. Angelovic,

Deputy Assistant Administrator For Science and Technology, National Marine Fisheries Service.

[FR Doc. 85–19115 Filed 8–9–85; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 50, No. 155
Monday, August 12, 1985

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

Agricultural Marketing Service

Advisory Committee on Instrument Standards for Cotton; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following meeting.

NAME: Advisory Committee on Instrument Standards for Cotton.

DATE: September 11, 1985.

PLACE: Holiday Inn—Carowinds, I–77 and Highway 21, Fort Mill, South Carolina.

TIME: 8:00 a.m.

PURPOSE: (1) To report to the committee on progress made to implement its recommendations; (2) to update the committee on the status of ongoing research with respect to developing instruments for the rapid measurement of other quality factors; and (3) to take up some unresolved, technical issues.

The meeting is open to the public though space and facilities are limited. Persons, other than members or alternates, wishing to make a statement or address the committee at the meeting should contact, in advance, Jesse F. Moore, Director, Cotton Division, Agricultural Marketing Service, U.S. Department of Agriculture, Annex Building, Room 302, Washington, DC 20250, (202) 447–3193.

Dated: August 6, 1985.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 85–19072 Filed 8–9–85; 8:45 am]

BILLING CODE 3410–02–M

COMMISSION ON CIVIL RIGHTS

Alabama Advisory Committee; Agency and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Alabama Advisory Committee to the Commission will convene at 11:00 a.m. and adjourn at 1:00 p.m. on September 6, 1985, at the Birmingham Hyatt, 901 21st Street, North, Governor Room, Birmingham, Alabama. The purpose of the meeting is to hold an orientation for newly rechartered committee members and discuss future program plans.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Rodney Max or Bobby Doctor, Director of the Southern Regional Office, at (404) 221–4391, (TDD 404/221–4391).

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 5, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85–19024 Filed 8–9–85; 8:45 am]

BILLING CODE 6335–01–M

Connecticut Advisory Committee; Agenda for Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Connecticut Advisory Committee to the Commission will convene at 3:30 p.m. and adjourn at 5:00 p.m. on September 4, 1985, at the Paine-Whitney Gymnasium, Yale University, Tower Parkway, Trophy Room, New Haven, Connecticut. The purpose of the meeting is to form subcommittees and begin program planning for Fiscal Year 1986.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, James Stewart or Jacob Schlitt, Director of the New England Regional Office at (617) 223–4671 (TDD 617/223–0344).

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 6, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85–19025 Filed 8–9–85; 8:45 am]

BILLING CODE 6335–01–M

Indiana Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Indiana Advisory Committee to the Commission will convene at 6:00 p.m. and adjourn at 9:00 p.m. on September 19, 1985, at the Girls Clubs of America Resource Center, 441 West Michigan Street, Conference Room, Indianapolis, Indiana. The purpose of the meeting is to conduct a Community Forum on Affirmative Action in the City's Police and Fire Departments.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, James Nuechterlein or Clark Roberts, Director of the Midwestern Regional Office at (312) 353–7371, (TDD 312/886–2188).

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., August 6, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85–19026 Filed 8–9–85; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Short Supply Determination on Aluminum-Clad Steel Wire and Wire Strand; Request for Comments

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice and request for comments.

SUMMARY: The Department of Commerce hereby announces review of a request for a short supply detemination under Article 8 of the U.S.-Spain Arrangement and Paragraph 8 of the U.S.-Japan Arrangement Concerning Trade in Certain Steel Products with respect to various sizes of aluminum-clad steel wire and wire strand.

EFFECTIVE DATE: Comments must be submitted no later than ten days after publication of this notice.

ADDRESS: Send all comments to: Joseph A. Spetrini, Director, Office of Agreements Compliance, 14th and Constitution Ave., NW., Washington, DC 20230, Room 3099.

FOR FURTHER INFORMATION CONTACT: Nicholas C. Tolerico, Room 3087–B, 202/377–4036, or Holly A. Kuga, Room 3709, 202/377–1102, Office of Agreements Compliance, Import Administration, 14th and Constitution Ave., NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION: The United States concluded steel export restraint agreements with Japan and Spain on May 14, 1985 and January 18, 1985, respectively. These Arrangements provide that, in cases where abnormal supply or demand factors demonstrate that the U.S. industry is unable to meet domestic demand for a particular product, an additional tonnage will be allowed for such products by a special license.

We have received a request for short supply for the following products imported from Japan and/or Spain:

Japan

Cold-drawn aluminum-clad steel wire conforming to ASTM specification B–415 in sizes ranging from 0.0654 inch to 0.3120 inch in diameter.

Spain

Cold-drawn aluminum-clad steel strand conforming to the ASTM specification B–416 in the following sizes:

a. 7 wires; individual wire diameters ranging from 0.091 inch to 0.1285 inch (i.e., 7 No. 0.91" to 0.1285");

b. 19 wires; individual wire diameters of 0.1019 and 0.1285 inch (i.e., 19 No. 0.1019" and 0.1285").

Any party interested in commenting on this request should send written comments as soon as possible, and no later than ten days after publication of this notice. Comments should focus on the economic factors involved in granting or denying this request.

The Department will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly so label the business proprietary portion of this submission and also include with it a submission without proprietary information, which can be placed in the public file. The public file will be maintained in the Central Records Unit, Import Administration, U.S. Department of Commerce, Room B–099 at the above address.

Dated: August 5, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 85–19043 Filed 8–9–85; 8:45 am]

BILLING CODE 3510–DS–M

[A–485–501]

Termination of Antidumping Duty Investigation; Oil Country Tubular Goods From Romania

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: On June 20, 1985, the United States Steel Corporation withdrew the antidumping duty petition on oil country tubular goods from Romania. On July 22, 1985, Lone Star Steel Company and CF & I Steel Corporation also withdrew. Based on the withdrawal, we are terminating the investigation.

EFFECTIVE DATE: August 12, 1985.

FOR FURTHER INFORMATION CONTACT: David Johnston, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377–2239.

SUPPLEMENTARY INFORMATION:

Case History

On February 28, 1985, we received a petition from the United States Steel Corporation filed on behalf of the U.S. industry producing OCTG. We subsequently allowed Lone Star Steel Company and CF & I Steel Corporation to become petitioners in this investigation.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We notified the International Trade Commission (ITC) of our action and initiated the investigation on March 20, 1985 (50 FR 12070). On April 15, 1985, the ITC found that there was a reasonable indication that imports from Romania materially injure, or threaten material injury to, a United States industry. On June 20, 1985, the United States Steel Corporation withdrew its antidumping duty petition.

Scope of the Investigation

The products under investigation are oil country tubular goods which are extension hollow steel products of circular cross section intended for use in the drilling of oil or gas. These products include oil well casing, tubing and drill pipe of cabon or alloy steel, whether welded or seamless, manufactured to either American Petroleum Institute (API) or non-API (such as proprietary) specifications, as currently provided for in the *Tariff Schedules of the United States Annotated (TSUSA)* items 610.3216, 610.3219, 610.3233, 610.3242, 610.3243, 610.3249, 610.3252, 610.3254, 610.3256, 610.3258, 610.3262, 610.3264, 610.3721, 610.3722, 610.3751, 610.3925, 610.3935, 610.4025, 610.4035, 610.4225, 610.4235, 610.4325, 610.4335, 610.4942, 610.4944, 610.4946, 610.4954, 610.4955, 610.4956, 610.4957, 610.4966, 610.4967, 610.4968, 610.4969, 610.4970, 610.5221, 610.5222, 610.5226, 610.5234, 610.5240, 610.5242, 610.5243, and 610.5244.

Withdrawal of Petition

On June 20, 1985, U.S. Steel notified us that it was withdrawing its petition, and requested that the investigation be terminated. On July 22, 1985, Lone Star Steel Company and CF & I Steel Corporation also notified us that they were withdrawing. This withdrawal is based on an agreement with the government of Romania to limit the volume of imports of these products. Under section 734(a) of the Tariff Act of 1930 (the Act), as amended by section 604 of the Trade and Tariff Act of 1984, upon withdrawal of a petition, the administering authority may terminate an investigation after giving notice to all parties to the investigation. We have assessed the public interest factors set out in section 734(a)(2) of the Act, and consulted with potentially affected producers, workers, and consuming industries and with the ITC. On the basis of our assessment of the public interest factors and our consultations, we have determined that termination would be in the public interest.

We have notified all parties to the investigation and the ITC of petitioners' withdrawals and our intention to terminate.

For these reasons, we are terminating our investigation.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

August 7, 1985.

[FR Doc. 85–19116 Filed 8–9–85; 8:45 am]

BILLING CODE 3510–DS–M

[A-588-020]

Titanium Sponge From Japan; Amendment to Final Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: Upon remand from the Court of the International Trade, the International Trade Administration, U.S. Department of Commerce, has recalculated foreign market value for titanium sponge from Japan produced by Osaka Titanium Co., Ltd., and has determined that titanium sponge is being sold in the home market at prices which are below the cost of production and in the United States at less than fair value.

EFFECTIVE DATE: August 12, 1985.

FOR FURTHER INFORMATION CONTACT: John J. Kenkel, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone (202) 377-4929.

SUPPLEMENTARY INFORMATION:

Background

The International Trade Administration, U.S. Department of Commerce, reached its final antidumping duty determination in the investigation of titanium sponge from Japan on September 24, 1984. The final determination was published in the **Federal Register** on October 1, 1984, (49 FR 38687). The International Trade Commission reached its final determination on November 7, 1984, and published its determination in the **Federal Register** on November 15, 1984 (49 FR 45276) The antidumping duty order was signed on November 16, 1984, and published in the **Federal Register** on November 30, 1984, (49 FR 47053).

Counsel for Osaka Titanium Company, Ltd. ("Osaka") filed a summons on December 28, 1984, and a complaint on January 28, 1985, challenging our final determination, specifically our use of constructed value in calculating foreign market value. Osaka alleged that we had erred in certain allocations of interest costs when we calculated cost of production, resulting in a cost of production that was too high. Osaka also questioned our methodology for allocating general expenses.

Upon our motion in *Osaka Titanium Co., Ltd.* v. *United States*, Court No. 84-12-01806, the Court of International Trade remanded the case to the Department on June 4, 1985, with instructions that we (a) reconsider our methodology regarding the allocation of interest, general administrative and other nonoperating expenses to the cost of production of titanium sponge; (b) redetermine whether, as a result of the reconsideration of the allocation of interest and expenses, sales below the cost of production were made in substantial quantities so that the home market sales should be disregarded in determining foreign market value; and (c) if the ITA's reconsideration indicates either that home market sales should be the basis of foreign market value or that the cost of production was improperly calculated during the investigation, recalculate foreign market value and the weighted-average dumping margin for Osaka Titanium Company, Ltd.

Remand Results

In accordance with the remand order, the Department reviewed the methodology used for the allocation of interest expenses. The allocation of interest expenses had been based on the relative value of fixed assets used for the manufacture of silicon and titanium products in Osaka's plant.

Upon review we found that Osaka's balance sheet for the period of investigation indicated that 82 percent of the company's debt was short-term debt and 18 percent was long-term debt. (The company's equity was 92.3 percent of its permanent capitalization.) Since most of the interest expenses were incurred on short-term debt, a proportional amount of interest expenses resulting from this debt was reallocated based on relative value of sales of titanium sponge to Osaka's total sales. Although we consider allocation of interest expense from short term debt over the cost to produce the goods which were sold to be a more appropriate methodology than allocation over the sales value of those goods, the record does not contain sufficient information on costs to produce the titanium sponge sold as compared to the costs to produce other titanium products and silicon sold to permit us to use the first method. Interest expense from long-term debt was allocated on the basis of relative fixed asset value as in the Department's final determination.

We affirm, based on the facts of the case, that the methodology used by the Department for the allocation of general expenses in calculating cost of production for the final determination was reasonable.

Osaka produced silicon and titanium products and additionally purchased and resold silicon products from a subsidiary. The general expenses reflected in the financial statements were those incurred by Osaka. General expenses incurred by the subsidiary corporation were not included in this amount.

In its original final determination, the Department allocated general expenses based on internally generated costs of production for the silicon and titanium products manufactured by Osaka. Since the general expenses did not include selling expenses nor those expenses by the subsidiary, the Department continues to use internally generated cost of production for Osaka when allocating Osaka's general expenses.

Upon review of the record, the Department noted that internally generated cost of production used to allocate general expenses to titanium sponge did not include the appropriate proportional amount of overhead. The Department revised its calculation accordingly.

As a result of the above analysis, we have recalculated the cost of production of titanium sponge produced by Osaka. Consequently, we now reaffirm that sales of titanium sponge in the home market were made below the cost of production and that we should use constructed value as foreign market value. Based on comparisons of U.S. price to foreign market value, we determine that the antidumping duty margin for Osaka Titanium Company, Ltd. is 14.59 percent. The rates for the other two respondents are not affected. The rate for all other manufacturers, producers and exporters is now 28.25 percent.

Comments

Petitioner

Comment No. 1. The petitioner questions whether the selling, general and administrative expenses excluded by Osaka in the original calculation of the cost of production and subsequently not "recaptured" by the Department in its calculation of cost of production should be included in the cost production.

DOC Position. The Department did not include two categories of excluded expenses. The shipping costs, which represent the cost of transporting and insuring the finished product from the plant to the customer, were excluded because our cost of production is compared to ex-factory home market prices. the second category, "other" costs, was excluded from SG&A in the determination of cost production because those costs do not relate to the production, marketing or sale of titanium sponge.

Comment No. 2. The petitioner argues the Department should allocate the general and administative expenses that it did "recapture" on the basis of internally generated production expenses, rather than on the basis of turnover or sales. The petitioner also asks that "general" research and development (R&D) expenses be included in the cost of production of titanium sponge.

DOC Position. The "recaptured" expenses that Osaka had excluded in its original cost calculations, have been allocated using the same method as that used for all other general and administrative expenses, internally generated costs. Regarding R&D, because Osaka directly allocated all R&D to specific products, the R&D expenses for titanium sponge could be allocated directly to the cost of production of titanium sponge. The respondent did not engage in "general" R&D.

Comment No. 3. The petitioner argues that a disproportionately large amount of Osaka's selling expenses have been allocated to silicon as compared to titanium products. This problem is aggravated by the Department's allocation of selling expenses by tons of titanium sponge produced rather than tons sold.

DOC Position. Most of the selling expenses could be identified with each of the various products. Only a relatively small amount of the selling expenses were allocated by relative sales value. The selling expenses attributed to titanium sponge were allocated by tons sold, not produced. However, because of Osaka's unusual organization and operation, the Department allocated the general expenses on the basis of internally generated costs, as described above.

Comment No. 4. Petitioner assert that short-term financing expenses should be apportioned on the basis of assets rather than sales by product line because financing is most needed for those products that have the weakest sales. Alternatively, the Department should allocate short-term financing by internally generated production costs. If the Department continues to use a sales-based method, it should be consistent and use a per unit allocation over units sold, not units produced.

DOC Position. The Department used sales value to allocate short-term interest among the products because the assets financed by these short-term sources are closely associated with sales. The short-term interest was allocated to units sold, not to units produced.

Respondent

Comment No. 1. Allocating Osaka's general and administrative expenses for all products on the basis of "internally generated cost" is inconsistent with the Department's precedent and unsupported by the facts. Rather, the Department should allocate such expenses to each product on the basis of relative sales of that product.

Doc Position. In determining if the method used by a respondent for allocating costs in appropriate, we consider many facts, such as the characteristics of the industry, operation of the company and the nature of the expenses. In this case we employed "internationally generated cost" because of the unusual circumstances of the company's operations. As stated above, Osaka produced silicon and titanium products and additionally purchased and resold silicon products made by a subsidiary. Thus, an allocation of general & administrative expenses based on relative sales, or cost of goods sold would result in attributing a portion of Osaka's general expenses to a product produced by a subsidiary. The general expenses reflected in the financial statement were those incurred by Osaka. General expenses incurred by the subsidiary corporation were not included in this amount. While the respondent has claimed that the silicon-producing subsidiary has not incurred general and administrative expenses, it has not provided evidence during the course of the investigation to support this claim.

Comment No. 2. Assuming its allocation methodology is proper, the Department erred in calculating "internationally generated cost" because the Department allocated the general expenses to titanium sponge based on the cost of the division that produces titanium sponge. However, this division also incurs costs related to other products. The Department further erred by allocating factory overhead to the sponge production division by direct manufacturing costs instead of by an allocation base which reflects the actual expenditures for each overhead expense.

Doc Position. The Department allocated general expenses to all titanium products based on the "internally generated cost" of all titanium products. This share of general expenses was then divided among titanium products based on relative sales. The unit value is based on tons of titanium sponge sold. The Department has accepted the respondent's allocation of factory overhead.

Comment No. 3. Osaka claims that the Department should have used home market prices for foreign market value because the company's sales below cost of production were not systematic and not for an extended period of time, as required by the statute and legislative history. The Department should have examined sales over a twelve- not a six-month period.

Doc Position. We disregarded Osaka's home market prices and used constructed value for foreign market value because over 90 percent of Osaka's home market sales during the period of investigation were at prices below the cost of production. Neither the statute nor the legislative history cited by Osaka indicate the intended duration of "an extended period of time" in section section 773(b) of the Tariff Act of 1930, as amended (19 U.S.C. 1677b(b)). Unless a respondent demonstrates that we should examine a particular period, we look at sales during a six-month period of investigation (*see, e.g.*, "Certain Steel Wire Nails from the Republic of Korea; Antidumping; Final Determination of Sales at Less than Fair Value and Exclusions From Final Determination," 47 FR 27392). In this case Osaka has not provided evidence to show that a twelve-month period is more representative of its home market selling practices.

Interested Party

Comment No. 1. Timet, an interested party in this investigation, recommends that the Department ignore the "insignificant" adjustments at issue and use its administrative discretion in accordance with 19 U.S.C. 1677 f-1(a)(2) to reaffirm its original final determination as to Osaka.

DOC Position. The section of the statute referred to by Timet only allows us to ignore insignificant adjustments for certain specific items. These enumerated items do not include cost of production. Therefore, the Department has decided not to ignore the small adjustments to foreign market value since these changes involve cost of production.

William T. Archey,

Acting Assistant Secretary, for Trade Administration.

August 6, 1985.

[FR Doc. 85-19117 Filed 8-9-85; 8:45 am]

BILLING CODE 3510-DS-M

[C-122-504]

Initiation of Countervailing Duty Investigation; Certain Red Rasberries From Canada

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers or exporters in Canada of certain red raspberries, as described in the "Scope of the Investigation" section below, receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission (ITC) of this action, so that it may determine whether imports of the subject merchandise materially injure, or threaten material injury to, a U.S. industry. The ITC will make its preliminary determination on or before September 3, 1985. If our investigation proceeds normally, we will make our preliminary determination on or before October 11, 1985.

EFFECTIVE DATE: August 12, 1985.

FOR FURTHER INFORMATION CONTACT: Mary Martin or Peter Sultan, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-3464 or 377-2815.

SUPPLEMENTARY INFORMATION:

The Petition

On July 18, 1985, we received a petition from the Washington Red Raspberry Commission, the Red Raspberry Committee of the Oregon Caneberry Commission, the Red Raspberry Committee of the Northwest Food Processors Association, the Red Raspberry Member Group of the American Frozen Food Institute, Rader Farms (a grower-packer), Ron Roberts (a grower), Shuksan Frozen Foods, Inc., the Washington Red Raspberry Growers Association, and the North Willamette Horticultural Society, on behalf of domestic producers of red raspberries packed in bulk containers and suitable for further processing.

In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that producers or exporters of certain red raspberries in Canada, directly or indirectly, receive benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry.

Canada is a "country under the Agreement" within the meaning of section 701(b) of the Act; therefore, Title VII of the Act applies to this investigation and an injury determination is required.

Initiation of Investigation

Under section 702(c) of the Act, within 20 days after a petition is filed, we must determine whether the petition sets forth the allegations necessary for the initiation of a countervailing duty investigation, and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined this petition and we have found that it meets the requirements for initiation.

We are initiating a countervailing duty investigation to determine whether producers or exporters in Canada of certain red raspberries, as described in the "Scope of the Investigation" section of this notice, receive benefits which constitute subsidies. If our investigations proceeds normally, we will make our preliminary determination by October 11, 1985.

Scope of the Investigation

The products covered by this investigation are fresh and frozen red raspberries packed in bulk and suitable for further processing. Fresh red raspberries are currently classified under item numbers 146.5400 and 146.5600 of the *Tariff Schedules of the United States, Annotated* (TSUSA), and frozen raspberries under item number 146.7400.

Allegation of Subsidies

The petition alleges that Canadian production of red raspberries packed in bulk containers is subsidized by the provincial government of British Columbia. We are initiating an investigation on the following allegation:

British Columbia Raspberry Producers' Farm Income Plan

According to the petitioners, this program was created in 1976, pursuant to British Columbia's Farm Income Insurance Act. Participation is open to commercial raspberry growers in the province which, in the year of application, deliver at least 7,000 pounds of processing red raspberries to a processor in the province.

Participants in the program receive payments for years in which certain costs of production exceed certain average market returns. These payments are equal to the difference between this cost of production and average market return, less a deduction for grower premiums. Petitioners allege that such payments have been made for crops produced in 1976, 1980 and 1983.

We are not initiating an investigation of the following allegation:

Low-interest Loans, Loan Guarantees and Partial Interest Reimbursement From Provincial Government of British Columbia

Petitioners allege that growers of red raspberries in British Columbia may be receiving low-interest loans, loan guarantees, and partial interest reimbursement from the provincial government of British Columbia. In a past investigation we have found these alleged programs not to be countervailable [*See Final Affirmative Countervailing Duty Determination: Live Swine and Fresh, Chilled and Frozen Pork Products from Canada* (50 FR 25097, 1985)]. Petitioners have not presented new evidence, nor have they alleged changed circumstances, with respect to these programs.

Notification of ITC

Section 702(d) of the Act requires us to notify the U.S. International Trade Commission (ITC) of this action, and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by September 3, 1985, whether there is a reasonable indication that imports of certain red raspberies from Canada materially injure, or threaten material injury to, a U.S. industry. If the ITC's determination is negative, this investigation will be terminated; otherwise, the investigation will proceed according to the statutory procedures.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

August 6, 1985.

[FR Doc. 85-19121 Filed 8-9-85; 8:45 am]

BILLING CODE 3510-DS-M

[C-351-504]

Preliminary Affirmative Countervailing Duty Determination; Certain Heavy Iron Construction Casting From Brazil

AGENCY: Import Administration, Inernational Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Brazil of certain heavy iron construction castings. The estimated net subsidy is 4.56 prcent *ad valorem*.

We have notified the United States International Trade Commission (ITC) of our determination. We are directing the U.S. Customs Service to suspend liquidation of all entries of certain heavy iron construction castings which are entered or withdrawn from warehouse, for consumption, on or after the date of publication of this notice. We have also directed the U.S. Customs Service to require a cash deposit or bond for each such entry in an amount equal to the estimated net subsidy as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make our final determination by October 21, 1985.

EFFECTIVE DATE: August 12, 1985.

FOR FURTHER INFORMATION CONTACT: Thomas Bombelles, Loc Nguyen or Barbara Tillman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-3174 (202) 377-0167, or (202) 377-2438.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine that there is reason to believe or suspect that certain benefits which constitute subsidies within the meaing of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Brazil of certain heavy iron construction castings. For purposes of this investigation, the following programs are found to confer subsidies:

- Preferential Working Capital Financing for Exports—Resolutions 674, 882 and 950;
- Income Tax Exemption for Export Earnings.

We determine the estimated net subsidy to be 4.56 percent *ad valorem*.

Case History

On May 13, 1985, we received a petition in proper form from the Municipal Castings Fair Trade Council, a trade association representing domestic producers of certain iron construction castings and fifteen individually-named members of the association. Those members are: Alhambra Foundry, Inc.; Allegheny Foundry Co.; Bingham & Taylor; Campbell Foundry Co.; Charlotte Pipe & Foundry Co.; Deeter Foundry Co.; Municipal Castings, Inc.; Neenah Foundry Co.; Opelika Foundry Co., Inc.; Pinkerton Foundry, Inc.; Tyler Pipe Corp.; U.S. Foundry & Manufacturing Co. and Vulcan Foundry, Inc., filing on behalf of the U.S. producers of certain iron construction castings. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Brazil of certain iron construction castings receive, directly or indirectly, benefits which constitute subsidies within the meaning of section 701 of the Act, and that these improts materially injure, or threaten material injury to, a U.S. industry.

We found that the petition contained sufficient grounds upon which to intitiate a countervailing duty investigation, and on June 3, 1985, we initiated such an investigation (50 FR. 24269). We stated that we expected to issue a preliminary determination by August 6, 1985.

Since Brazil is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. Therefore, we notified the ITC of our initiation. On June 27, 1985, the ITC preliminarily determined that there is a reasonable indication that imports of certain heavy iron construction castings materially injure, or threaten material injury to, a U.S. Industry (50 FR. 27498).

The ITC also determined that there is no reasonable indication that imports of certain light iron construction castings cause or threaten material injury to a U.S. industry. For the purposes of this investgation, the term "certain light iron construction castings" is limited to valve, servcie and meter boxes. Such castings are placed below ground to encase water, gas or other valves, or water or gas meters. Therefore, our investigation is limited to certain heavy iron construction castings as defined in the "Scope of the Investigation" section of this notice, and we have changed the title of the investigation accordingly.

We presented a questionnaire concerning the allegations to the government of Brazil in Washington, D.C., on June 11, 1985. On July 22, 1985, we received a response to the questionnaire. There are four known producers and exporters in Brazil of certain heavy iron construction castings that exported to the United States during the review period. We have received information on three of the companies, which according to the government of Brazil, account for substantially all exports to the United States. These are Fundicao Aldebara, Ltda. (Aldebara), Usina Siderurgica Paraense—Usipa Ltda. (Usipa) and Sociedade de Metalurgica e Processos Ltda. (Somep).

Scope of the Investigation

The products covered by this investigation are certain heavy iron construction castings, which are defined for purposes of this proceeding as manhole covers, rings and frames; catch basin grates and frames; and cleanout covers and frames. Such castings are used for drainage or access purposes for public utility, water and sanitary systems. Manhole covers, rings and frames are currently provided for in item 607.0950 of the *Tariff Schedules of the United States, Annotated* (TSUSA). All other certain heavy iron construction castings are subsumed in item 607.0990 of the TSUSA.

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the current investigation. These principles are described in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order," which was published in the April 26, 1984, issue of the **Federal Register** (49 FR 18006).

Consistent with our practice in preliminary determinations, where a response to an allegation denies the existence of a program, receipt of benefits under a program, or eligibility of a company or industry for a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of the preliminary determination. All such responses are subject to rigorous verification. If the response cannot be supported at verification, and the program is otherwise countervailable, the program

will be considered a subsidy in the final determination.

For purposes of this preliminary determination, the period for which we are measuring subsidization ("the review period") is the calendar year 1984. In its response, the government of Brazil provided data for the applicable period, including financial statements for Somep, Usipa and Aldebara.

Based upon our analysis of the petition and the response to our questionnaire, we preliminarily determine the following:

I. Programs Determined To Confer Subsidies

We preliminarily determine that subsidies are being provided to manufacturers, producers, or exporters in Brazil of certain heavy iron construction castings under the following programs:

A. Preferential Working-Capital Financing for Exports

The Carteira do Comercio Exterior (Foreign Trade Department, or CACEX) of the Banco do Brasil administers a program of short-term working capital financing for the purchase of inputs. These working-capital loans were originally authorized by Resolution 674, which was superseded by Resolution 882, which was itself substantially amended by Resolution 950 on August 21, 1984. During the review period, these loans were provided under Resolutions 882 and 950.

Eligibility for this type of financing is determined on the basis of past export performance or of an acceptable export plan. The amount of available financing is calculated by making a series of adjustments to the dollar value of exports. During the review period, the maximum level of eligibility for such financing was 20 percent of the value of exports.

Following approval by CACEX of their applications, participants in the program receive certificates representing portions of the total dollar amount for which they are eligible. The certificates, which must be used within one year of their issue, may be presented to banks in return for cruzeiros at the exchange rate in effect on the date of presentation. Loans provided through this program are made for a term of up to one year.

On January 1, 1984, Resolution 882 modified the interest rate to full monetary correction plus 3 percent, with the interest and principal payable in one lump sum at the expiration of the loan. On August 21, 1984, Resolution 950 made this working-capital financing available from commercial banks, with interest calculated at time of repayment. Under Resolution 950, the Banco do Brasil paid the lending institution an equalization fee of up to 10 percent of the interest (after monetary correction). Resolution 950 was amended in May 1985. The equalization fee was increased to 15 percent of the interest (after monetary correction).

Since receipt of working-capital financing is contingent on export performance, and provides funds to participants at interest rates lower than those available from commercial sources, we preliminarily determine that this program confers an export subsidy.

Consistent with our stated policy to take into account program-wide changes that occur before our preliminary determination, we calculated the benefit by multiplying the current maximum level of eligibility (20 percent) by the equalization fee (15 percent) plus the Imposto sobre Operacoes Financeiras (Tax on Financial Operations, or IOF). We allocated the benefit over the total value of all exports, resulting in an estimated net subsidy of 3.30 percent *ad valorem*.

B. Income Tax Exemption for Export Earnings

Under Decree-Laws 1158 and 1721, exporters of certain heavy iron construction castings are eligible for an exemption from income tax on a portion of profits attributable to export revenue. Because this exemption is tied to exports and is not available for domestic sales, we preliminarily determine that this exemption confers an export subsidy. One producer of certain heavy iron construction castings took an exemption from income tax payable in 1984 on a portion of export profits earned in 1983. We multiplied that portion of tax savings gained by the company that exported in 1983 by the nominal corporate tax rate, and allocated the benefit over the total value of respondents' 1984 exports to calculate an estimated net subsidy of 1.26 percent *ad valorem*.

II. Programs Determined Not To Be Used

We preliminarily determine that manufacturers, producers, or exporters in Brazil of certain heavy iron construction castings did not use the following programs which were listed in our notice of "Initiation of a Countervailing Duty Investigation: Certain Iron Construction Castings from Brazil" (50 FR 24269).

A. Resolution 330 of the Banco Central do Brasil

Resolution 330 provides financing for up to 80 percent of the value of the merchandise placed in a specified bonded warehouse and destined for export. Exporters of iron construction castings would be eligible for financing under this program. However, the government of Brazil stated in its response that none of the construction castings producers under investigation participated in this program during the review period; therefore, we preliminarily determine that this program was not used.

B. Export Financing Under the CIC–CREGE 14–11 Circular

Under its CIC–CREGE 14–11 circular ("14–11"), the Banco do Brasil provides 180- and 360-day cruzeiro loans for export financing, on the condition that companies applying for these loans negotiate fixed-level exchange contracts with the bank. Companies obtaining a 360-day loan must negotiate exchange contracts with the bank in an amount equal to twice the value of the loan. Companies obtaining a 180-day loan must negotiate an exchange contract equal to the amount of the loan.

According to the response of the government of Brazil, none of the companies under investigation had loans under this program during the review period.

C. Exemption of IPI Tax and Customs Duties on Imported Equipment (CDI)

Under Decree-Law 1428, the Conselho do Desenvolvimento Industrial (Industrial Development Council, or CDI) provides for the exemption of 80 to 100 percent of the customs duties and 80 to 100 percent of the IPI tax on certain imported machinery for projects approved by the CDI. The recipient must demonstrate that the machinery or equipment for which an exemption is sought was not available from a Brazilian producer. The investment project must be deemed to be feasible and the recipient must demonstrate that there is a need for added capacity in Brazil.

The government of Brazil stated in its response that none of the construction castings producers subject to the investigation received incentives under this program during the review period.

D. The BEFIEX Program

The Comissao para a Concessao de Beneficios Fiscais a Programas Especiais de Exportacao (Commission for the Granting of Fiscal Benefits to Special Export Programs, or BEFIEX)

grants at least three categories of benefits to Brazilian exporters:

- Under Decree-Law 77.065, BEFIEX may reduce by 70 to 90 percent import duties and the IPI tax on the importation of machinery, equipment, apparatus, instruments, accessories and tools necessary for special export programs approved by the Ministry of Industry and Trade, and may reduce by 50 percent import duties and the IPI tax on imports of components, raw materials and intermediary products;
- Under article 13 of Decree No. 72.1219, BEFIEX may extend the carry-forward period for tax losses from 4 to 6 years; and
- Under article 14 of the same decree, BEFIEX may allow special amortization of pre-operational expenses related to approved projects. In its response, the government of Brazil stated that the construction castings producers under investigation did not participate in this program.

E. The CIEX Program

Decree-Law 1428 authorized the Comissao para Incentivos à Exportaçao (Commission for Export Incentives, or CIEX) to reduce import taxes and the IPI tax up to 10 percent on certain equipment for use in export production. In its response, the government of Brazil stated that none of the construction castings producers under investigation participated in this program.

F. Accelerated Depreciation for Brazilian-Made Capital Equipment

Pursuant to Decree-Law 1137, any company which purchases Brazilian-made capital equipment and has an expansion project approved by the CDI may depreciate this equipment at twice the rate normally permitted under Brazilian tax laws. In the response, the government of Brazil stated that none of the respondents used this program during the review period.

G. Incentives for Trading Companies

Under Resolution 643 of the Banco Central do Brasil, trading companies can obtain export financing similar to that obtained by manufacturers under Resolutions 882 and 950. In its response, the government of Brazil stated that the construction castings producers under investigation did not receive any benefits under this program.

H. The PROEX Program

Short-term credits for exports are available under the Programa de Financiamento a Producao para a Exportacao (PROEX), a loan program operated by Banco Nacional do Desenvolvimento Economico e Social (National Bank of Economic and Social Development, or BNDES.) In its response, the government of Brazil stated that none of the companies under investigation participated in this program during the review period.

I. Resolution 68 (FINEX) Financing

Resolution 68 of the Conselho Nacional do Comércio Exterior (CONCEX) provides that CONCEX may draw upon the resources of the Fundo de Financiamento à Exportaçao (FINEX) to extend dollar-denominated loans to both exporters and foreign buyers of Brazilian goods. Financing is granted on a transaction-by-transaction basis. In its response, the government of Brazil stated that the respondents did not receive Resolution 68 financing during the review period.

J. Government Loan Guarantees on Foreign-Denominated Debt

Petitioners allege that the government of Brazil provides guarantees on long-term, foreign-denominated loans in order to help enterprises service such loans. The government of Brazil stated in its response that none of the companies under investigation received government loan guarantees on foreign-denominated debt during the review period.

K. Loans Through the Apoio o Desenvolvimento Tecnologica a Empresa Nacional (ADTEN)

Petitioners allege that the government of Brazil maintains, through the Financiadora de Estudos Projectos (FINEP), a loan program, ADTEN, that provides long-term loans on preferential terms to encourage the growth of industries and development of technology. In its response, the government of Brazil stated that none of the companies under investigation had loans through this program outstanding during the review period.

L. IPI Rebates for Capital Investment

Decree law 1547, enacted in April 1977, provides funding for approved expansion projects in the Brazilian steel industry through a rebate of the IPI, a value-added tax imposed on domestic sales. According to the response of the government of Brazil, iron construction castings producers are not eligible to participate in this program.

III. Programs Preliminary Determined To Require Additional Information

A. IPI Export Credit Premium

Until very recently, Brazilian exporters of manufactured products were eligible for a tax credit on the Imposto sôbre Produtos Industrializados (Tax on Industrialized Products, or IPI). The IPI export credit premium, a cash reimbursement paid to the exporter upon the export of otherwise taxable industrial products, has been found to confer a subsidy in previous countervailing duty investigations involving Brazilian products. After having suspended this program in December 1979, the government of Brazil reinstated it on April 1, 1981.

According to the government of Brazil, this program was phased out between November 1984 and May 1, 1985, under the terms of "Portaria" (Notice) of the Ministry of Finance No. 176 of September 12, 1984. This action was taken in accordance with Brazil's commitment pursuant to Article 14 of the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade ("the Subsidies Code"). Consistent with our stated policy of taking into account program-wide changes that occur prior to our preliminary determination, we are not including this program in calculating the deposit/bonding rate. However, we intend to ascertain at verification that no exports declared eligible for the credit premium before May 1, 1985, were still receiving it after that date.

B. Loans Through the National Bank of Economic and Social Development

The National Bank of Economic and Social Development (Banco Nacional do Desenvolvimento Economico e Social, or BNDES) is the sole source of long-term cruzeiro loans in Brazil. Petitioners allege that BNDES loans are allocated in accordance with government development plans to finance the needs of designated priority sectors, and that they are granted on terms inconsistent with commercial considerations.

In support of their allegation, petitioners argue that the iron and steel industry, in which foundries are included, received a disproportionate amount of BNDES lending in 1982.

The response provided some documentation on the distribution of BNDES loans demonstrating that BNDES loans are used by many sectors of the Brazilian economy. However, we need additional information to determine whether the foundry industry received a disproportionate share of BNDES funds, and if so, which loans received by the respondents are from BNDES.

C. Regional Development Financing

Petitioners allege that development banks make loans to enterprises in their regions at rates that are inconsistent with commercial considerations. In its

response the government of Brazil stated that loans made by regional development banks in Brazil represent a pass-through of BNDES funds. We do not have specific information on whether this type of financing is provided through the state development bank in Minas Gerais, where the companies under investigation are located, or whether the respondents have benefitted from any such loans. We intend to obtain complete information about the operation of this program at verification.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all unliquidated entries of certain heavy iron construction castings from Brazil entered or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**, and to require a cash deposit or bond for each such entry of this merchandise of 4.56 percent *ad valorem*. This suspension of liquidation will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry 120 days after the Department makes its preliminary affirmative determination or 45 days after its final affirmative determination, whichever is latest.

Public Comment

In accordance with § 355.35 of our regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination on September 6, 1985, at 10:00 a.m. at the U.S. Department of Commerce, room 5611, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, room B-099, at the above address within 10 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 reason for attending; and (4) a list of the issues to be discussed. In addition, at least 10 copies of pre-hearing briefs must be submitted to the Deputy Assistant Secretary by August 28, 1985.

Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.34, within 30 days of the publication of this notice, at the above address and in at least 10 copies.

This notice is published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f)).

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

August 6, 1985.

[FR Doc. 85-19119 Filed 8-9-85; 8:45 am]

BILLING CODE 3510-DS-M

[C-307-506]

Termination of Countervailing Duty Investigation; Carbon Steel Wire Rod From Venezuela

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: In a letter dated July 19, 1985, petitioners withdrew their countervailing duty petition, filed on April 8, 1985, on carbon steel wire rod from Venezuela. Based on the withdrawal, we are terminating this investigation.

EFFECTIVE DATE: August 12, 1985.

FOR FURTHER INFORMATION CONTACT: Ms. Terry Link or Ms. Barbara Tillman of the Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone: (202) 377-0189 or 377-2438.

SUPPLEMENTARY INFORMATION:

CASE HISTORY

On April 8, 1985, we received a petition from Atlantic Steel Co., Continental Steel Corp., Georgetown Steel Corp., North Star Steel Texas, Inc., and Raritan River Steel Co., filed on behalf of the U.S. industry producing carbon steel wire rod.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate a countervailing duty investigation. We notified the International Trade Commission (ITC) of our action and initiated the investigation on April 29, 1985 (50 FR 19066). On May 15, 1985, the ITC found that there was a reasonable indication that imports of carbon steel wire rod from Venezuela materially injure, or threaten material injury to, a U.S. industry.

On July 2, 1985, we made a preliminary determination that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Venezuela of carbon steel wire rod (50 FR 28234).

Scope of Investigation

The product covered by this investigation is carbon steel wire rod, a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross-section, not under 0.20 inch nor over 0.74 inch in diameter, not tempered, not treated, not partly manufactured, and valued over 4 cents per pound. Wire rod is currently classifiable under item 607.17 of the *Tariff Schedules of the United States* (TSUS).

Withdrawal of Petition

In a letter dated July 19, 1985, petitioners notified us that they are withdrawing their April 8, 1985 petition, and requested that the investigation be terminated. A copy of petitioners' letter is appended to this notice. This withdrawal is based on an arrangement with the government of Venezuela to limit the volume of imports of this product. Under section 704(a) of the Tariff Act of 1930, as amended by section 604 of the Trade and Tariff Act of 1984 ("the Act"), upon withdrawal of a petition, the administering authority may terminate an investigation after giving notice to all parties to the investigation and after assessing the public interest as required by the Act. We have taken into account the public interest factors set out in section 704(a)(2) of the Act and consulted with potentially affected producers, workers, consuming industries, and with the ITC. On the basis of our assessment of the public interest factors and our consultations, we have determined that termination would be in the public interest.

We have notified all parties to the investigation and the ITC of petitioners' withdrawal and our intention to

terminate. For these reasons, we are terminating our investigation.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

August 5, 1985.

[FR Doc. 85-19118 Filed 8-9-85; 8:45 am]

BILLING CODE 3510-DS

[C-307-504]

Termination of Countervailing Duty Investigation; Oil Country Tubular Goods From Venezuela

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On June 26, 1985, U.S. Steel Corporation withdrew the countervailing duty petition on oil country tubular goods (OCTG) from Venezuela. On July 22, 1985, Lone Star Steel Company and DF&I Steel Corporation also withdrew. Based on the withdrawals, we are terminating this investigation.

EFFECTIVE DATE: August 12, 1985.

FOR FURTHER INFORMATION CONTACT: Ms. Terry Link or Ms. Barbara Tillman of the Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone: (202) 377-0189 or 377-2438.

SUPPLEMENTARY INFORMATION:

Case History

On February 28, 1985, we received a petition from U.S. Steel Corporation filed on behalf of the U.S. industry producing OCTG. We subsequently allowed Lone Star Steel Company and CF&I Steel Corporation to become petitioners in this investigation.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate a countervailing duty investigation. We notified the International Trade Commission (ITC) of our action and initiated the investigation on March 20, 1985 (50 FR 12066). On April 15, 1985, the ITC found that there was a reasonable indication that imports of OCTG materially injure, or threaten material injury to, a U.S. industry.

Scope of Investigation

The products covered by this investigation are oil country tubular goods, which are hollow steel products of circular cross-section intended for use in the drilling of oil or gas. These products include oil well casing, tubing, and drill pipe of carbon or alloy steel, whether welded or seamless, manufactured to either American Petroleum Institute (API) or non-API (such as proprietary) specifications, as currently provided for in the *Tariff Schedules of the United States, Annotated* (TSUSA) under items 610.3216, 610.3219, 610.3233, 610.3249, 610.3252, 610.3256, 610.3258, 610.3721, 610.3722, 610.3925, 610.3935, 610.4025, 610.4035, 610.4225, 610.4235, 610.4325, 610.4335, 610.4942, 610.4944, 610.4946, 610.4954, 610.4955, 610.4956, 610.4957, 610.4966, 610.4967, 610.4968, 610.4969, 610.4970, 610.5221, 610.5222, 610.5226, 610.5240, 610.5242, 610.5243, and 610.5244.

Withdrawal of Petition

On June 26, 1985, U.S. Steel Corporation notified us that they are withdrawing their petition, and requested that the investigation be terminated. On July 22, 1985, Lone Star Steel Company and CF&I Steel Corporation also notified us that they are withdrawing. These withdrawls are based on an arrangement with the government of Venezuela to limit the volumn of imports of these products. Under sections 704(a) of the Tariff Act of 1930, as amended by section 604 of the Trade and Tariff Act of 1984 (the Act), upon withdrawal of a petition, the administering authority may terminate an investigation after giving notice to all parties to the investigation. We have taken into account the public interest factors set out in section 704(a)(2) of the Act and consulted with potentially affected producers, workers, consuming industries, and with the ITC. On the basis of our assessment of the public interest factors and our consultations, we have determined that termination would be in the public interest.

We have notified all parties to the investigation and the ITC of petitioners' withdrawals and our intention to terminate. For these reasons, we are terminating our investigation.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-19120 Filed 8-9-85; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Marine Mammals; Fish Import Certification From Northern Ireland

Regulations established in accordance with the Marine Mammal Protection Act of 1972, 16 U.S.C. 1361 *et seq.* (50 CFR 216.24(e)) provide that a nation may certify that vessels fishing under its flag are (1) fishing in conformance with U.S. regulations, or (2) if not in conformance, are not fishing in a manner prohibited for U.S. fishermen under these regulations. This certification is necessary in order to permit the importation into the United States of certain fish and fish products.

The Assistant Administrator for Fisheries, National Marine Fisheries Service, recently received and accepted a certification from the Government of the United Kingdom that vessels fishing for salmon and halibut under their flag are fishing in conformance with U.S. regulations in regard to the taking of marine mammals incidental to commercial fishing operations (50 FR 28112, July 10, 1985). However, Northern Ireland was inadvertently omitted from the list of exempted United Kingdom countries. Therefore, salmon and halibut from Northern Ireland are exempt from the provisions of 50 CFR 216.24(e)(3) and may be exported to the United States without an accompanying Standard Form 369-1 (Fisheries Certificate of Origin).

Copies of the certification are on file and available for review in the Office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C. 20235.

Dated: August 6, 1985.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 85-19127 Filed 8-9-85; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals: Application for Permit; Connyland, Mr. Conny Gasser

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Connyland (P367), Mr. Conny Gasser.

b. Address: CH-8557 Lipperswil, Switzerland.

2. Type of Permit: Public Display.

3. Name and Number of Marine Mammals: Atlantic bottlenose dolphins (Tursiops truncatus) 4.

4. Type of Take: Captive Maintenance.

5. Location of Activity: West coast of Florida.

6. Period of Activity: Two (2) years.

As a request for a permit to take living marine mammals to be maintained in areas outside the jurisdiction of the United States, this application has been submitted in accordance with National Marine Fisheries Service policy concerning such applications (40 FR 11619, March 12, 1975). In this regard, no appliation will be considered unless:

(a) It is submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, through the appropriate agency of the foreign government;

(b) It includes:

1. A certification from such appropriate government agency verifying the information set forth in the application;

ii. A certification from such government agency that the laws and regulations of the government involved permit enforcement of the terms of the conditions of the permit, and that the government will enforce such terms;

iii. A statement that the government concerned will afford comity to a National Marine Fisheries Service decision to amend, suspend or revoke a permit.

In accordance with the above cited policy, the certification and statements of the Division International Traffic and Animal Welfare have been found appropriate and sufficient to allow consideration of this permit application.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: August 5, 1985.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 85-19128 Filed 8-9-85; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Visa Waiver for Certain Cotton Terry Bar Mops

August 7, 1985.

Pending resolution of a trade problem which has arisen with regard to cotton terry bar mops in Category 369pt. (only T.S.U.S.A. number 366.1855), the Committee for the Implementation of Textile Agreements has decided to waive certain shipments of these products which do not precisely meet the specifications of the Tariff Schedules of the United States that they be 15 to 17 inches in width by 18 to 20 inches in length. Requests for waivers of such merchandise, exported on or before September 30, 1985, will be reviewed on a case-by-case basis and should be addressed to: Office of Textile and Apparel, International Agreements and Monitoring Division, Room 3110, U.S. Department of Commerce, Washington, DC 20230, Attention: Waivers

The following information should be included with each request:

U.S. Customs Service Rejection Slip
Port of Entry (indicating whether airport or seaport)
Name and Address of Importer
Name and Telephone Number of Customs Broker
Description of Merchandise
Category and T.S.U.S.A. number
Quantity (units as set out in the T.S.U.S.A.)
Entry Number or Bill of Lading Number
Country of Origin
Date of Export
Exporter

Information included in any request for a waiver is subject to section 1001 of Title 18 of the U.S. Code (1982), which provides penalties for making false statements to any department of the United States Government.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-19051 Filed 8-9-85; 8:45 am]

BILLING CODE 3510-DR-M

Adjusting the Import Limits for Certain Wool Textile Products Produced or Manufactured in the Republic of the Philippines

August 7, 1985.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on August 13, 1985. For further information contact Jane Corwin, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

A CITA directive dated December 21, 1984 (49 FR 50231) established limits for certain categories of cotton, wool, and man-made fiber textile products, including men's and boys' wool suits in Category 443, produced or manufactured in the Philippines and exported during the agreement year which began on January 1, 1985. Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated November 24, 1982, as amended, between the Governments of the United States and the Republic of the Philippines, and at the request of the Government of the Republic of the Philippines, the 1985 limit for Category 443 is being increased by the addition of swing and carryforward to 2,511 dozen. The limit for Category 435 is being reduced from 2,260 dozen to 2,146 dozen to account for the swing applied to Category 443.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 F.R. 15175), May 3, 1983 (48 FR 19924), Decembr 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff

Schedules of the United States Annotated (1985).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

August 7, 1985.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 21, 1984 from the Chairman of the Committee for the Implementation of Textile Agreements concerning imports into the United States of certain cotton, wool, and man-made fiber textile products, produced or manufactured in the Philippines and exported during 1985.[1]

Effective on August 13, 1985, paragraph 1 of the directive of December 21, 1984 is hereby further amended to include the following adjusted restraint limit for wool textile products in category 443.

Category	Adjusted 12-month restraint limit (dozen)
443	2,511

[1] The limit has not been adjusted to reflect any imports exported after December 31, 1984.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-19052 Filed 8-9-85; 8:45 am]

BILLING CODE 3510-DR-M

New Specific Limit for Certain Cotton Textile Products Produced or Manufactured in Sri Lanka

August 7, 1985.

The Chairman of the Commitee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on August 13, 1985. For further information contact Diana Solkoff, International Trade Specialist (202) 377-4212.

[1] The agreement provides, in part, that: (1) specific limits may be exceeded during the agreement year by designated percentages; (2) specific limits may be adjusted for carryover or carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

Background

On August 21, 1984 a notice was published in the **Federal Register** (49 FR 33160) announcing, among other things, the establishment of a restraint limit for cotton dresses in Category 336, produced or manufactured in Sri Lanka and exported during the twelve-month period which began on June 1, 1984 and extended through May 31, 1985, pending the continuation of consultations to reach a mutually satisfactory limit for these products. The Governments of the United States and Sri Lanka have recently exchanged notes further amending their Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 10, 1983, as amended, to establish a specific limit of 63,600 dozen for textile products in Category 336, produced or manufactured in Sri Lanka and exported during the June 1, 1985 to May 31, 1986 agreement year. The letter to the Commissioner of Customs which follows this notice establishes the new specific limit.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

August 7, 1985.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 10, 1983, as amended, between the Governments of the United States and Sri Lanka; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on August 13, 1985, entry into the United States for consumption and withdrawal form warehouse for consumption of cotton textile products in Category 336, produced or manufactured in Sri Lanka and exported during the twelve-month period which began on June 1, 1985 and extends through May 31, 1986, in excess of 63,600 dozen.[1]

In carrying out this directive, entries of textile products in Category 336, produced or manufactured in Sri Lanka which have been exported to the United States during the period beginning on June 1, 1984 and extending through May 31, 1985, shall, to the extent of any unfilled balance, be charged against the restraint limit established for such goods during that twelve-month period. In the event the limit established for that period has been exhausted by previous entries, such goods shall be subject to the limit set forth in this letter.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553 (a)(1).

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-19126 Filed 8-9-85; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, September 3, 1985; Tuesday, September 10, 1985; Tuesday, September 17, 1985 and September 24, 1985 at 10:00 a.m. in Room 1E801, The Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Installations and Logistics) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Pub. L. 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey

[1] The limit has not been adjusted to account for any imports exported after May 31, 1985.

data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92–463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy & Requirements) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D264, The Pentagon, Washington, D.C. 20301.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

August 6, 1985.

[FR Doc. 85–19078 Filed 8–9–85; 8:45 am]

BILLING CODE 3810–01–M

Department of the Navy

Performance of Commercial Activities; Announcement of Program Cost Studies

The Department of the Navy intends to conduct OMB Circular A–76 (48 FR 37110, August 16, 1983) cost studies of various functions at the listed activities, commencing August 2, 1985. The cost study process is a rigorous, time-consuming procedure and, depending upon the size of the functions involved, can take several months to several years to complete. Since the studies have not yet begun, specifications have not yet been prepared. When bids/proposals are desired, appropriate advertisements will be placed. No consolidated bidders' list is being maintained since the solicitations will be processed by various contracting offices throughout the U.S.

Public Works Center, San Diego, CA

Electrical Plants and Systems

Public Works Center, Pensacola, FL

Electrical Plants and Systems
Heating Plants and Systems
Water Plants and Systems
Sewage/Waste Plants and Systems
Other Services or Utilities

Public Works Center, Great Lakes, IL

Electrical Plants and Systems

Public Works Center, Norfolk, VA

Electrical Plants and Systems.

Dated: August 1, 1985.

T.H. Upton,

Capt. SC, USN, Head, Commercial/Retail Activities Branch, Chief of Naval Operations.

[FR Doc. 85–18817 Filed 8–9–85; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests Under OMB Review

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Deputy Under Secretary for 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 11, 1985.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: 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 4074, Switzer Building, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 426–7304.

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 Deputy Under Secretary for Management publishes this notice containing proposed information collection requests prior to the 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) Agency form number (if any); (4) Frequency of the collection; (5) The affected public; (6) Reporting burden; and/or (7) Recordkeeping burden; and (8) Abstract.

OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: August 7, 1987.

Linda M. Combs,

Deputy Under Secretary for Management.

Office of Postsecondary Education

Type of Review Requested: Existing
Title: Financial and Performance Reports under the Graduate and Professional Opportunity Fellowships Program
Agency Form Number: ED 591A, ED 591B and ED 404A
Frequency: Annually
Affected Public: Non-profit institutions
Reporting Burden: Responses: 130; Burden Hours: 5,580
Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0

Abstract: Report forms are utilized to obtain information from grant recipients to assure that Federal funds were expended within the provisions of all applicable laws and regulations and to assess the accomplishment of project goals and objectives.

[FR Doc. 85–19075 Filed 8–9–85; 8:45 am]

BILLING CODE 4000–01–M

New Awards for Fiscal Year 1986 Under the Fulbright-Hays Training Grant Programs; Faculty Research Abroad, Foreign Curriculum Consultants, Group Projects Abroad, and Doctoral Dissertation Research Abroad Programs

Applications are invited for new awards under the Fulbright-Hays Training Grant Programs for fiscal year 1986. The Fulbright-Hays Training Grant Programs include the Faculty Research

Abroad, Foreign Curriculum Consultants, Group Projects Abroad, and Doctoral Dissertation Research Abroad Programs. Authority for these programs is contained in the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2450(b)(6)).

The Faculty Research Abroad Program offers opportunities to faculty members of institutions of higher education for research and study abroad in modern foreign languages and area studies.

The Foreign Curriculum Consultants Program brings specialists from other countries to the United States as resource persons for an academic year to assist selected institutions in planning and developing curricula in modern foreign languages and area studies.

The Group Projects Abroad Program provides grants to educational institutions or nonprofit educational organizations for training, research, and study abroad in modern foreign languages and area studies by groups of individuals engaged in a common endeavor.

The Doctoral Dissertation Research Abroad Program provides opportunities for graduate students to engage in full-time dissertation research abroad in modern foreign languages and area studies.

Closing date for transmittal of applications: An application for a grant must be mailed or hand-delivered by November 4, 1985.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.019, Faculty Research Abroad Program; 84.020, Foreign Curriculum Consultants Program; 84.021, Group Projects Abroad Program; or 84.022, Doctoral Dissertation Research Abroad Program, 400 Maryland Avenue, SW, Washington, DC 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Room 3633, Regional Office Building 3, 7th and D Streets, SW, Washington, DC.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:00 p.m. (Washington, DC time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted by the Application Control Center after 4:00 p.m. on the closing date.

Eligible applicants: For the Faculty Research Abroad and Doctoral Dissertation Research Abroad Programs, eligible applicants are institutions of higher education.

For the Foreign Curriculum Consultants Program, eligible applicants include institutions of higher education, State and local educational agencies, private nonprofit educational organizations, and consortia of such institutions and agencies.

For the Group Projects Abroad Program, eligible applicants include institutions of higher education, State departments of education, private nonprofit educational organizations, and consortia of such institutions, departments, and organizations.

Program information: Applications will be evaluated in accordance with the selection criteria contained in the program regulations. These criteria are found in 34 CFR 663.32, 665.31, 664.31, and 662.32, for the Faculty Research Abroad, Foreign Curriculum Consultants, Group Projects Abroad, and Doctoral Dissertation Research Abroad Programs, respectively.

It is anticipated that Special Foreign Currencies will not be available for these programs in fiscal year 1986.

The Secretary has determined that for the Faculty Research Abroad Program, the Group Projects Abroad Program, and the Doctoral Dissertation Research Abroad Program, projects focusing on Western Europe will not be funded.

Funding priorities: The regulations for these programs permit the establishment of funding priorities.

The Group Projects Abroad Program encourages applicants to submit projects for certain regions of the world to which less attention has been paid in the past. These regions are Eastern Europe, the Near East, Southeast Asia, and Sub-Saharan Africa.

Available funds: The Administration's budget for fiscal year 1986 does not request an appropriation of U.S. dollars or foreign currencies for any of the Fulbright-Hays Training Grant Programs. However, applications are invited to allow for sufficient time to evaluate them and complete the grants process before the end of the fiscal year, should the Congress appropriate funds for this program. The unusually lengthy time required to review applications for these programs in the United States and abroad and to recruit qualified foreign educators for the Foreign Curriculum Consultants Program makes this notice necessary at this time.

Application forms: Application forms and program information packages are expected to be ready for mailing by September 3, 1985. They may be obtained by writing to the Center for International Education, Office of Postsecondary Education, U.S. Department of Education (Room 3923, ROB-3) Mail Stop 3308, 400 Maryland Avenue, SW, Washington, DC 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information package is intended to aid applicants in applying for assistance under these programs. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those specifically imposed under the statute and regulations governing these programs.

The Secretary suggests that the narrative portion of the application not exceed 10 double-spaced pages for the Faculty Research Abroad and Doctoral Dissertation Research Abroad Programs; 15 double-spaced pages for the Foreign Curriculum Consultants Program; and, 35 double-spaced pages for the Group Projects Abroad Program. The Secretary further urges that applicants not submit information that is not requested. These forms are approved under the Paperwork Reduction Act of 1980. (Approved by the Office of Management and Budget under Control Numbers 1840-0005 and 1840-0068).

Application regulations: Regulations applicable to these programs include the following:

(a) Regulations governing the Higher Education Programs in Modern Foreign

Language Training and Area Studies, 34 CFR Parts 662, 663, 664, and 665.

(b) Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, and 78.

Further information: For further information, contact Mrs. Merion Kane (Faculty Research Abroad Program), Telephone (202) 245-9425; Mrs. Gwendolyn N. Weaver (Foreign Curriculum Consultants Program), (202) 245-2794; Dr. Stephney J. Keyser (Group Projects Abroad Program), (202) 245-2794; or Mr. John Paul (Doctoral Dissertation Research Abroad Program), (202) 245-9425; Department of Education, Mail Stop 3308, 400 Maryland Avenue, SW, Washington, DC 20202.

(22 U.S.C. 2452(b)(6)).

(Catalog of Federal Domestic Assistance No. 84.019, Faculty Research Abroad Program; No. 84.020, Foreign Curriculum Consultants Program; No. 84.021, Group Projects Abroad Program; No. 84.022, Doctoral Dissertation Research Abroad Program)

Dated: August 7, 1985.

William J. Bennett,

Secretry of Education.

[FR Doc. 85-19112 Filed 8-9-85; 8:45 am]

BILLING CODE 4000-01-M

Notice for New Awards Under Minority Institutions Science Improvement Program

AGENCY: Department of Education.

ACTION: Application Notice for New Awards under Minority Institutions Science Improvement Program for Fiscal Year 1986.

Applications are invited for new grant awards to be made in fiscal year 1986 under the Minority Institutions Science Improvement Program (MISIP).

Authority for this program is contained in section 528(3) of the Omnibus Budget Reconciliation Act of 1981, as extended by section 414 of the General Education Provisions Act.

(20 U.S.C. 1221e-1b)

The Secretary of Education makes four types of project grant awards under MISIP. The four categories are: (1) Institutional, (2) Design, (3) Cooperative, and (4) Special. Depending on the type of grant, eligible applicants include public and private nonprofit institutions with a minority enrollment that exceeds 50 percent of the total enrollment; professional scientific societies; nonprofit science-oriented organizations; and nonprofit accredited colleges and universities which render a needed service to a group of eligible minority institutions or which provide in-service training for project directors, scientists, and engineers from eligible institutions.

Closing dates for transmittal of applications: Applications for new awards under Institutional, Design, and Cooperative Project grants must be mailed or hand-delivered on or before November 25, 1985.

Applications for new awards for Special Project grants must be mailed or hand-delivered on or before February 21, 1986.

Applications delivered by mail: Applications sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.120A, 400 Maryland Avenue, SW., Washington, DC 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first-class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: Applications that are hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Room 3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:00 p.m. (Washington, DC time) daily, except Saturdays, Sundays, and Federal holidays.

Applications for Institutional, Design, or Cooperative Project grants that are hand delivered will not be accepted by the Application Control Center after 4:00 p.m. on November 25, 1985.

Applications for Special Project grants that are hand-delivered will not be accepted by the Application Control Center after 4:00 p.m. on February 21, 1986.

Available funds: The Administration's budget for fiscal year 1986 requested an appropriation of $5,000,000 for the Minority Institutions Science Improvement Program. Should this amount be appropriated, approximately $3,750,000 will be available for Institutional, Design, and Cooperative Project grant awards. It is estimated that these funds will support approximately 15 awards. The expected maximum awards for these grants are: $300,000 for a 36-month Institutional Project; $500,000 for a 36-month Cooperative Project; and $20,000 for a 12-month Design Project. The remaining $1,250,000 will be available to support approximately 18 Special Project grant awards. The expected maximum award for a Special Project grant is $150,000 for a 24-month project period. These estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant, unless that amount is otherwise specified by statute or regulations.

Program information: The Minority Institutions Science Improvement Program support projects that propose to enhance a minority institution's capacity for developing and maintaining a quality science education program for all of its students and to augment the institution's capability for increasing the flow of underrepresented ethnic minorities into the fields of science and engineering.

The Secretary awards grants in the following categories:

(1) *Design* Project grants assist minority institutions that do not have their own appropriate resources or personnel to plan and develop long-range science improvement programs.

(2) *Institutional* Project grants support the implementation of a comprehensive science improvement plan, which may include any combination of activities for improving the preparation of minority students for careers in science.

(3) *Cooperative* Project grants assist groups of nonprofit, accredited colleges and universities to work together to conduct a science improvement project; and

(4) *Special* Project grants for which—

(a) Minority institutions are eligible to support activities that improve quality training in science and engineering or enhance the minority institutions' general scientific research capabilities, or

(b) all applicants are eligible which support activities that provide a needed service to a group of eligible minority institutions, or that provide inservice training for project directors, scientists, and engineers from eligible minority institutions.

Application forms: Application forms are included in the program information packages that are expected to be ready for mailing by September 25, 1985. Interested persons may obtain program information packages by writing to the U.S. Department of Education, Office of Postsecondary Education, Division of Higher Education Incentive Programs (MISIP), 400 Maryland Avenue, SW., (Room 3022, ROB–3) Washington, DC 20202. Telephone (202) 245–3253.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information package is only intended to aid new applications in applying for assistance under this program. Nothing in this package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 22 pages.

The Secretary further urges that applicants not submit information that is not requested.

The application form is approved by the Office of Management and Budget under control number 1840–0109.

Applicable regulations: Regulations applicable to this program include the following:

(1) Regulations governing the Minority Institutions Science Improvement Program in 34 CFR Part 637.

(2) The Education Department General Administrative Regulations (EDGAR) is 34 CFR Parts 74, 75, 77, and 78.

Further information: For further information, contact Dr. Argelia Velez-Rodriguez of the U.S. Department of Education, Office of Postsecondary Education, Division of Higher Education Incentive Programs (MISIP), 400 Maryland Avenue, SW., Room 3022, ROB–3, Washington, DC 20202. Telephone (202) 245–3253.

(20 U.S.C. 1221e-1b)

(Catalog Federal Domestic Assistance No. 84.120A, Minority Institutions Science Improvement Program)

Dated: August 7, 1985.

C. Ronald Kimberling,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 85–19113 Filed 8–9–85; 8:45 am]

BILLING CODE 4000–01–M

Undergraduate International Studies And Foreign Language Program; Application Notice for New and Noncompeting Continuation Projects for Fiscal Year 1986

Applications are invited for new and noncompeting continuation projects under the Undergraduate International Studies and Foreign Language Program.

Authority for this program is contained in Title VI, section 604, of the Higher Education Act of 1965, as amended. (20 U.S.C. 1124)

The Undergraduate International Studies and Foreign Langauge Program issues awards to institutions of higher education, consortia of such institutions, and public and nonprofit private agencies and organizations, including professional and scholarly associations. The purpose of the awards is to—

(a) Assist institutions of higher education and consortia of such institutions, to plan, develop, and carry out a comprehensive program to strengthen and improve undergraduate instruction in international studies and foreign languages; and

(b) Assist associations and organizations to develop projects that will make an especially significant contribution to strengthening and improving undergraduate instruction in international studies and foreign languages.

Closing date for transmittal of applications: (1) An application for a new grant must be mailed or hand delivered by Nov. 12, 1985. (2) An application for a noncompeting continuation grant, to be assured of consideration for funding, should be mailed or hand delivered by Jan. 10, 1986. If the application for a noncompeting continuation grant is late, the Department of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.016 (Undergraduate International Studies and Foreign Language Program), Washington, DC 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant for a new grant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered should be taken to the U.S. Department of Education, Application Control Center, (Room 3633, Regional Office Building 3), 7th and D Streets, SW., Washington, DC 20202.

The Application Control Center will accept a hand delivered application between 8:00 a.m. and 4:00 p.m. (Washington, DC time) daily, except Saturdays, Sundays, and Federal holidays.

An application for a new grant that is hand-delivered will not be accepted after 4:00 p.m. on the closing date.

Program information: Information regarding this program is contained in the International Education Programs General Provisions Regulations and the Undergraduate International Studies and Foreign Language Program Regulations, 34 CFR Parts 655 and 658. Information regarding the continuation of noncompeting continuation awards is contained in the Education Department General Administrative Regulations, EDGAR, 34 CFR 75.253.

Application topics for new projects: Applications will be accepted in Fiscal Year 1986 for new projects in all categories included in the program regulations. The Secretary encourages applications designed to promote excellence in education and provide leadership in developing more effective learning strategies in international education and modern foreign language training. The Secretary further encourages applications which demonstrate the active involvement of the institution's administration in program design and implementation, and provide evidence that the project will continue without Federal assistance after the grant terminates. More specifically, the Secretary encourages new projects in the following categories:

(1) Projects initiated by institutions of higher education and consortia of such institutions, which can serve as exemplary or model projects for other higher education institutions, particularly in the field of teacher education.

(2) Projects initiated by organizations and associations which will make a significant contribution to strengthening and improving undergraduate instruction in international studies and foreign languages.

(3) Projects that use Federal dollars in partnership with institutional and private sector funding.

(4) Projects that strengthen the acquisition of basic and higher level skills in modern foreign languages, and in disciplines such as history, anthropology, economics, and the geography of the areas where such foreign languages are spoken.

(5) Projects that strengthen the acquisition of knowledge and skills in professional fields with an international component, such as agriculture, business, education, and journalism, or that develop skills for the analysis of critical issues such as economic development, technology utilization, national security, or international trade.

(6) Projects that utilize computers to implement more effective means of teaching modern foreign languages, and for the collection and analysis of information about critical international issues.

Because of the planning time required to develop and implement new curricula in modern foreign languages, and to develop curricula that strengthen skills in international fields of study, the Secretary of Education is accepting applications for new projects of up to two years for a single institution, and up to three years for consortia.

Available funds: The Administration's budget request for fiscal year 1986 does not include funds for the undergraduate International Studies and Foreign Language Program. However, applications are being invited to allow for sufficient time to evaluate applications and complete the grant process prior to the end of the fiscal year, should Congress appropriate funds for this program.

Application forms: Application forms and program information packages are expected to be ready for mailing by Sept. 3, 1985. They may be obtained by writing to Mr. Ralph Hines, International Studies Branch, Center for International Education, U.S. Department of Education, (Room 3916, Regional Office Building), 7th and D Streets, SW., Washington, DC 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary suggests that the narrative portion of the application not exceed 35 pages in length. The Secretary further urges that applicants not submit information that is not requested.

The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competition.

(Approved by the Office of Management and Budget under Control Number 1840-0068)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Undergraduate International Studies and Foreign Language Program, 34 CFR Parts 655 and 658.

(b) Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77 and 78.

Further information: For further information, contract Mr. Ralph Hines, International Studies Branch, Center for International Education, U.S. Department of Education (Room 3916, Regional Office Building 3), 7th and D Streets., S.W., Washington, DC 20202. Telephone: (202) 245-2794.

(20 U.S.C. 1124)

(Catalog of Federal Domestic Assistance Number 84.016—Undergraduate International Studies and Foreign Language Program)

Dated: August 7, 1985.

William J. Bennett,

Secretary of Education.

[FR Doc. 85-19114 File 8-9-85; 8:45 am]

BILLING CODE 4000-01

National Advisory Committee on Accreditation and Institutional Eligibility; Meeting

AGENCY: Department of Education.

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a public meeting of a Subcommittee of the National Advisory Committee on Accreditation and Institutional Eligibility. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

This document is intended to notify the general public of its opportunity to attend and to participate.

DATE: August 27, 9:00 a.m. to 5:00 p.m., local time.

ADDRESS: Federal Office Building No. 3, 7th and D Streets SW., Washington, D.C., Room 3912.

Agenda: Outcomes of Accreditation.

FOR FURTHER INFORMATION CONTACT: Morris L. Brown (202) 245-9703.

SUPPLEMENTARY INFORMATION: The National Advisory Committee on Accreditation and Institutional Eligibility is authorized by section 1205 of the Higher Education Act as amended by Pub. L. 96-374 (20 U.S.C. 1145). The Committee advises the Secretary of Education regarding his responsibility to publish a list of nationally recognized accrediting agencies and associations, State agencies recognized for the approval of public postsecondary vocational education, and State agencies recognized for the approval of nurse education.

The Committee also advises the Secretary of Education regarding policy affecting both recognition of accrediting and approval bodies, and institutional eligibility for participation in Federal funding programs.

A record will be made of the proceedings of the meeting and will be available for public inspection at the Office of Postsecondary Education, 400 Maryland Avenue, SW (Room 3030—ROB-3), U.S. Department of Education, Washington, D.C. 20202 from the hours of 8:00 a.m. to 4:30 p.m., local time, Monday through Friday.

Signed at Washington, D.C., on August 7, 1985.

Kenneth D. Whitehead,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 85-19125 Filed 8-9-85; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Availability of the Bonneville Acquisition Guide and the Bonneville Power Assistance Instructions

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of Document availability.

SUMMARY: Copies of the Bonneville Acquisition Guide (BAG) which establishes the procedures BPA uses in the solicitation, award, and administration of procurement contracts, and the Bonneville Power Assistance Instructions (BPAI) which establishes the procedures BPA uses in the solicitation, award, and

administration of financial assistance instruments (principally grants and cooperative agreements) are now available from BPA for $20 and $10 each, respectively.

ADDRESSEES: Copies of the BAG or BPAI may be obtained by sending a check for the proper amount to the General Accounting Section—DTKC, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208.

FOR FURTHER INFORMATION CONTACT: N. L. Linscott, Contracts Manager at the above address, 503–230–4513.

SUPPLEMENTARY INFORMATION: The Bonneville Power Administration was established in 1937 as a Federal Power Marketing agency in the Pacific Northwest. BPA is a nonappropriated fund entity which finances its operations from power revenues. Its procurement operations are conducted under 16 U.S.C. 832 et seq. as well as 40 U.S.C. 474(d)(20). The BAG utilizes the special authorities referred to in the preceding sentence as a basis for establishing BPA's procurement policy; however, it follows the format of the Federal Acquisition Regulations to assist offerors in locating pertinent policies. The BAG has been reprinted as of July 1, 1985, to incorporate all changes made since its original publication on July 1, 1983. BPA's financial assistance operations are conducted under 16 U.S.C. 832 et seq. as well as 16 U.S.C. 839 et seq. The BPAI utilizes the special authorities referred to in the preceding sentence as a basis for establishing BPA's financial assistance policy. The BPAI also contains BPA's implementation of the principles provided in the following OMB circulars:

A–21—Cost principles applicable to grants, contracts, and other agreements with institutions of higher education.

A–87—Cost principles applicable to grants, contracts, and other agreements with State and local governments.

A–102—Uniform administrative requirements for grants-in-aid to State and local governments.

A–110—Grants and agreements with institutions of higher education, hospitals and other nonprofit organizations.

A–122—Cost principles applicable to grants, contracts, and other agreements with nonprofit organizations.

A–128—Audits of State and local governments.

All BPA solicitations include notice of applicability and availability of the BAG or the BPAI as appropriate for the information of offerors on particular procurements or financial assistance transactions.

Issued in Portland, Oregon, On August 1, 1985.

Peter T. Johnson,

Administrator.

[FR Doc. 85–19066, Filed 8–9–85; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. TA85–14–20–000 and 001]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

August 7, 1985.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on July 31, 1985, tendered for filing Eighth Revised Sheet No. 201 and Fifth Revised Sheet No. 231 to its FERC Gas Tariff, Second Revised Volume No. 1.

Algonquin Gas states that Eighth Revised Sheet No. 201 and Fifth Revised Sheet No. 231 are being filed pursuant to Algonquin Gas' Purchased Gas Cost Adjustment Provision as set forth in Section 17 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1. The rates as shown on Eighth Revised Sheet No. 201 reflect an adjustment to amortize the June 30, 1985 balance in Algonquin Gas' Unrecovered Purchased Gas Cost Account (Account No. 191). Fifth Revised Sheet No. 231 reflects Projected Incremental Pricing Surcharges for the period September, 1985 through February, 1986.

Algonquin Gas proposes the effective date of Eighth Revised Sheet No. 201 and Fifth Revised Sheet No. 231 to be September 1, 1985.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protest should be filed on or before August 16, 1985. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–19131 Filed 8–9–85; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA85–2–48–003]

ANR Pipeline Co.; PGA Rate Change Filing

August 7, 1985.

Take notice that on July 30, 1985, ANR Pipeline Company ("ANR"), pursuant to Section 15 of the General Terms and Conditions of its F.E.R.C. Gas Tariff, Original Volume No. 1, tendered for filing with the Federal Energy Regulatory Commission ("Commission") Second Revised Sheet No. 18 and First Revised Sheet No. 41 to Original Volume No. 1 of its Tariff to be effective August 1, 1985.

Second Revised Sheet No. 18 complies with the Commission's order at Docket No. TA85–2–48–000, dated April 30, 1985, by reducing ANR's rates, for the period August 1, 1985 through October 31, 1985 by $7,171,864, composed of principal at $6,554,223 and interest of $617,641 to remove purchased gas costs incurred in providing service to its Rate Schedule EUT–1 transportation customers. The Commission's order also provided for the tracking by ANR of any reduction in the rates of its pipeline suppliers. Thus, ANR has included the revised rates of Northern Natural Gas Company, Division of Internorth, Inc. ("Northern"), which results in a reduction in the commodity rate of .18¢. Any overrecovery of purchased gas costs during the months of May, June and July, 1985 from Northern's decreased rates are anticipated to be minimal and will flow back through ANR's Account 191.

First Revised Sheet No. 41 amends ANR's existing Rate Schedule EUT–1 and provides that if ANR is reimbursed for fuel in cash, it will credit all such fuel related revenues to Account No. 191. That is the same change required by the settlement reached relative to fuel in Docket Nos. RP84–1–001 and TA85–2–48–000.

ANR states that copies of the filing were served upon all of its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or to protest with the Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and

Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 16, 1985. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-19132 Filed 8-9-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-4-32-000, 001]

Colorado Interstate Gas Co. Proposed Change in Rates Under Purchased Gas Adjustment Clause Provision

August 7, 1985.

Take notice that Colorado Interstate Gas Company (CIG) on July 22, 1985, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1. According to § 381.103(b)(2)(iii) of the Commission's regulations (18 CFR 381.103(b)(2)(iii)), the date of filing is the date on which the Commission receives the appropriate filing fee, which in the instant case was not until July 30, 1985. The proposed changes would decrease the demand rate under CIG's jurisdictional rate schedules by 3 cents per Mcf and decrease the commodity rate by 2.14 cents per Mcf. This filing reflects a net annual decrease in purchased gas costs of approximately $4.4 million.

The filing was made to enable CIG to reflect in its rates, pursuant to Section 21 of CIG's FERC Gas Tariff, Original Volume No. 1, net decreased purchased gas costs it will experience as the result of rate filings made by certain of its pipeline suppliers.

CIG requests that the instant filing be made effective on July 1, 1985.

Copies of the filing have been served upon the Company's jurisdictional customers and other interested persons, including public bodies.

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 Capital Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 16, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to be 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-19133 Filed 8-9-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-2-21-000, 001]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

August 7, 1985

Take notice that Columbia Gas Transmission Corporation (Columbia) on July 31, 1985, tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volume No. 1, to be effective on September 1, 1985.

Ninety-ninth Revised Sheet No. 16
Seventh Revised Sheet Nos. 16B and 16C
Thirty-sixth Revised Sheet No. 64

Columbia states that the filing is consistent with the Stipulation and Agreement in Docket Nos. TA82-1-21-001, *et al.*, approved by the Commission's Order dated June 14, 1985, as modified by Order dated June 25, 1985. Such Stipulation and Agreement provides that Columbia's demand charge shall remain subject to PGA adjustment during the settlement period. However, such Stipulation and Agreement also provides that Columbia shall not file for any commodity rate increase under its PGA provision to be effective during the settlement period. Therefore, Columbia states that the rates set forth on the above referenced tariff sheets are in accordance with the Stipulation and Agreement and reflect the following:

(1) The rates set forth on Ninety-ninth Revised Sheet No. 16 reflect a $1.568/dth increase in the Demand Rate Applicable to Non-Shielded Customers and a $1.377/dth increase in the Demand Rate Applicable to Shielded Customers, which results in an approximate increase of $45 million applicable to sales rate schedules for the subject PGA period. This increase is composed of the net of (i) Demand Purchased Gas Cost Adjustments which reflect an increase in the current demand cost of gas, and (ii) Demand Surcharge Adjustments which reflect a credit amount of unrecovered demand purchased gas costs and associated carrying charges; and

(2) The Demand Purchased Gas Surcharge amounts set forth on Seventh Revised Sheet Nos. 16B and 16C provide for the recovery of $13,579 in demand gas purchased costs from customers receiving service under Columbia's Rate Schedule SGES.

Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure. All such motions or protests should be filed on or before August 16, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 19134 Filed 8-9-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP85-729-000, et al.]

Columbia Gas Transmisson Corp. et al.; Natuarl Gas Certificate Filings

August 6, 1985.

Take notice that the following filings have been made with the Commission:

1. Columbia Gas Transmission Corporation

[Docket No. CP85-729-000]

Take notice that on July 22, 1985, Columbia Gas Transmission Corporation (Columbia), Post Office Box 1273, Charleston, West Virginia 25325, filed in Docket No. CP84-729-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate new sales delivery points and to deliver natural gas to existing wholesale customers under the certificate issued in Docket No. CP83-76-000 pursuant to Section 7 of the Natural Gas, Act, all as more fully set forth in the request of file with the Commission and open to public inspection.

Columbia requests authorization to construct and operate the facilities necessary to provide additional points

of delivery to existing wholesale customers for sales of natural gas under Columbia's Rate Schedules CDS. Columbia indicates that the additional natural gas volumes to be provided through the proposed new points of delivery are within Columbia's currently authorized level of sales and such volumes will not affect the peak day and annual deliveries to which Columbia's existing wholesale customers are entitled.

Columbia proposed to establish the following new delivery points:

Customer	Location (county/state)	Peak day (Mcf)	Annual (Mcf)
Columbia Gas of Ohio, Inc.	Fairfield, OH	99.4	10,320
	Licking, OH	1.5	150
Mountaineer Gas Company.	Kanawha, WV	1.5	150
Shenandoah Gas Company.	Shenandoah, WV.	30.0	34,480
Penn Fuel Gas, Inc.	Chester, PA	600.0	100,000

Comment date: September 20, 1985, in accordance with Standard Paragraph G at the end of this notice.

2. Southern Natural Gas Company

[Docket No. CP-725-000]

Take notice that on July 19, 1985, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35203, filed in Docket No. CP85-725-000 a request pursuant to Section 157.205 of the Regulations under Natural Gas Act (18 CFR 157.205) for authorization to relocate its Adairsville, Georgia, meter station and to abandon the existing station under the authorization issued in Docket No. CP82-406-000, all as more fully set forth in the request on file with the Commission and open to public inspection.

Southern states that it has agreed to relocate its Adairsville, Georgia, Meter Station from its present location on Southern's Rome-Calhoun line and loop line to a site approximately eight miles closer to Adairsville's primary service area on Southern's Chattanooga branch line and branch loop line in Floyd County, Georgia.

In its request, Southern states that the new meter station would consist of two 3-inch orifice meter runs, heater, and certain related regulating and tie-in facilities. Southern's estimated cost of the new station is $147,000. Southern states that Adairsville would reimburse Southern for the total cost of the replacement except for those costs directly related to the replacement by Southern of the existing station's obsolete regulators, valves and metering facilities. The cost directly related to the replacement of obsolete facilities is estimated by Southern to be approximately $56,000.

Southern states that the maximum delivery obligation qualtity for the City of Adairsville area delivery point as specified in the Exhibit A to the service agreement between Southern and Adairsville dated September 8, 1969, is 1,121 Mcf at 14.73 psia. As stated in Southern's request, there would be no increase in the maximum delivery obligation at the new meter station. Southern proposes to increase the delivery pressure at the new meter station from the existing contract pressure of 250 psig to 290 pursuant to Adairsville request. Southern states that it would file a revised Exhibit A to its service agreement with Adairsville to reflect the relocation of the City of Adairsville meter station and the related increase in contract pressure at the new meter station once the proposed activities are authorized under the Commission's Regulations.

Southern states that it has been advised by the City of Adairsville that approval of the proposed relocation would place the meter station in closer proximity to Adairsville's primary service area and would thereby improve Adairsville's ability to maintain pressure on its distribution system.

Southern states that the proposed relocation would not result in any termination of service to Adairsville and would have a *de minimis* impact on Southern's peak day and annual deliveries. It is stated that the total volumes to be delivered to Adairsville after the relocation would not exceed the total volumes authorized prior to the relocation. In addition, it is stated that Southern has sufficient capacity to accomplish the delivery proposed by the relocation without detriment or disadvantage to Southern's other customers.

Comment date: September 20, 1985, in accordance with Standard Paragraph G at the end of this notice.

3. ANR Pipeline Company

[Docket No. CP85-714-000]

Take notice that on July 17, 1985, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP85-714-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (NGA) (18 CFR 157.205) and for authorization to transport natural gas for Bethlehem Steel Corporation (Bethlehem) under the certificate issued in Docket No. CP82-480-000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

ANR requests authority, pursuant to § 157.209 of the Regulations, to transport on a best-efforts basis up to 25,000 dt equivalent of natrual gas per day for Bethlehem in accordance with a transportation agreement dated May 3, 1985, among ANR, Bethlehem and Caliche Pipeline Company (Caliche). ANR states the gas to be transported would be purchased by Bethlehem, from Caliche, pursuant to a gas purchase contract dated April 30, 1985, for use in Behtlehem's Burns Harbor, Indiana, steel mill. Caliche would sell up to a daily quantity of 25,000 dt equivalent of natural gas at an initial price of $2.55 per million Btu and would tender the gas for the account of Bethlehem at various points of interconnection of the pipeline systems of ANR and Caliche in Oklahoma and Texas. ANR would redeliver the gas, less 2.0 percent for fuel and unaccounted-for gas losses, to Natural Gas Pipeline Company of America (NGPL) for Behtlehem's account at the interconnection of the pipeline systems of NGPL and ANR in Beaver County, Oklahoma. ANR indicates that NGPL and Northern Indiana Public Service Company (NIPSCo) would provide transportation services to accomplish delivery of the gas to Bethlehem's Burns Harbor, Indiana, facility.

ANR states that Bethlehem would pay 6.8 cents per dt equivalent for all gas transported. It is explained that this transporation rate is based upon ANR's Rate Schedule EUT-1 and calculated upon a haul distance of 109 miles and 3.6 cents per 100 miles. ANR states the transportation service, which commenced June 1, 1985, would extend through October 31, 1985, under the authorization sought in Docket No. CP85-714-000.[1]

ANR states that it requires no new facilities to provide the proposed service. It is indicated that Bethlehem is a qualified end-user and that the gas would be used in blast furnaces, boilers and reheat furnaces with alternative fuel capability.

ANR also reuests flexible authority to add or delete receipt/delivery point associated with Sources of gas acquired by Bethlehem for service to it at the same location, within the maximum daily and annual volumes authorized in the instant docket. ANR would file a report, within 30 days, following any addition or deletion of any gas source.

[1] ANR seeks certificate authorization in Docket No. CP85-714-001 to continue service after October 31, 1985.

Comment date: September 20, 1985, in accordance with Standard Paragraph G at the end of this notice.

4. Northwest Pipeline Corporation

[Docket No. CP85-706-000]

Take notice on July 15, 1985, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84110, filed in Docket No. CP85-706-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for the account of Panhandle Eastern Pipe Line Company (Panhandle), an interstate pipeline company, under the certificate issued in Docket No. CP82-433-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northwest proposes to provide best-efforts transportation for up to 800 million Btu's of natural gas per day for the account of Panhandle under a gas gathering and transportation agreement (agreement) dated September 19, 1983. The proposed transporation service, it is said, would be for an initial term of twenty years and from year-to-year thereafter until terminated by either party.

Northwest states that it would receive for gathering and transportation the volumes of natural gas which Panhandle tenders to Northwest at various wells located in Sublette County and Lincoln County, Wyoming. Northwest states further that it would gather such gas through its Big Piney gathering system facilities to its Opal gasoline plant in Lincoln County, Wyoming (Opal receipt point). It is said that Northwest then would transport such gas from the Opal receipt point, through its transmission facilities, to an existing point of interconnection with Colorado Interstate Gas Company (CIG) located in Sweetwater County, Wyoming, where thermally equivalent volumes, less gathering and transmission fuel, would be delivered to CIG for Panhandle's account.

Northwest further states that it would charge Panhandle its current rate for interruptible off-system transportation service as set forth on Sheet No. 2.1, section 3, in Northwest's currently effective F.E.R.C. Gas Tariff, Volume No. 2. It is said that the total mainline transportation rate would be 6.77 cents per million Btu plus the G.R.I. surcharge of 1.18 cents per million Btu. It is further said that Northwest would also retain 1.10 percent of volumes transported as reimbursement for mainline fule usage.

In addition to the jurisdictional transportation rate set forth above, Northwest states that it would charge Panhandle its Big Piney area gathering rate for the nonjurisdictional gathering service to be provided by Northwest.

Northwest states that the proposed service is conditioned upon the availability of pipeline capacity sufficient to provide such service without detriment or disadvantage to Northwest's existing customers who are dependent on Northwest's general system supply.

Comment date: September 20, 1985, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-19129 Filed 8-9-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-3-33-003]

El Paso Natural Gas Co.; Proposed Out-of-Period Change in Rates Pursuant to Purchased Gas Cost Adjustment

August 7, 1985.

Take notice that on August 1, 1985, El Paso Natural Gas Company ("El Paso") tendered for filing pursuant to Section 4 of the Natural Gas Act, and Part 154 of the Regulations issued thereunder by the Federal Energy Regulatory Commission ("Commission") and Paragraph 2.6 of Article II of El Paso's Stipulation and Agreement in Settlement of Rate Proceedings ("Stipulation and Agreement") filed on June 25, 1985 at Docket No. RP85-58-000, *et al.*, a notice of an out-of-period change in rates. The change in rates relates to jurisdictional gas service rendered to customers served by its interstate gas transmission system under rate schedules affected by and subject to Section 19, Purchased Gas Cost Adjustment Provision ("PGA"), contained in the General Terms and Conditions of El Paso's FERC Gas Tariff, First Revised Volume No. 1, which Section 19 also applies to certain special rate schedules contained in El Paso's FERC Gas Tariff, Third Revised Volume No. 2 and original Volume No. 2A.

The filing reflects that the proposed total net change in El Paso's currently effective rates attributable to the cost of purchased gas component of the PGA is a decrease of $.0546 per dth. Such proposed change in rates is to be effective for the three-month period July through September, 1985. El Paso states that the surcharge components of the rates effective April 1, 1985 are not affected by the proposed out-of-period change in rates.

To implement the instant notice of change in rates, El Paso tendered for filing the following revised tariff sheets to its FERC Gas Tariff:

Tariff volume	Tariff sheet
First Revised Volume No. 1	Fifth Revised Sheet No. 100. Fourth Revised Sheet No. 540.
Third Revised Volume No. 2	Thirtieth Revised Sheet No. 1-D.
Original Volume No. 2A	Thirty-first Revised Sheet No. 1-C.

Paragraph 2.6 of Article II of El Paso's Stipulation and Agreement at Docket No. RP85-58-000 *et al.*, provides that the approval of such Stipulation and Agreement, among other things, constitutes waiver of El Paso's Volume No. 1 Tariff and of the Commission's Regulations sufficient to permit the instant filing to go into effect July 1, 1985. The Stipulation and Agreement makes clear, moreover, that the instant filing will be effective only upon the effectiveness of the Stipulation and Agreement. With that limitation, El Paso requests the tendered revised tariff sheets to be effective on July 1, 1985.

El Paso further states that it is tendering First Revised Sheet No. 24 of its FERC Gas Tariff, Original Volume No. 1-A to be effective July 1, 1985 in order to reflect the rate of $2.6741 per dth to be utilitzed to determine the fuel reimbursement charge payable under Section 6 of Rate Schedule T-1 or T-2 of said Tariff by shippers electing to reimburse El Paso for fuel usage in monthly payments rather than in-kind, as included in the Stipulation and Agreement.

El Paso states that the filing has been served upon all interstate pipeline

system cutomers of El Paso and all interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC., 20426, in accordance with §§385.214 and 385.211 of this Chapter. All such motions or protests should be filed on or before August 16, 1985. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-19135 Filed 8-9-85; 8:45am]

BILLING CODE 6717-01-M

[Docket No. TA85-1-13-003]

Gas Gathering Corp.: Return of Overcollections

August 7, 1985

Take notice that on July 22, 1985, Gas Gathering Corporation (Gas Gathering) tendered for filing a letter with supporting computations that it has sent to Transcontinental Gas Pipe Line Corporation (Transco) on July 18, 1985. Gas Gathering also tendered a check for $138,291.92 for the amounts it has overcollected from Transco in its 191 Account through April 1985, including interest through July 18, 1985.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 16, 1985. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc 85-19136 Filed 8-9-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-659-000]

Georgia Power Co.; Tariff Change

August 7, 1985

The filing Company submits the following:

Take notice that Georgia Power Company ("Georgia Power"), on August 1, 1985, tendered for filing proposed changes in its FERC Electric Tariff, Original Volme No. 2 (partial requirements service). Based on the twelve-month period ending July 31, 1986, the proposed changes would increase revenues from jurisdictional partial requirements service by $10,208,000. The filing contains proposed Rate Schedule PR-8 which would replace Rate Schedule PR-7 (partial requirements). Georgia Power has stated an effective date of September 30, 1985 for the changes. Georgia Power has designed rates which will produce the PR-8 increase in two steps (Level A—$4,413,000 and Level B—an additional $5,795,000). The Company requests that it be permitted to withdraw its Level A rates as of the date its Level B rates are permitted to become effective.

Georgia Power asserts that its costs have escalated steadily since the filing of its PR-7 rates, resulting in a large increase in the revenue required from wholesale service. The data submitted with Georgia Power's filing allegedly demonstrate that PR-7 rates do not provide a fair return on Georgia Power's wholesale service.

Georgia Power states that copies of the filing were served upon all of its jurisdictional customers.

Any person desiring to be heard or to protest said application 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 FR 385.211, 385.214). All such motions or protests should be filed on or before August 21, 1985. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-19137 Filed 8-9-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-2-60-000, 001]

Locust Ridge Gas Co.; Proposed Changes in FERC Gas Tariff

August 7, 1985

Take notice that on July 31, 1985 Locust Ridge Gas Company (Locust Ridge) tendered for filing as a part of its FERC Gas Tariff, Original Volume No. 1 and Original Volume No. 3, the following tariff sheets to be effective March 1, 1985:

Original Volume No. 1—Twelfth Revised Sheet No. 1A
Original Volume No. 3—Nineteenth Revised Sheet No. 1A

Locust Ridge states that the purpose of this filing is to submit, for Commission approval, a revision in Locust Ridge's rate for gas resold reflecting proposed changes in the Purchased Gas Component of such rate. The filing projects a decrease of $0.4767 per MMBtu in the company's resale rate to its jurisdictional customers under the above tariffs for the period beginning September 1, 1985 and ending March 1, 1986.

Locust Ridge requests waiver of the Commission's regulations to the extent, if any, required to place the proposed tariff sheets into effect September 1, 1985.

A copy of this filing has been mailed to Locust Ridge's jurisdiction customers affected by such filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 16, 1985. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-19138 Filed 8-9-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-3-25-000, 001]

Mississippi River Transmission Corp.; Rate Change Filing

August 7, 1985

Take notice that on August 1, 1985 Mississippi River Transmission Corporation ("Mississippi") tendered for filing Eleventh Revised Sheet No. 4 and Fourth Revised Sheet No. 4A to its FERC Gas Tariff, Second Revised Volume No. 1. An effective date of September 1, 1985 is proposed.

Eleventh Revised Sheet No. 4 is being submitted pursuant to Mississippi's gas tariff to track pipeline and producer rate changes and to recover gas costs which have accumulated in Mississippi's Unrecovered Purchased Gas Cost Account. Mississippi states that the overall cost impact on its jurisdictional customers is a decrease of approximately $49 million annually when compared to rates presently in effect.

Mississippi states that the filing reflects a decrease under Rate Schedule CD-1 of $.838 per Mcf in Demand Charge D-1, an increase of $.0023 per Mcf in the D-2 Demand Charge and a commodity rate decrease of $.3352 per Mcf. The single part rate under Rate Schedule SGS-1 reflects a purchased gas cost decrease of $.4018 per Mcf.

Mississippi states that Fourth Revised Sheet No. 4A indicates zero incremental pricing surcharges.

Mississippi states that copies of its filing have been served on all jurisdictional customers and interested state commissions. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 16, 1985. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-19139 Filed 8-9-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-150-002]

Natural Gas Pipeline Company of America; Proposed Changes in FERC Gas Tariff

August 7, 1985

Take notice that on July 29, 1985, Natural Gas Pipeline Company of America (Natural) filed under protest, proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1 and Second Revised Volume No. 2 to become effective December 1, 1985 and January 1, 1986.

Natural states that the purpose of this filing is to revise Natural's rates originally submitted on May 31, 1985, in the subject docket (Original Filing) to reflect the Commission's view of the appropriate rate design method to be applied to Natural's system and the *North Penn* methodology for computing the working capital allowance for current gas in storage. The revised schedules and statements supporting the computation of the revised rates are enclosed.

Natural also states that the instant compliance filing is being made under protest and is in no way intended to represent agreement by Natural with any of the principles and justification attending the June 28 Order. Nor is this filing to be construed as a waiver of any rights Natural may have with respect to the Original Filing and any hearing or other proceedings in connection therewith.

Natural states that it has mailed copies of its filing to its jurisdictional customers, interested state regulatory agencies and all parties on the official service list in Docket No. RP85-150-000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 16, 1985. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-19140 Filed 8-9-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA83-1-37-003, TA83-2-37-003, TA84-1-37-004, TA84-2-37-010, TA85-1-37-004, TA85-2-37-007 and RP82-56-018]

Northwest Pipeline Corp. Informal Settlement Conference

August 7, 1985.

Take notice that an informal settlement conference will be held in the above-referenced proceedings on September 10, 1985, at 10:00 a.m. The conference will take place in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

All interested parties and the Commission Staff are invited to attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-19141 Filed 8-9-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-18-002]

South Georgia Natural Gas Co.; Compliance Filing

August 7, 1985.

Take notice that on July 31, 1985, South Georgia Natural Gas Company (South Georgia) tendered for filing Thirty-Fourth Revised Sheet No. 4 to its FPC Gas Tariff, First Revised Volume No. 1. South Georgia states that the proposed tariff sheet, which reflects an annual jurisdictional rate reduction of $1,550,000.00, is being filed in accordance with Article III of the May 13, 1985 Stipulation and Agreement in the above-captioned proceeding, which was approved by the Commission on July 22, 1985. South Georgia requests such waivers of the Commission's Regulations as may be necessary for the Commission to approve the proposed tariff sheet effective August 1, 1985.

South Georgia notes that a copy of this filing has been served upon each affected party and interested state 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 20426, in accordance with Rules 211 and 214 of the Commissin's rules of practice and procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 16, 1985. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-19142 Filed 8-9-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-2-9-004]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Compliance Filing

August 7, 1985.

Take notice that on July 30, 1985, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) tendered for filing Fifth Revised Sheet No. 201 to Original Volume No. 1 of its FERC Gas Tariff to be effective July 1, 1985.

Tennessee states that the purpose of the revised tariff sheet is to revise Tennessee's Purchased Gas Adjustment Clause to provide for the elimination of the purchased gas costs related to concurrent exchange transactions in compliance with Ordering Paragraph (C) of the Commission's June 28, 1985 order in this proceeding.

Tennessee states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 16, 1985. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-19144 Filed 8-9-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-178-000]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Filing of Changes in Rates

August 7, 1985.

Take notice that on July 31, 1985, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), tendered for filing changes in its FERC Gas Tariff to be effective September 1, 1985, consisting of the following revised tariff sheets:

Original Volume No. 1

Twelfth Revised Sheet No. 20
Sixteenth Revised Sheet No. 21
Eleventh Revised Sheet No. 22
Fourth Revised Sheet Nos. 75, 79 and 83
First Revised Sheet Nos. 91 and 94
Original Sheet Nos. 97 through 100
A Sheet Reserving Original Sheet Nos. 101-186 for Future Use

Sixth Revised Volume No. 2

Third Revised Sheet No. 2AA
Fifth Revised Sheet No. 2BB
Fourth Revised Sheet No. 2CC
First Revised Sheet No. 2DD
First Revised Sheet Nos. 299CCC5, 299CCC6, 299DDD4, 299EEE4, 299EEE5, 299FFF3, 299GGG4, 299HHH4, 299III4, 299JJJ4, 299KKK4, 299LLL5, 299OOO4, 299PPP5, 299QQQ4, 299RRR4, 299SSS4, 299UUU4, 299UUU5, 299VVV5, 299WWW5, 299XXX5, 299YYY7, 300A5, 300B6, 300C4, 300C5, 300D5, 300E5

The changes would increase revenues from jurisdictional sales and services by $121,703,391. Tennessee states, however, that its proposed rates will recover revenues $28,121,824 less than its claimed cost of service based on a test period consisting of the twelve months ended April 30, 1985, adjusted for known and measurable changes through January 31, 1986. Tennessee asserts that it is absorbing this portion of its cost of service to enhance the marketability of its gas for the benefit of its customers.

Tennessee states that the level of rates filed is required to reflect an increase in rates caused by substantial reductions in contract demands for several sales customers, the cancellation and amendment of certain transportation rate schedules and the loss of revenues related to the shutdown of its Gabe Plant. Tennessee also states that the rates reflect changes in test period plant and related expenses, and test period cost levels for materials, supplies, wages, taxes, prepayments to producers and the cost of transportation of gas by others and a decline in system sales volumes.

Tennessee states that its filing includes a new Rate Schedule CDT—Contract Demand Transportation Service—providing for the transportation of gas whether or not the transportation displaces Tennessee's own sales. Tennessee assers that this rate schedule will extend a similar transportation commitment established in the Settlement Agreement (February 5, 1985) in Docket Nos. CP84-441, *et al.*

Tennessee advises that the filed rates are predicated upon the continued application of its minimum commodity bill, which is at issue on exceptions in Docket Nos. RP81-54, *et al.*, and that its commodity sales billing determinants would decline, thereby increasing rates to its remaining customers, if the minimum bill were eliminated.

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, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 16, 1985. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-19143 Filed 8-9-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-35-036]

Texas Eastern Transmission Corp.; Compliance Filing

August 7, 1985.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on July 31, 1985 tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume Nos. 1 and 2, revised tariff sheets in accordance with and to comply with the decision issued July 12, 1985 in docket Nos. RP83-35, *et al.*

Texas Eastern states it has served copies on its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 16, 1985. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-19145 Filed 8-9-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-177-000]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

August 7, 1985.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on July 31, 1985 tendered for filing as part of its FERC Gas Tariff, revised tariff sheets reflecting a rate decrease from currently effective rates. This rate filing will decrease the level of Texas Eastern's jurisdictional rates to provide an annual decrease in revenues of approximately $56.9 million or approximately 4.5¢ per dekatherm based on 100% load factor rates in Zone D. The decreased rates reflected in the revised tariff sheets are designed to bring Texas Eastern's revenues to the level of its jurisdictional cost of service and reflect changes in the areas of the rate of return, labor costs, other expenses, and plant facilities cost.

In addition, Texas Eastern has also filed a new Rate Schedule TS-3 available to all shippers. This new rate schedule is designed to be available for self-implementing transactions. It reflects a maximum and minimum rate concept. Texas Eastern's proposed rate change includes as a credit to cost-of-service a representative level of revenues associated with transportation under Rate Schedule TS-3.

Included in Texas Eastern's filing are revised tariff sheets to permit Texas Eastern to track costs associated with transportation and compression and to track gas purchase prepayments. Also included in the billings and payments section of the tariff is a provision to require wire transfer payment by Texas Eastern's customers. Finally, other minor changes have been made to Texas Eastern's tariff to correct typographical errors.

Texas Eastern petitions the Commission to permit immediate implementation or to suspend for the minimum suspension period so that the proposed rate decrease may go into effect September 1, 1985. Alternatively, Texas Eastern requests that the Commission permit Rate Schedule TS-3 be placed into effect September 1, 1985.

Copies of the filing have been served on Texas Eastern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commisson, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 16, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestanis 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-19146 Filed 8-9-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-175-000]

Transwestern Pipeline Co.; Change

August 7, 1985.

Take notice that on July 30, 1985, Transwestern Pipeline Company (Transwestern) tendered for filing a notice of a change in rates and charges for natural gas service rendered to jurisdictional customers served under all rate schedules contained in Second Revised Volume No. 1 of Transwestern's FERC Gas Tariff.

In connection with the proposed major rate increase, Transwestern tendered for filing primary revised tariff sheets and related supporting schedules. Transwestern is proposing to place into effect on September 1, 1985 the primary revised tariff sheets.

The primary revised tariff sheets establish an annual Contract Demand Reservation Charge (CDRC) (which is essentially a stand-by charge) to Pacific Lighting Gas Supply Company (PLGS) and Northwest Central Pipeline Company (NWC) at a level equal to 60% of the annual contract quantity for each of those customers under Rate Schedules CDQ-1, CDQ-2, and CDQ-3. A monthly CDRC is computed and recovered for each month in which sales under the applicable rate schedule do not equal or exceed the minimum level of 60% of the contract demand quantity multiplied by the number of days in the applicable month. To the extent that the primary revised tariff sheets are inconsistent with the Transwestern's interim settlement agreement approved by the Commission on July 1, 1985 in Docket No. RP81-130-007, *et al.*, Transwestern proposes to waive those provisions of the primary sheets which are inconsistent until such time as the interim settlement, or inconsistent portion thereof, expires. The base tariff rates under either the settlement or the primary sheets would not change upon either implementation or elimination of Transwestern's proposed waiver. The primary sheets reflect the rates which Transwestern believes to be in the public interest in the event that the Commission's order in Docket No. RP81-130-007, *et al.* has become final substantially as issued.

The primary tariff sheets reflect an annual revenue increase of $42,235,736 based upon the projected deliveries for the test period. This represents an increase of 5.9% over the revenues that would be produced under the rates set forth in Transwestern's interim settlement agreement.

In the event that the Commission does not accept the primary revised tariff sheets, including the CDRC, in their entirety, Transwestern has also tendered for filing alternate revised tariff sheets which it would then propose to place into effect on September 1, 1985 in lieu of the primary sheets. The alternate sheets recognize the problems facing Transwestern in its marketing of gas to NWC and reflect no sales to NWC nor do they reflect, through a CDRC, any imputed use of the system to NWC. Costs which, due to the CDRC, under the primary sheets were allocated to NWC are allocated to PLGS and other, smaller full requirements customers under the alternate sheets. The effect of this reallocation is an approximate $11.3 shifting of costs to PLGS and customers other than NWC.

The alternate tariff sheets reflect an annual revenue increase of $50,620,021 based upon the projected deliveries for the test period. This represents an increase of 9.0% over the revenues that would be produced under the rates set forth in Transwestern's interim settlement agreement.

Non-Gas Cost Rate Credit

Under both sets of revised tariff sheets effect is given via a Non-Gas Cost Rate Credit to the expected expiration of the contract and termination of deliveries under Rate Schedule CDQ-2 on May 31, 1986. Excepting Rate Schedule CDQ-2, the proposed base tariff sheets for all rate schedules were derived based upon the allocated cost of service which did not include allocation determinants for Rate

Schedule CDQ–2. The base tariff rates for Rate Schedule CDQ–2 were derived utilizing the same cost of service; however, the allocation procedure included determinants for Rate Schedule CDQ–2.

Since the resulting base tariff rates, when applied to test period billing determinants, produce revenue in excess of the allocated cost of service equal to the CDQ–2 revenue, Transwestern is proposing a Non-Gas Cost Rate Credit, applicable to all rate schedules other than CDQ–2. The rate credit is designed to reduce the base tariff rates charged for sales and transportation service to the level that would result if the cost of service were allocated using the CDQ–2 billing determinants. The Non-Gas Cost Rate Credit will apply only during the period from the effective date of the proposed rates to the date that the CDQ–2 contract expires and NWC's obligations to Transwestern under said rate schedule cease.

Other Tariff Provisions

Both sets of revised tariff sheets reflect a modified fixed variable method of cost classification, allocation and rate design which is consistent with Opinion No. 238 and which includes in the commodity charge 100% of return on equity, taxes and fixed production costs.

In computing the proposed rates Transwestern has used representative volumes and has allocated costs to transportation services performed for both customers and non-customers, and, consistent therewith, proposes to retain all transportation revenues. The transportation rates under both Rate Schedules TS–1 and TS–2 are proposed to be downwardly negotiable at Transwestern's sole option and expense. The TS–1 ceiling rate equals the average commodity rate for all sales rate schedules, less gas costs. The TS–2 ceiling rates are mileage based. Finally, a revision to the fuel factor is being proposed whereby Transwestern would retain 2.2% of the receipt volume when gas is transported east of Roswell, New Mexico. The fuel factor of 4% is being retained for all deliveries west of Roswell.

Transwestern has filed to retain its Rate Schedule ISR which allows it to discount the fixed cost portion of its commodity rates, at its sole option and expense, if it deems such discount necessary to meet competition and retain sales. The ISR discount would be available for all volumes purchased over a threshold level which would be determined monthly by Transwestern.

Pursuant to Rule 207 of the Commission's Rules of Practice and Procedure, Transwestern petitions the Commission to waive any provisions of its Rules and Regulations to the extent necessary to permit Transwestern to put into effect these proposed changes and additions to its tariff. Transwestern submits that such waiver is appropriate and in the public interest for reasons set forth in the Statement of Nature, Reasons and Basis contained in Volume I of the filing.

Copies of the filing were served on Transwestern's jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before August 16, 1985. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–19147 Filed 8–9–85; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. QF85–608–000, et al.]

Orville Slaughter, et al.; Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, etc.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Take notice that the following filings have been made with the Commission.

1. Orville Slaughter

[Docket No. QF85–608–000]

August 1, 1985.

On July 15, 1985, Orville Slaughter (Applicant), of 710 East 20th Street, Farmington, New Mexico 87401, 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 is located in San Juan County, New Mexico and consists, in part, of "a natural gas engine and an AC generator". The electric power production capacity of the facility is 100 kW. The primary source of energy is natural gas recovered from a producing oil well. The thermal energy generated by the facilaity will be used to produced natha, kerosene, gasoline and diesel fuels from crude oil.

2. San Diego State University

[Docket No. QF85–626–000]

August 5, 1985.

On July 15, 1985, San Diego State University, (Applicant) Facility Planning and Management, Business Affairs, San Diego State University, San Diego, California 92182 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 sumbittal constitutes a complete filing.

The topping cycle cogeneration facility is located at the San Diego State University, San Diego, California. The facility will contain a dual fuel-fired gas turbine-generator and a heat recovery boiler (HRB). The low pressure steam from the HRB will be utilized in the University's steam distribution system for space and water heating and also in absorption chillers for air conditioning. The primary energy source will be duel fuel, i.e., natural gas and diesel oil. The net electric power production capacity of the facility will be 2,355 kW. The installation of the facility began in June 1984 with anticipated date of start-up in September 1985.

3. Temple-Eastex Incorporated

[Docket No. QF85–625–000]

August 5, 1985.

On July 22, 1985, Temple-Eastex Incorporated, (Applicant) of 303 S. Temple Drive, P.O. Drawer N, Diboll, Texas 75941 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 adjacent to the Temple-Eastex Building Products Division, off U.S. Highway 59, Diboll, Texas. The facility will consist of two combustion turbine-generators, two heat recovery boilers (HRB) and one extraction steam turbine-generator. The extracted steam together with steam from HRB will be used in the Fiberboard Plant for process needs. The primary energy source will be natural gas. The net power production capacity of the

plant will be 213,500 kW. Installation of the facility is expected to begin in January 1986 with date of commercial operation January 1988.

4. Cargill, Inc.

[Docket No. QF85-613-000]

August 6, 1985.

On July 17, 1985, Cargill, Inc., (Applicant), of P.O. Box 380, Breaux Bridge, Louisiana 70517 submitted for filing an application for certification of a facility as a qualifying facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The proposed cogeneration production facility will be located on Highway 354, Breaux Bridge, Louisiana 70517. The facility will consist, in part, of a steam turbine/generator, boiler, pressure reducing value, and salt evaporators. The electric power production capacity will be approximately 650 kilowatts. The primary source of energy will be natural gas. The installation of the facility will start in October 1985.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-19130 Filed 8-9-85; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59199A/59200A; FRL-2881-1]

Toxic Substances; Approval of Test Marketing Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of applications for test marketing exemptions (TMEs) under section 5(h)(6) of the Toxic Substances Control Act (TSCA), TME-85-55 and TME-85-57, TME-85-58 and TME-85-59. The test marketing conditions are described below.

EFFECTIVE DATE: August 5, 1985.

FOR FURTHER INFORMATION CONTACT: Charlotte White, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-613A, 401 M. St. SW., Washington, DC 20460, (202) 382-3373.

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby approves TME-85-55, TME-85-57, TME-85-58, and TME-85-59. EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the TME applications, and for the time period and restrictions (if any) specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, use and the number of customers must not exceed that specified in the applications. All other conditions and restrictions described in the applications and in this notice must be met.

The following additional restrictions apply to the TME-85-55, TME-85-57, TME-85-58, and TME-85-59. A bill of lading accompanying each shipment must state that use of the substances are restricted to that approved in the TMEs. In addition, each Company shall maintain the following records until five years after the dates they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. The applicant must maintain records of the quantity of the TME substance produced.

2. The applicant must maintain records of the dates of shipment to each customer and the quanitities supplied in each shipment.

3. The applicant must maintain copies of the bill of lading that accompanies each shipment of the TME substance.

T 85-55

Date of Receipt: June 25, 1985.

Notice of Receipt: July 8, 1985 (50 FR 27847).

Applicant: Confidential.

Chemical: (G) Amino modified aromatic polyether.

Use: (G) Performance additive for an industrial coating.

Production Volume: 1,050 kilograms.

Number of Customers: One.

Worker Exposure: Manufacture: dermal, a total of up to 6 workers, up to 2 hours/day for up to 1 day a year each. Processing: dermal, a total of up to 13 workers, up to 4 hours/day for up to 13 days/year each. Use: dermal, up to 12 workers, up to 2 hours/day for up to 200 days/year each.

Test Marketing Period: Six months. Commencing on: August 5, 1985.

Risk Assessment: EPA identified no significant health or environmental concerns. Therefore, the test market substance will not present any unreasonable risk of injury to health or the environment.

T 85-57

Date of Receipt: July 1, 1985.

Notice of Receipt: July 12, 1985 (50 FR 28467).

Applicant: Confidential.

Chemical: (G) Urethane compound.

Use: (G) Destructive use in industry.

Production Volume: 215 kilograms.

Number of Customers: One.

Worker Exposure: Manufacture: dermal, a total of up to 9 workers, up to 4 hours/day for up to 1 day/year each. Processing/Use: dermal, a total of up to 7 workers, up to 4 hours/day for up to 1 day/year each.

Test Marketing Period: Six months. *Commencing on:* August 5, 1985.

Risk Assessment: EPA identified no significant health or environmental concerns. Therefore, the test market substance will not present any unreasonable risk of injury to health or the environment.

T85-58

Date of Receipt: July 2, 1985

Notice of Receipt: July 12, 1985 (50 FR 28467).

Applicant: Confidential.

Chemical: (G) Complex epoxy resin adduct.

Use: (G) Performance additive for an industry coating.

Production Volume: 1,030 kilograms.

Number of Customers: One.

Workers Exposure: Manufacturing: dermal, a total of 10 workers, up to 4 hours/day for 1 day/year each. Processing: dermal, a total of 13 workers, up to 4 hours/day for 13 days/year each. Use: dermal, a total of up to 12 workers, up to 2 hours/days for up to 200 days/year each.

Test Marketing Period: Six months.

Commencing on: August 5, 1985.

Risk Assessment: EPA identified no significant health or environmental concerns. Therefore, the test market substance will not present any unreasonable risk of injury to health or the environment.

T85-59

Date of Receipt: July 2, 1985

Notice of Receipt: July 12, 1985 (50 FR 28467).

Applicant: Confidential.

Chemical: (G) Urethane compound.

Use: (G) Destructive use.

Production Volume: 420 kilograms.

Number of Customers: One.

Worker Exposure: Manufacturing,: dermal, a total of up to 8 workers, up to 4 hours/day for up to 2 days/year each. Processing/Use: dermal, a total of up to 7 workers, up to 4 hours/day for 1 day/year each.

Test Marketing Period: Six months.

Commencing on: August 5, 1985.

Risk Assessment: EPA identified no significant health or environmental concerns. Therefore, the test market substance will not present any unreasonable risk of injury to health or the environment.

Public Comments: None.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: August 5, 1985.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 85-19097 Filed 8-9-85; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59195B; FRC-2881-2]

Toxic Substances; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for a test marketing exemption (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA). TME-85-46. The test marketing conditions are described below.

EFFECTIVE DATE: August 5, 1985.

FOR FURTHER INFORMATION CONTACT: Jane Talarico, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm E-611E, 401 M St., SW., Washington, DC 20460, (202) 382-5506).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby approves TME-85-46. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions (if any) specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, use and the number of customers must not exceed that specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

The following additional restrictions apply to TME-85-46. A bill of lading accompanying each shipment must state that use of the substance is restricted to that approved in the TME. In addition, the applicant shall maintain the following records until five years after the dates they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. The applicant must maintain records of the quantity of the TME substance produced.

2. The applicant must maintain records of the dates of shipment to the customer and the quantities supplied in each shipment.

3. The applicant must maintain copies of the bill of lading that accompanies each shipment of the TME substance.

4. The applicant must maintain records of persons who wear impervious gloves and chemical safety goggles during manufacturing, processing, and use of the TME substance.

5. The applicant must maintain records of determinations that the gloves are impervious to the TME substance.

6. The applicant must maintain copies of any Material Safety Data Sheet used.

7. The applicant must maintain the following information on disposal of the TME substance: dates waste material is disposed of, location of disposal sites, volume of any disposed material, estimated volume of any liquid wastes containing the TME substance, and method of disposal.

TME 85-46.

Date of Receipt: May 14, 1985.

Notice of Receipt: May 24, 1985 (50 FR 21503).

Applicant: Confidential.

Chemical: (S) Phosphorodithioic acid, O, O- dihexylester.

Use: (G) Destructive use—intermediate.

Production Volume: Confidential.

Number of Customers: One.

Toxicity Data: No data submitted.

Worker Exposure: Manufacturer: Dermal, a total of 5 workers.

Test Marketing Period: One year.

Commencing on: (August 5, 1985).

Risk Assessment: EPA identified potential adverse health and environmental effects associated with exposure to the TME substance. However, EPA has determined that, under the conditions outlined above, and the restrictions outlined below, the estimated exposure to the test market substance will not be significant. Therefore, the test marketing activities will not present any unreasonable risk to human health. Wastes resulting from manufacturing, processing, and use will be deep well injected or landfilled. Therefore, the test market substance will not pose any unreasonable risk to the environment.

Additional Restrictions: During manufacture, processing, and use by the applicant and its one customer, workers are required to wear impervious gloves and chemical safety goggles during operations that may result in dermal exposure to the substance. The Material Safety Data Sheet (MSDS) must include the requirements for workers to wear gloves determined to be impervious to the TME substance and chemical safety goggles.

The gloves must be determined by the applicant to be impervious to the TME substance under the conditions of exposure, including the duration of exposure. The applicant shall make this determination either by testing the gloves under the conditions of exposure or by evaluating the specifications provided by the manufacturer of gloves. Testing or evaluation of specifications shall include consideration of permeability, penetration, and potential chemical and mechanical degradation of the gloves by the TME substance and associated chemical substances.

The applicant and its one customer shall dispose of all wastes containing the PMN substance by deep well injection or in a landfill facility. The method of disposal used must comply with all applicable federal, state, and local laws and regulations.

Public Comments: None.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present any unreasonable risk injury to health or the environment.

Dated: August 5, 1985.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 85-19098 Filed 8-9-85; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-41018; TSH-FRI 2839-1]

Sixteenth Report of the Interagency Testing Committee to the Administrator; Receipt of Report and Request for Comments Regarding Priority List of Chemicals

Correction

In FR Doc. 85-12188, beginning on page 20930, in the issue of Tuesday, May 21, 1985, make the following corrections:

1. On page 20930, second column, in the **SUMMARY**, the fourteenth line should read "No. 96-37-7), tetrabromobisphenol A".

2. On page 20932, second column, first paragraph, twentieth line, "4(3)(1)(A)" should read "4(e)(1)(A)".

3. On page 20932, third column, fourth paragraph:

a. The sixth line should read "2-(2-Butoxyethoxy)ethyl acetate".

b. The eighth line should read "1, 2, 3, 4, 7, 7-Hexachloronorbornadiene".

4. On page 20934, third column, under the *Physical and Chemical Information* heading the second line should read "Synonyms: Methylpentamethylene".

5. On page 20937, second column, the fourteenth line from the bottom of the page should read "ether; Ethoxytriethylene glycol".

6. On page 20937, third column, the twelfth line from the top of the page should read "ether; Butoxytriethylene glycol".

BILLING CODE 1505-01-M

[FRL-2880-3]

Water Pollution Withdrawal of Tentative Denials of Applications for Variances Submitted Under Section 301(m) of the Clean Water Act

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The United States Environmental Protection Agency (EPA) is today providing notice that it is withdrawing its Tentative Decisions denying the applications by the Louisiana-Pacific Corporation, Samoa, California, and the Simpson Paper Company, Fairhaven, California, for variances pursuant to section 301(m) of the Clean Water Act. During the public comment period on the tentative decisions, EPA received numerous requests from the public to reconsider the situation, and the mills have submitted additional information to EPA. As a result of these submittals, EPA is reconsidering the mills' applications. EPA will now re-evaluate the pulp mills' applications taking into account the mills' new submission and comments received by the public. EPA intends to issue new tentative decisions on these applications upon completion of its re-evaluation.

FOR FURTHER INFORMATION CONTACT: For further information on these actions, or to take requests for copies of the Tentative Decision Documents or the fact sheet explaining the withdrawal, contact Doug Eberhardt, 301(m) Project Officer, U.S. EPA Region 9 (W-5-3), 215 Fremont Street, San Fransicso, California 94105, (415) 974-8269.

SUPPLEMENTARY INFORMATION: On January 8, 1983, President Reagan signed into law Section 301(m) of the Clean Water Act (CWA), which provides the opportunity for two pulp mills located on the Samoa Peninsula in California to apply to the EPA for permit modifications from nationally applicable Best Practicable Control Technology Currently Available (BPT) and Best Conventional Pollutant Control Technology (BCT) effluent limitations, and the (BCT) effluent limitations, and the requirements of section 403 of the CWA, for biochemcial oxygen demand (BOD) and pH.

These two companies hold National Pollutant Discharge Elimination System (NPDES) permits numbered CA0005894 and CA0005282. On September 28, 1983, the companies submitted applications to EPA for such variances. EPA requested supplementary information from both applicants on December 29, 1983, and March 15, 1984, and received such information shortly thereafter.

On December 14, 1984, the Regional Administrator, EPA Region 9, signed Tentative Decision Documents denying the 301(m) applications. Notice of the tentative denial was provided on December 20, 1984 (49 FR 49501). Since then, EPA has received numerous requests from the public to reconsider the situation, and the mills have submitted additional information to EPA.

As a result of these submittals, EPA is reconsidering the mills' applications. There is considerable uncertainty as to what EPA's final decision on these matters will be. EPA does not believe it is appropriate to require Louisiana-Pacific to begin construction of a BPT/BCT treatment system at this time since there is at least a reasonable chance that the mills will qualify for a variance waiving the BPT/BCT requirements, and since it is uncertain whether a BPT/BCT treatment system is an appropriate or sufficient means to address the toxicity reduction requirements of the Clean Water Act and California Water Quality Standards. Nevertheless, under the terms of the consent decree in *United States* v. *Louisiana-Pacific Corporation*, Louisiana-Pacific is obligated to begin construction of BPT/BCT treatment facilities within 10 months of EPA's December 1984 tentative denials. Consequently, EPA is withdrawing the December 14, 1984, tentative decision, thereby releasing Lousiana-Pacific of the obligation to begin construction of BPT/BCT treatment system by the middle of October 1985. EPA has prepared a fact sheet which describes the reasons for withdrawing the tentative denials in more detail.

EPA will now re-evaluate the pulp mills' applications taking into account the mills' new submission and comments received by the public. If EPA's final decision is to deny these variances, the State of California, a delegated NPDES state, will issue permits to the mills incorporating BPT/BCT effluent limitations. If EPA's final decision is to approve these variances, EPA and the State of California will jointly issue permits to the mills

incorporating the appropriate modified effluent limitations.

Dated: August 2, 1985.

Judith E. Ayres,

Regional Administrator.

[FR Doc. 85-19107 Filed 8-9-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Requirements Under OMB Review

August 5, 1985.

The following information collection requirements have been approved by the Office of Management and Budget. For further information contact Doris Peacock, FCC, (202) 632-7513.

OMB No.: 3060-0025

Title: Applications for Restricted Radiotelephone Operator Permit—Limited Use

Form No.: FCC 755

A revised application form FCC 755 has been approved for use through 7/31/88. The April 1983 edition with an OMB expiration date of 3/31/86 will remain in use until revised forms are available.

OMB No.: 3060-0073

Title: Application for and Certificate of Overtime Service Involving Inspection of Ship Radio Equipment

Form No.: FCC 808

The approval on application form FCC 808 has been extended through 7/31/88. The October 1982 edition with the previous OMB expiration date of 7/31/85 will remain in use until updated forms are available.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 85-19058 Filed 8-9-85; 8:45 am]

BILLING CODE 6712-01-M

Magic Valley Broadcasting, Inc., et al.; Hearings

In re Applications of MAGIC VALLEY BROADCATING, INC., MM DOCKET NO. 85-227; Has: 100.9 MHz, Channel 265, 3 kW (H & V), 300 feet, For Renewal of License of Station WPBE(FM) [1] Huntingdon, Tennessee, File No. BRH-820730L9; ERNEST VICKERS, JR., DEBTOR-IN-POSSESSION (Transferor), AND ED R. PERKINS (Transferee), For Transfer of Control of Magic Valley Broadcating, Inc. Licensee of Station WPBE(FM), Huntingdon, Tennessee, File No. BTCH-820708GS; AND WJPJ, INC. Huntingdon, Tennessee, Req: 100.9 MHz, Channel 265, 3 kW (H & V), 300 feet, File No. BPH-820630AL; for Construction Permit.

[1] On September 1, 1982, the call sign of WPBE(FM) was changed from WPVG(FM).

Hearing Designation Order

Adopted: July 10, 1985.

Released: August 6, 1985.

By the Chief, Audio Services Division.

1. The Commission, by the Chief, Audio Services Division, pursuant to delegated authority, has before it for consideration the late-filed [2] application of Magic Valley Broadcasting, Inc., (MVB) for renewal of license of Station WPBE(FM), Huntingdon, Tennessee, and the application of WJPJ, Inc. for a construction permit for the facilities presently licensed to WPBE(FM). Also before the Commission is the above-captioned application to transfer control of MVB from Ernest Vickers, Jr., debtor-in-possession, to Ed R. Perkins.

2. *MVB.* In order to determine whether to compare MVB as presently constituted or as proposed pursuant to the above-captioned transfer application, we shall set forth a brief history of the station. WPBE-FM (formerly WPVG-FM) was originally licensed to Mr. Vickers d/b/a Magic Valley Broadcasting Company, and commenced operation with program test authority on November 8, 1979. Mr. Vickers incorporated MVB in 1980 and commenced operating the station through the corporation on January 1, 1981.[3] Mr. Vickers was the only stockholder of MVB, Inc. at that time. In an effort to keep the station financially viable, Mr. Vickers executed an agreement on February 15, 1981, with Mr. Perkins and Mr. Ben M. Gaines pursuant to which Messrs. Perkins and Gaines would assume 49% of the outstanding liabilities of the station in exchange for 49% of the common stock of MVB. However, before this agreement was brought to the attention of the Commission, Mr. Vickers and his wife filed for bankruptcy under Chapter XI of the Bankruptcyf Act in the United States District Court for the Western District of Tennessee (Case No. 81-10764). The Vickers were designated debtors-in possession of their assets, including Mr. Vickers' interest in the radio station. In late 1981, Mr. Vickers submitted a pro forma application (FCC Form 316) for an assignment of license of Station WPVG(FM) from himself to MVB, Inc. (File No. BALH-811231EY), granted January 20, 1982.[4] This assignment application also covered the February 15, 1981 agreement with Messrs. Perkins and Gaines, with the result that on March 1, 1982, Mr. Vickers, president of MVB, owned (as a debtor-in possession) 51% of MVB while Messrs. Perkins and Gaines, both officers and directors of MVB, jointly owned 49% of MVB. Despite the assignment, the financial problems of the station continued, and it ceased broadcasting in late February, 1982.[5] On May 11, 1982, MVB informed the Commission that the Bankruptcy Court, by order dated April 28, 1982, had approved a transfer of Mr. Vickers' stock interest in MVB to Messrs. Perkins and Gaines. Pursuant to the Court's order, Messrs. Perkins and Gaines would assume all outstanding liabilities of the station in exchange for Mr. Vickers' 51% interest in the licensee. On July 8, 1982, the above-captioned transfer of control application was tendered for filing.[6] However, earlier, on

[2] MVB's renewal application was due April 1, 1982, pursuant to Section 73.3539 of the Commission's Rules. However, it ws not filed until July 30, 1982.

[3] Mr. Vickers did not report ths change in organizational operating status to the Commission at that time. See note 4, *infra.*

[4] By the time he had submitted the application to assign the license of Station WPVG(FM), Mr. Vickers had apparently violated section 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. 310(d), on two occasions: first, when he began operating the station under the guise of the corporation; and second, when he became a debtor-in-possession of his assets. Mr. Vickers should have filed an assignment application (FCC Form 316) and obtained Commission approval of each change of his status. Cf. *Chambersburg Broadcasting Co.*, FCC 72-99, 23 RR 2d 759 (1972). Mr. Vickers also violated 47 CFR 73.3615(c) when he failed to file an ownership report reflecting the transfer of 49% of the common stock to Perkins and Gaines.

[5] The station remained off the air until September 1, 1982, at which time Mr. Perkins, upon receiving possession of the facility from the Bankruptcy Court, commenced operating the station on a full-time basis.

[6] By amendment dated July 19, 1982, and filed October 12, 1982, Mr. Perkins informed the Commission that Mr. Gaines withdrew entirely from the proposed transferee. As a result, Mr. Perkins would be 100% owner of MVB if the proposed transfer were to be granted. Since this amendment was received prior to any public notice of the acceptance of the WJPJ, Inc., construction permit application, it was filed as a matter of right. *See* Section 73.3522 of the Commission's Rules. In addition, since the amendment proposed a minor change in the transferee, it was not necessary to publish notice of the amendment. *Barnes Enterprises, Inc.*, 55 FCC 2d 721, 725 (1975). However, the nature of the amendment (proposed change in the ownership of the licensee) and the time delay between the dating and filing of the amendment indicate that Mr. Perkins violated Section 1.65 of the Commission's Rules, which requires that substantial and significant changes in information provided by applicants be reported to the Commission within 30 days. Although the Commission is concerned that applicants comply with the reporting requirement of Section 1.65 of the Rules, "reporting issues should not be designated unless a prima facie showing has been made that: (1) Unreported interests are of decisional significance, (2) an intent to conceal is present, or (3) a pattern of carelessness or inattentiveness is present." *Merrimack Valley Broadcasting, Inc.*, 55 RR 2d 23, 25 (1984). Mr. Perkins' delay in notifying the Commission of the July 19, 1982, amendment does not meet the *Merrimack* standard and, thus, should not be designated as an issue to be addressed in the comparative hearing.

June 30, 1982, WJPJ, Inc. had tendered its construction permit application for the facilities of Station WPVG(FM).

3. As noted above, the renewal application of MVB and the construction permit application of WJPJ, Inc., are mutually exclusive, necessitating an evidentiary hearing. 47 U.S.C 309(e); *Ashbacker* v. *FCC*, 326 U.S. 327 (1945). Ordinarily, therefore, we would compare the qualifications of MVB and WJPJ, Inc., to determine which application, if either, should be granted. However, in this case, we also have before us an application seeking to transfer control of MVB from Mr. Vickers to Mr. Perkins. Thus, the question arises whether we should compare WJPJ, Inc., with MVB as presently constituted or as proposed.

4. Whenever a transfer application is filed subsequent to the filing of a construction permit application, the concern exists that the renewal applicant may be attempting to avoid a comparative hearing by substituting the proposed transferee in its place. Although the application to transfer control of WPBE–FM was filed after WJPJ, Inc. filed its construction permit application, the licensee had notified the Commission, by letter dated May 11, 1982, of its intent to file a transfer application. This notice was received at least six weeks before the construction permit application was filed and there is no evidence that the transfer application was filed in an effort to substitute the transferee for the renewal applicant. In situations similar to the one now before us, we have opted to compare a proposed assignee, rather than a renewal applicant, with a construction permit applicant on the ground that "the public interest would better be served by comparing the qualifications of the two parties intending to operate the station; namely, the prospective assignee and the construction permit applicant. . . . " *Cleveland Board of Education*, 87 FCC 2d 9,10 (1981) *(quoting 1400 Corp.*, 4 FCC 2d 715, 716 (1966)). *See also, Andromeda Broadcasting System, Inc.*, 67 FCC 2d 307, 310–11 (1978); *Bronco Broadcasting Co. Inc.*, 50 FCC 2d 529, 536 (1974), *recon. den.*, 52 FCC 2d 836 (1975). In each of the cases cited above, the renewal applicant was either a trustee in bankruptcy or was unable, for financial reasons [7]; to operate the station for which renewal was being sought. In the instant case, the renewal applicant ceased operating the station in February of 1982 when the majority stockholder, Mr. Vickers, who was solely responsible for the control and operation of the station until at least January 20, 1982, filed for bankruptcy. Upon approval by the Bankruptcy Court of the transfer of Vickers' 51% interest in the licensee to the minority stockholders (April 28, 1982), Vickers ceased to have any interest in or connection with the licensee. On September 1, 1982, Mr. Perkins, the 100% stockholder in MVB and the proposed transferee, commenced operating the station and continues to date. Based on the foregoing, we find that the public interest would be better served by comparing the qualifications of the proposed transferee, Mr. Perkins, with the qualifications of the construction permit applicant, WJPJ, Inc.

5. Examination of the MVB and the WJPJ, Inc., applications indicates that they are legally, financially, and technically qualified to operate as proposed. If Perkins prevails, the renewal and transfer applications will be granted and the construction permit application denied. If WJPJ, Inc. prevails, the construction permit application will be granted and the renewal application denied. However, since the applications are mutually exclusive, they must be designated for hearing in a compartive proceeding.

6. Accordingly, it is ordered, that pursuant to section 309(e) of the Communications Act, as amended, the above-captioned applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

(1) To determine which of the proposals would, on a comparative basis, better serve the public interest.

(2) To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, that in addition to the copy served on the Chief, Hearing Branch, a copy of each amendment filed in this proceeding subsequent to the date of adoption of this Order shall be served on the Chief, Data Management Staff, Audio Services Division, Mass Media Bureau, Room 350, 1919 M St., NW., Washington, D.C. 20554.

8. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants herein shall file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order within 20 days of the mailing of this Order pursuant to § 1.221 (c) of the Commission's Rules.

9. It is further ordered, that the applicants herein shall give notice of the hearing pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, either individually or jointly, if feasible and consistent with the Rules, within the time and in the manner prescribed in Rule 73.3594, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

W. Jan Gay,

Assistant chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 85–19060 Filed 8–9–85; 8:45 am]

BILLING CODE 6712-01-M

[7] In circumstances where character issues regarding the former licensee are outstanding and unresolved, the fact of bankruptcy will not shield the renewal applicant's stewardship from scrutiny unless the individuals charged with misconduct are no longer associated with the station, will have no part in the proposed operations of the station, and will derive no benefit from favorable action on the pending renewal and transfer/assignment application or "only a minor benefit which is outweighted by equitable considerations in favor of innocent creditors." *Peoria Community Broadcasters*, 79 FCC 2d 311, 327 (1980), *recon. granted in part*, FCC 80–733, 48 RR 2d 1164 (1981) *(quoting Second Thursday Corp.*, 22 FCC 2d 515, 516 (1970)).

[Gen. Docket No. 85–173; RM–3975; RM–4829; FCC 85–290]

Further Sharing of the UHF Television Band by Private Land Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Memorandum opinion and order establishing committee.

SUMMARY: The Federal Communications Commission has established a joint government-industry advisory committee concerning land mobile radio/UHF television sharing criteria. This Committee will provide technical assistance to the Commission regarding additional sharing of UHF television channels by land mobile radio stations.

DATES: Committee to submit final report and terminate by March 7, 1986.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Rodney Small, Office of Science and Technology, 1919 M Street NW., Washington, DC. 20554, (202) 653–8169.

SUPPLEMENTARY INFORMATION:

Memorandum Opinion and Order

In the matter of further sharing of the UHF television band by Private Land Mobile

Radio Services, Gen Docket No. 85-173, RM-3975, RM-4829.

Adopted: May 31, 1985.
Released: July 10, 1985.

By the Commission.

Introduction

1. The purpose of this *Memorandum Opinion and Order* is to establish a Land Mobile Radio/UHF Television Technical Advisory Committee to provide assistance to the Commission regarding the possibility of additional land mobile use of UHF television channels. This action is being taken in view of the companion *Notice of Proposed Rulemaking* in this docket proposing to designate additional UHF TV channels for land mobile sharing. It is anticipated that the committee's work will be completed prior to issuance of a *Report and Order* taking final action in the docket.

Background

2. On April 26, 1985, the Association of Maximum Service Telecasters and the National Association of Broadcasters (Petitioners) requested in a letter to Chairman Fowler that a government-industry committee be established "to investigate and advise the Commission as to the protection criteria necessary to prevent interference to UHF television stations from land mobile licenses operating in the UHF spectrum." Petitioners note that in recent years the Commission has established several such committees to recommend solutions to a number of specialized issues. They suggest that representatives from all interested trade organizations and disciplines be allowed to participate, and that studies and laboratory testing, under the auspices of the FCC Laboratory, be conducted. Petitioners request that a date of eight months from the date the committee is formed be established as the deadline for completion of the committee's task.

Establishment of An Advisory Committee

3. In view of our companion *Notice* in this docket proposing additional land mobile sharing of the UHF television band, we believe that Petitioners' request has merit. In the *Notice*, we propose land mobile use of television spectrum in the UHF band based on a minimum field strength ratio of 40dB between the desired UHF television signal and the undesired land mobile signal (D/U ratio) for co-channel operation,[1] and a D/U ratio of 0 dB for adjacent channel operation. We believe that these criteria will permit a substantial amount of new private land mobile service with little impact on full power television service. However, as we acknowledge at paragraphs 19–20 of the *Notice:*

> . . . we are aware that significant uncertainties still exist concerning many of the factors that go into determining the appropriate (co-channel) ratio, including the receiver susceptibility as affected by noise and other interference, antenna characteristics (cross polarization discrimination and front-to-back ratio) as affected by installation and local environment and propagation variabilities. We, therefore, solicit comments concerning the appropriate value of the field strength ratio as well as on these factors. We also request comments on the acceptable degree of TV reception degradation for appropriate percentages of time and location and on the relationship between this and the above factors.
>
> Also, while we are not proposing any changes with regard to the adjacent channel protection ratio at this time, we solicit comments on the appropriateness of maintaining the Docket 18261 criterion of 0 dB D/U ratio for adjacent channel operation, on whether land mobile should be allowed to operate in the same area on portions of the adjacent channel, and on whether mobile units should be allowed to operate inside the predicted Grade B contour on an adjacent TV channel. In addition, we solicit comments on whether the one mile separation requirement for certain channel separations (2, 3, 4, 5, 6, 7, and 8) should be imposed and on whether protection criteria should be introduced for TV stations 14 and 15 channels below proposed land mobile operations.

4. In light of these uncertainties concerning the appropriate interference protection criteria, we believe that input from a government-industry advisory committee, together with the comments and reply comments to the *Notice*, would be extremely valuable in the Commission's final disposition of this proceeding. The committee, through its own studies and testing, may produce important information bearing on the key technical issues. In addition to providing advice on these protection criteria, the committee could also assess the impact of its findings on the sharing arrangement proposed in the *Notice*, taking into account factors such as propagation anomalies and population distribution in particular areas, and recommend modification of our specific proposal, if appropriate.

5. We therefore will establish with the concurrence of the General Service Administration a government-industry committee to assist the Commission concerning land mobile/UHF television sharing criteria. The Charter of the Advisory Committee is given in the Appendix. As suggested by Petitioners, the committee will be open to representatives from all interested organizations, and the deadline for completion of the committee's work will be approximately eight months from the date of the charter's approval. Since we estimate this date to be in late June or early July, we establish the deadline as March 7, 1986. Due to limited Commission funds and laboratory resources, however, we anticipate that most all of the required studies and testing will have to be undertaken by the committee itself, rather than by Commission staff. Also, non-government members of the committee must cover all other expenses incurred.

6. It is expected that the committee will attempt to reach a consensus on as many relevant matters as possible. Where a consensus is not possible, dissenting members will be encouraged to prepare separate comments presenting their viewpoints. The committee will be created, conducted, and terminated pursuant to the Federal Advisory Committee Act of 1972.[2] Advance notice of all committee meetings will be given to the public through publication in the **Federal Register.**

7. Accordingly, it is ordered that an advisory committee be established to assist the Commission in determining land mobile/UHF television sharing criteria. The staff is instructed to take the necessary steps to obtain prompt General Service Administration approval of the Charter of the Advisory Committee, attached as the Appendix.

8. For further information on this matter, contact Rodney Small, Office of Science and Technology, Federal Communications Commission, (202) 653-8169.

[1] Existing land mobile/television sharing is based on a 50 dB co-channel protection ratio, except on some channels in Cleveland, Detroit and New York, where a 40 dB ratio is used. The selection of 40dB as a criterion for land mobile use of Channel 15 in New York and Cleveland and Channel 16 in Detroit was based on particular circumstances. For channels 15 in both New York and Cleveland, terrain features in the direction of the co-channel protected TV stations provided additional protection to TV co-channel viewers from land mobile operation. For Detroit, the predicted grade B contour of the co-channel facility to be protected extended only to 44 miles—11 miles less than the 55 mile criterion established in Docket 18261.

[2] Federal Advisory Committee Act, Pub. L. 92-463, October 6, 1972, 86 stat. 770, as amended Pub. L. 94-409, Section 5(c), September 13, 1976, 90 Stat. 1247 at section 3(c). The Act appears at 5 U.S.C. App. I (1976).

Federal Communication Commission.
William J. Tricarico.
Secretary.

Appendix

Charter of the Land Mobile Radio/UHF Television Technical Advisory Committee

A. *The Committee's Official Designation.*

Land Mobile Radio/UHF Television Technical Advisory Committee

B. *Names of the Subcommittees.*

None.

C. *Committee's Objectives And Scope Of Its Activity.*

(1) Objective: To provide technical assistance to the Federal Communications Commission in regard to additional land mobile radio sharing of UHF television channels.

(2) Scope of Activity: All steps necessary to assemble information and provide advice concerning the following matters:

(a) The appropriate minimum field strength ratio between the desired UHF television signal and the undesired land mobile signal (D/U ratio) to be used for co-channel operation, and technical and operational factors affecting the ratio.

(b) The appropriate minimum field strength ratio between the desired UHF television signal and the undesired land mobile signal to be used or adjacent channel operation, and technical and operational factors affecting the ratio.

(c) Other factors relating to interference to UHF television stations from land mobile operations, including but not limited to possible requirements of minimum desired to undesired field strength ratios for co-channel and adjacent channel operation of land mobile stations.

(d) The effect of the Committee's findings on the sharing plan proposed in the companion *Notice of Proposed Rulemaking* and possible adjustments to the plan, if appropriate, taking into account the protection criteria and operating characteristics of TV and land mobile in particular areas.

The Committee should not only make recommendations about appropriate TV protection criteria but also detail the processes by which it arrived at these criteria. Similarly, if it recommends adjustments to the proposed sharing plan, it should detail the processes by which it arrived at these adjustments.

D. *Period of Time Necessary For The Committee To Carry Out Its Purposes.*

Final written report must be submitted by March 7, 1986.

E. *Official To Whom The Committee Reports.*

Chief Scientist, Federal Communications Commission.

F. *Agency Responsible For Providing Necessary Support.*

The FCC will furnish necessary administrative support, including the facilities needed for conducting meetings of the Committee.

G. *Description Of The Duties For Which The Committee Is Responsible.*

The duties of the Committee will be to assemble data and prepare analyses and recommendations concerning the points enumerated in Part C and furnish them to the Federal Communications Commission.

H. *Estimated Operating Costs In Dollars And Man-Years.*

The estimated operating costs are $20,000 for the FCC. Estimated man-years are 0.4 for the FCC and 8.0 for non-government participants.

I. *Estimated Number And Frequency Of Committee Meetings.*

The Committee will meet at least three times.

J. *Committee's Termination Date.*

The Committee will terminate March 7, 1986.

L. *Date The Charter Is Filed.*

[FR Doc. 85-19056 Filed 8-9-85; 8:45 am]
BILLING CODE 6712-01-M

First Meeting; Land Mobile Radio/UHF Television Technical Advisory Committee

The first meeting of the Land Mobile Radio/UHF Television Technical Advisory Committee will be held on September 5, 1985, in Room 856 (the Commission Meeting Room), 1919 M Street NW., Washington, D.C. The meeting will start at 9:30 a.m.

The charter for the Committee is published above as an attachment to the Memorandum Opinion and Order in FCC Docket 85-173.

All interested parties are invited to attend this meeting. Since this is to be a technical advisory committee, attendees should be prepared for technical discussions.

The agenda for the first meeting will consist of:

1. Introduction and Remarks;

2. Brief discussion of the objectives of the Committee;

3. Nomination of Officers;

4. Discussion of appropriate date and tentative agenda for next meeting.

Any questions regarding this meeting should be directed to Mr. Kenneth Nichols at (301) 725-1585.

Federal Communications Commission
William J. Tricarico,
Secretary.
[FR Doc. 85-19057 Filed 8-9-85; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance); Great Pacific Cruise Lines, Inc.

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Pub. L. 89-777 (80 Stat. 1357, 1358) and Federal Commission General Order 20, as amended (46 CFR Part 540): Great Pacific Cruise Lines, Inc., 3600 15th Avenue West, Seattle, Washington 98119.

Dated: August 7, 1985.

Bruce A. Dombrowski,
Acting Secretary.
[FR Doc. 85-19108 Filed 8-9-85; 8:45 am]
BILLING CODE 6730-01-M

Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance); Pan Ocean Navigation, Inc., et al.

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Pub. L. 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540): Pan Ocean Navigation, Inc. and Venus Cruise Line, Inc., c/o Venus Cruise Line, Inc., 99 George King Boulevard, Cape Canaveral, Florida 32920.

Dated: August 7, 1985.

Bruce A. Dombrowski,
Acting Secretary.
[FR Doc. 85-19109 Filed 8-9-85; 8:45 am]
BILLING CODE 6730-01-M

Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance); Regency Maritime Corp., et al.

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation

pursuant to the provisions of section 3, Pub. L. 89–777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540): Regency Maritime Corporation, Ridan Investment Trust Inc. and Regency Cruises Inc., c/o Regency Cruises Inc., 260 Madison Avenue New York, New York 10016.

Dated: August 7, 1985.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85–19110 Filed 8–9–85; 8:45 am]

BILLING CODE 6730–01–M

[Docket No. 85–14]

Amendment To Order of Investigation and Hearing; Cari-Cargo International, Inc. and Jorge Villena

This proceeding was instituted by Order of Investigation and Hearing served May 3, 1985, to determine whether Respondents Cari-Cargo International, Inc. and Jorge Villena have violated sections 18(b)(1) and 18 (b)(3) of the Shipping Act, 1916 (1916 Act) (46 U.S.C. app. 817(b) (1) and (3)), and 8(a)(1) and 10(b)(1) of the Shipping Act of 1984 (1984 Act) (46 U.S.C. app. 1707(a)(1) and 1709(b)(1)), by operating as a common carrier without a tariff on file with the Commission.

The Commission's Bureau of Hearing Counsel have now filed a Motion to Modify Order of Investigation (Motion) to include the issue of whether Respondents also violated section 16, Initial Paragraph, of the 1916 Act (46 U.S.C. app. 815) and section 10(a)(1) of the 1984 Act (46 U.S.C. app. 1709(a)(1)). Hearing Counsel advise that during the course of prehearing discovery, it uncovered evidence which it believes will show that Respondents violated these additional provisions of law by consolidating cargo and tendering it to vessel-operating carriers under incorrect descriptions in order to obtain transportation at lower rates than would apply under those carriers' tarriffs. No reply to Hearing Counsel's Motion was filed.

Rule 147 of the Commission's Rules (46 CFR 502.147), authorizes a presiding administrative law judge to "delineate the scope of a proceeding instituted by order of the Commission by amending, modifying, clarifying or interpreting said order. . . ." However, Rule 147 does not authorize a presiding judge to enlarge a proceeding by adding issues under different sections of the shipping statutes. *See Rules of Practice and Procedure*, 16 SRR 1387, 1388 (1976). Therefore, under the Commission's Rules, the Presiding Officer in this proceeding referred the Motion to the Commission. *See* Rules 73(a) (46 CFR 502.73(a)) of the Commission's Rules of Practice and Procedure.

The Order of Investigation and Hearing will be modified to address the issue discussed above. This should not delay the proceeding as Hearing Counsel advises that it does not require additional discovery nor more time in which to develop its case on this issue. Moreover, because this proceeding has not progressed beyond the discovery stage, the granting of Hearing Counsel's Motion will not prejudice the right of Respondents to present evidence and argument on the issue.

Therefore, it is ordered, that the Order of Investigation and Hearing in this proceeding be modified by adding the following new third numbered issue in the first ordering paragraph:

3. Whether Jorge Villena and/or Cari-Cargo International, Inc. violated section 16, Initial Paragraph, of the Shipping Act, 1916, and section 10(a)(1) of the Shipping Act of 1984 by knowingly and wilfully, by means of false classification, obtaining or attempting to obtain ocean transportation for property at less than the rates or charges that would otherwise be applicable;

It is further ordered, that the existing third numbered issue in the first ordering paragraph be renumbered and modified as follows:

4. Whether, in the event Jorge Villena and/or Cari-Cargo International, Inc. is found to have violated *section 16 Initial Paragraph, or* section 18(b)(1) *or* 3, of the Shipping Act, 1916, *or* section 8(a)(1) *or section 10(a)(1) or* section 10(b)(1) of the Shipping Act of 1984, civil penalties should be assessed, and, if so, against whom and in what amount; and

It is further ordered, that the existing fourth numbered issue in the first ordering paragraph be renumbered and modified as follows:

5. Whether, in the event Jorge Villena and/or Cari-Cargo International, Inc. is found to have violated *section 16, Initial Paragraph* or section 18(b) (1) or (3) of the Shipping Act, 1916, or section 8(a)(1) *or section 10(a)(1)* or 10(b)(1) of the Shipping Act of 1984, either or both should be ordered to cease and desist from violating the provisions of the Shipping Act of 1984 (46 U.S.C. app. 1701 *et seq.*).

By the Commission.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85–19094 Filed 8–9–85; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Agency Forms Under OMB Review

August 6, 1985.

Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act of 1980, as per 5 CFR 1320.9, "to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320.9." Board-approved collections of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the SF 83 and supporting statement and the approved collection of information instrument(s) will be placed into OMB's public docket files. The following forms, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority.

Date: Comments must be received within fifteen working days of the date of publication in the **Federal Register**.

Address: Comments, which should refer to the OMB Docket number (or Agency form number in the case of a new information collection that has not yet been assigned an OMB number), should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, D.C. 20551, or delivered to room B–2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected in room B–1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.6(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Robert Neal, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

For further information contact: A copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, and other documents that will be placed into

OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3822)

Proposal to approve under OMB delegated authority the extension with revision of the following report:

1. Report title: Letter Advising Federal Reserve System of Consummation of Proposed Acquisition of Bank and/or Nonbank Company or Consummation of a Stock Redemption

Agency form number: FR 4016

OMB Docket number: 7100-0170

Frequency: Event-generated

Reporters: Bank holding companies

Small businesses are affected.

General description of report: This information collection is mandatory [12 U.S.C. 1844 (a) and (c)] and is not given confidential treatment.

Whenever a bank holding company (BHC) is formed, or acquires another bank or nonbank, or redeems its stock, it is required to notify the Federal Reserve System via this letter form. The System uses the information to update and verify its structural files and to monitor the capital structure of BHCs.

Board of Governors of the Federal Reserve System, August 6, 1985.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 84-19028 Filed 8-9-85; 8:45 am]

BILLING CODE 6210-01-M

Commerce Bancshares, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 30, 1985.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Commerce Bancshares, Inc.*, Kansas City, Missouri; to acquire Commerce Brokerage Services, Inc., Kansas City, Missouri, thereby engaging in providing securities brokerage and incidental services.

Board of Governors of the Federal Reserve System, August 6, 1985.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 85-19029 Filed 8-9-85; 8:45 am]

BILLING CODE 6210-01-M

Creditbank Shares, Inc., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 30, 1985.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Creditbank Shares, Inc.*, Coral Gables, Florida; to engage *de novo* through its subsidiary, Creditbank Mortgage Company, Coral Gables, Florida, in the activity of making and servicing loans in the State of Florida.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Norwest Corporation*, Minneapolis, Minnesota; to engage *de novo* through its subsidiary, Norwest Financial Services, Inc., Des Moines, Iowa, or one or more of its subsidiaries in the activity of making, acquiring, or servicing loans or other extensions of credit for the Company's account or for the account of others, such as would be made by a mortgage company.

Board of Governors of the Federal Reserve System, August 6, 1985.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 85-19032 Filed 8-9-85; 8:45 am]

BILLING CODE 6210-01-M

Home Interstate Bancorp, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of

the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 4, 1985.

A. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Home Interstate Bancorp, Inc.*, Signal Hill, California; to engage in a joint venture with County Bank & Trust, Santa Cruz, California and First Trust Bank, Ontario, California, by the sale of 66⅔ percent of the voting shares of Home Interstate's existing subsidiary, Bancorp Capital Group, Inc., Signal Hill, California ("BCG"). The joint venture will continue BCG's current activities and engage in commercial lending, the leasing of personal property, and financial advisory services.

Board of Governors of the Federal Reserve System, August 6, 1985.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 85-19033 Filed 8-9-85; 8:45 am]

BILLING CODE 6210-01-M

Indian Head Banks Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 30, 1985.

A. Federal Reserve Bank of Boston (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Indian Heads Banks Inc.* and its wholly owned subsidiary, *DN Bankshares Inc.*, both located in Nashua, New Hampshire; to become a bank holding company by acquiring 100 percent of the voting shares of Dartmouth National Corporation, Hanover, New Hampshire, thereby indirectly acquiring Dartmouth National Bank, Hanover, New Hampshire.

2. *Shawmut Corporation*, Boston, Massachusetts; to acquire 100 percent of the voting shares of Shawmut Quincy Bank & Trust Company, Quincy, Massachusetts, a *de novo* bank.

B. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Trustcompany Bancorporation*, Jersey City, New Jersey; to become a bank holding company by acquiring 100 percent of the voting shares of The Trust Company of New Jersey, Jersey City, New Jersey.

C. Federal Reserve Bank of Cleveland (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *United Bancshares, Inc.*, Columbus Grove, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of The Union Bank Company, Columbus Grove, Ohio.

D. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Banco Nororiental De Venezuela, C.A.*, Apartado Caracas, Venezuela; to acquire 10 percent of the voting shares of Eastern National Bank, Hialeah, Florida.

2. *First Santa Rosa Holding Corporation*, Milton, Florida; to become a bank holding company by acquiring 80 percent of the voting shares of First National Bank of Santa Rosa, Milton, Florida.

E. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *West Bancorp, Inc.*, Westmont, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Westmont, Westmont, Illinois.

2. *1st Columbia Corp.*, Columbus, Wisconsin; to acquire 80 percent of the voting shares of Rio-Fall River Union Bank, Fall River, Wisconsin.

F. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Taylor Bancshares, Inc.*, North Mankato, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of Valley National Bank, North Mankato, Minnesota.

G. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First Lubbock Bancshares, Inc.*, Lubbock, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank at Lubbock, Lubbock, Texas.

2. *MCorp*, Dallas, Texas; to acquire through its subsidiaries, MCorp Financial, Inc., Wilmington, Delaware and The Equitable Company of Dallas, Dallas, Texas 4.9 percent of the voting shares of First Lubbock Bancshares, Inc., Lubbock, Texas, thereby indirectly

acquiring First National Bank at Lubbock, Lubbock, Texas.

H. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Financial Consortium of America*, Solana Beach, California; to become a bank holding company by acquiring 51 percent of the voting shares of Bank of La Costa, Carlsbad, California.

2. *SJNB Financial Corp.*, San Jose, California; to acquire 100 percent of the voting shares of Tri-Valley Bancorp, Dublin, California, thereby indirectly acquiring Tri-Valley National Bank, Dublin, California.

Board of Governors of the Federal Reserve System, August 6, 1985.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 85-19030 Filed 8-9-85; 8:45 am]

BILLING CODE 6210-01-M

Napeville Financial Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requires 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 4, 1985.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Naperville Financial Corporation*, Naperville, Illinois; to acquire 100 percent of the voting shares of Heritage Bank of Bolingbrook, Bolingbrook, Illinois.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Richmond Bank Holding Co.*, Richmond, Minnesota; to become a bank holding company by acquiring 82 percent of the voting shares of State Bank of Richmond, Richmond, Minnesota.

Board of Governors of the Federal Reserve System, August 6, 1985.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 85-19034 Filed 8-9-85; 8:45 am]

BILLING CODE 6210-01-M

United Virginia Bankshares Inc., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or to through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 28, 1985.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *United Virginia Bankshares Incorporated*, Richmond, Virginia; to engage *de novo* through its subsidiary, United Virginia Insurance Agency, Incorporated, Richmond, Virginia, in general agenty brokerage activities of all kinds; and general insurance activities pursuant to section 4(c)(8)(G) of the Act. The sale will be to Applicant's customers and the general public. United Virginia Bankshares Incorporated is a registered bank holding company and prior to January 1, 1971, was engaged directly or indirectly, in insurance agency activities as a consequence of Board approval prior to that date.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Firstier, Inc.*, Lincoln, Nebraska; to engage *de novo*, through its subsidiary, Firstier Management Consultants, Inc., Omaha, Nebraska, in providing management consulting advice to non-affiliated bank and nonbank depository institutions. These activities would be conducted in the States of Nebraska, Iowa, Kansas, South Dakota, Colorado, Wyoming, and Montana.

Board of Governors of the Federal Reserve System, August 6, 1985.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 85-19031 Filed 8-9-85; 8:45 am]

BILLING CODE 6210-01-M

[Docket No. R-0515]

Electronic Fund Transfer: Interpretation

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Interpretation.

SUMMARY: On May 17, 1985, the Board issued a policy statement regarding risks on large-dollar wire transfer systems urging, among other things, that institutions participating on large-dollar wire networks adopt sender net debit caps. The Board's interpretation states that in determining the sender net debit cap to be applied to its U.S. branches and agencies, a foreign bank should undergo the same self-evaluation process as domestic banks, with review by its board of directors or senior

management of the home office, as appropriate.

FOR FURTHER INFORMATION CONTACT: Edward C. Ettin, Deputy Director, Division of Research and Statistics (202–452–3368); Joseph R. Alexander, Attorney, Legal Division (202–452–2489); or Joy W. O'Connell, Telecommunication Device for the Deaf, TDD (202–452–3244).

SUPPLEMENTARY INFORMATION: The Board of Governors has issued the following interpretation of its policy statement concerning risks on large-dollar wire transfer systems:

A question has been raised whether the board of directors of a foreign bank should confirm the risk category to be applied in determining the cross-system sender net debit cap for its U.S. branches and agencies.

The Board believes that, so far as possible, U.S. branches and agencies of foreign banks should be treated in the same manner as domestic banks. Accordingly, the Board believes that in determining the sender net debit caps to be applied to its U.S. branches and agencies, a foreign bank should undergo the same self-evaluation process as domestic banks.

Many foreign banks, however, do not have the same management structure as U.S. banks. For example, the bank's board of directors may have a more limited role to play in the management of a foreign bank than U.S. directors play in the management of U.S. banks. In such circumstances, the self-evaluation and the cap level should be reviewed by senior management at the foreign bank's head office that exercises authority over the foreign bank that is equivalent to that exercised by the board of directors over a U.S. bank. In those cases where a foreign bank's board of directors does exercise authority equivalent to that exercised by a U.S. board, review of the self-evaluation should be performed by the board of directors.

In most cases it may not be possible for the U.S. examiners to review the minutes of the meeting a foreign bank's board of directors or other appropriate management group at which the self-evaluation was discussed. In lieu of this, the file on the self-evaluation that is made available for examiner review by the U.S. offices of a foreign bank should contain the report on the self-evaluation made to the foreign bank's senior management by the management of U.S. operations. In addition, the file should also contain the appropriate confirming response to this report by the foreign bank's board of directors or other appropriate senior management. As in the case of U.S. banks, this review and confirmation should be completed every six months.

By order of the Board of Governors of the Federal Reserve System, August 6, 1985.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 85–19027 Filed 8–9–85; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Consensus Development Conference on Adjuvant Chemotherapy for Breast Cancer; Meeting

Notice is hereby given of the NIH Consensus Development Conference on "Adjuvant Chemotherapy for Breast Cancer," sponsored by the National Cancer Institute and the NIH Office of Medical Applications of Research. The conference will be held September 9–11, 1985, in the Masur Auditorium of the Warren Grant Magnuson Clinical Center (Building 10) at the National Institutes of Health, 8600 Rockville Pike, Bethesda, Maryland 20205.

The use of adjuvant chemotherapy for breast cancer has been a controversial issue in medical practice. NIH held a consensus development conference in July 1980 to address the therapeutic benefit of adjuvant chemotherapy. At that conference, the panel recommended further studies to provide a more comprehensive basis to evaluate the benefit the benefit of adjuvant chemotherapy for patient survival with an acceptable quality of life.

This conference will review the experiences of scientists and clinicians from multiple centers specializing in the treatment of breast cancer. It will focus on the value of adjuvant therapy, who should receive the therapy, what role endocrine therapy should play, and what are the directions for future research in breast cancer treatment.

The conference will bring together: Biomedical investigators; specialists in the fields of surgical, radiation, and medical oncology; nurses; physical therapists; and other health professionals, consumers, and representatives of the public. Following two days of presentations by medical experts and discussion by the audience, a Consensus Panel will consider the scientific evidence presented. The panel members, drawn from the medical professions, organizations interested in cancer treatment, and lay persons, will formulate a draft statement responding to the following key questions:

- Have adjuvant chemotherapy trials in breast cancer demonstrated an increase in survival in any group of patients?
- Are there significant adverse effects of adjuvant therapy?
- What is the role of endocrine treatment in the adjuvant therapy of breast cancer?
- When should women with histologically negative axillary lymph nodes receive adjuvant therapy?
- What directions for future research are indicated?

On the third day, Consensus Panel Chairman John Glick, M.D., Professor of Medicine, Hematology-Oncology Section, Hospital of the University of Pennsylvania, Philadelphia, will read the Consensus Statement before the conference audience and invite comments and questions.

Information on the program may be obtained from Mr. Peter Murphy, Prospect Associates, 2115 East Jefferson Street, Suite 401, Rockville, Maryland 20852, (301) 468–6555.

Dated: July 29, 1985.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 85–19067 Filed 8–9–85; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Developmental Therapeutics Contracts Review Committee; Meeting Cancellation

Notice of the meeting of the Developmental Therapeutics Contracts Review Committee, National Cancer Institute, National Institutes of Health, August 16, 1985, Building 31, Conference Room 7, Bethesda, Maryland 20205, published in the **Federal Register**, (50 FR 28478) is hereby cancelled. For further information, please contact Dr. Kendall G. Powers, Executive Secretary, National Cancer Institute, Westwood Building, Room 805, National Institutes of Health, Bethesda, Maryland 20205 (301/496–7575).

Dated: July 29, 1985.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 85–19069 Filed 8–9–85; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Meeting

Notice is hereby given of the meeting of the National High Blood Pressure Education Program Coordinating Committee sponsored by the National Heart, Lung, and Blood Institute, on

September 20, 1985, from 9 a.m. to 5 p.m., Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, MD 20852, (301) 468–1100.

The entire meeting is open to the public. The Coordinating Committee is meeting to define the priorities, activities, and needs of the participating groups in the National High Blood Pressure Education Program. Attendance by the public will be limited to space available.

For the detailed program information, agenda, list of participants and meeting summary contact: Dr. Edward J. Roccella, Coordinator, Health Education Branch, Office of Prevention, Education and Control, National Heart, Lung, and Blood Institute, National Institutes of Health, Building 31, Room 4A18, Bethesda, MD 20205, (301) 496–1051.

Dated: July 29, 1985.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 85–19070 Filed 8–9–85; 8:45 am]

BILLING CODE 4140–01–M

John E. Fogarty International Center for Advanced Study in the Health Sciences; Meeting of the Fogarty Center Advisory Board

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Fogarty International Center Advisory Board, September 18–19, 1985, in Building 31C, Conference Room 6 and Conference Room 4, respectively, at the National Institutes of Health.

The entire meeting will be open to the public on September 18 and 19 from 8:30 a.m. to 5:30 p.m. Dr. Craig K. Wallace, Director of the Fogarty International Center, and members of his staff will discuss and apprise the newly established board of the policies and programs of the Center. Attendance by the public will be limited to space available.

Ms. Marcia Aaronson, Committee Management Officer, Fogarty International Center, Building 38A Room 605, 301–496–1491, will provide a summary of the meeting and a roster of the committee members.

Dr. Coralie Farlee, Assistant Director for Planning and Evaluation, Fogarty International Center, Building 38A Room 605, 301–496–1491, will provide substantive program information.

Dated: July 30, 1985.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 85–19068 Filed 8–9–85; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Competitive Coal Lease Offering by Sealed Bid Tuscaloosa County, AL

Correction

In FR Doc. 85–17869, beginning on page 31249 in the issue of Thursday, August 1, 1985, make the following correction:

On page 31249, third column, seventeenth line from the bottom of the page "$100,000" should have read "$100.00".

BILLING CODE 1505–01–M

Sale of Public Lands; Esmeralda County, NV

The following described lands have been identified as suitable for disposal under section 203 of the Federal Land Policy and Management Act of 1976; 43 U.S.C. 1713, at no less than the fair market value:

MOUNT DIABLO MERIDIAN, NEVADA

	Proponent	Acres	Serial No.	Method of sale	Fair market value
T. 1 S., R. 35 E., sec. 33, NW¼SE¼.	Harry W. Smith	40	N-39456	Noncompetitive	$13,000
T. 2 S., R. 35 E.:					
Sec. 3, N½SW¼	Robert Hartman	80	N-39457	Modified competitive [1]	26,000
Sec. 15, E½SE¼S W¼SW¼, W½SW¼S E¼SW¼.	Sterling Davis	10	N-37667	Noncompetitive	7,000

[1] The proponent will be allowed to meet the highest sealed bid offered.

The sale of these parcels will contribute positively to the economy and tax base of the area and will provide for a more sensible land ownership pattern in Fish Lake Valley. By blocking up private ownership, the adjoining land owners will be able to utilize more efficient irrigation methods.

Parcel N–39456 is being offered by direct sale, to Harry W. Smith, at fair market value, as it is adjoined on two sides by his private property. Parcel N–37667 is being offered by direct sale to Sterling Davis, at fair market value, in order to resolve an inadvertent occupancy trespass and to protect his equity investment in the improvements on the land.

The subject lands are not required for any federal purpose. The sale is consistent with the Bureau's planning system. The public interest would be served by offering these lands for sale. Because of their location, the parcels are not suitable for management by the Bureau or other federal department or agency.

The Arlemont Ranch and 4-Rent, Inc., have agreed to waive their grazing rights on the sale parcels.

With respect to the modified competitive sale, sealed bids may be submitted to the Battle Mountain District Office, 2nd and Scott Streets, P.O. Box 194, Battle Mountain, Nevada 89820. Bids must be received at the District Office no later than close of business (4:15 p.m.) on Friday, September 27, 1985. Sealed bids will be opened at 10:00 a.m. on Monday, September 30, 1985.

Sealed bids must be enclosed in an envelope identified with the serial number and labeled "sealed bid—do not open" on the outside. The enclosure within the envelope must contain the serial number, the amount of the bid, the bidder's name and address, and payment of at least 20% of the bid tendered. Certified check, postal money order, bank draft or a cashier's check made payable to the Bureau of Land Management are the *only* acceptable forms of payment. No bids will be accepted for less than the minimum bid specified for each parcel.

The successful high bidder must pay the balance of the purchase money prior to the expiration of 180 days from the date of the sale. Failure to submit the full bid price within 180 days shall result in cancellation of the sale of the parcel and the deposit shall be forfeited and disposed of as other receipts of the sale.

Federal law requires that bidders be U.S. citizens, 18 years of age or older, or in the case of a corporation, be subject to the laws of any State or of the United States. Bids may be made by a principal or his qualified agent.

A bid will also constitute an application for conveyance of those mineral interests offered for conveyance in the sale. The mineral interests being offered have no known mineral values. At the time of the sale, the purchaser will be required to pay a $50.00 nonreturnable filing fee. Failure to pay this fee will result in disqualification as

the high bidder. The authorized officer shall then determine whether to accept the next highest bid, withdraw the public lands from the market or reoffer them at a later date.

Detailed information concerning the sale is available for review at the Battle Mountain District Office.

The patents when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States pursuant to the Act of August 30, 1890 (43 U.S.C. 945).

2. All the oil, gas, sodium and potassium mineral deposits, together with the right to prospect for, mine and remove the minerals. A more detailed description of this reservation, which will be incorporated in the patent document, is available for review at the Battle Mountain District Office.

Parcel N–37667 will be subject to those rights for powerline purposes which have been granted to White Mountain Power Cooperative, Inc., its successors or assigns, by Permit No. Nev–051579, under the Act of March 4, 1911 (43 U.S.C. 961).

Upon publication of this Notice of Realty Action in the **Federal Register**, the lands will be segregated from all forms of appropriation under the public land laws, including the mining laws. This segregation shall terminate upon issuance of patent, upon publication in the **Federal Register** of a notice of termination of segregation, or 270 days from the date this Notice is published in the **Federal Register**, whichever occurs first.

The land will not be offerd for sale any sooner than 60 days after the date of this Notice. For a period of 45 days after the date of this Notice, interested parties may submit comments to the District Manager, Battle Mountain District Office, 2nd and Scott Streets, P.O. Box 194, Battle Mountain, Nevada 89820. Any adverse comments will be reviewed by the State Director who may sustain, modify or vacate this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

BLM may accept or reject any and all offers, or withdraw any land or interest in land from sale if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with applicable law.

Dated: July 30, 1985.

Marla B. Bohl,

Chief, Branch of Lands & Minerals Operations.

[FR Doc. 85–19077 Filed 8–9–85; 8:45 am]

BILLING CODE 4310-HC-M

Bureau of Reclamation

Arroyo Pasajero Project, CA; Intent to Prepare a Draft Environmental Impact Statement/Environmental Impact Report

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 and section 21002.1 of the California Environmental Quality Act of 1970, the U.S. Bureau of Reclamation and the California Department of Water Resources propose to prepare a joint Environmental Impact Statement/ Environmental Impact Report (EIS/EIR) for the Arroyo Pasajero Project, Fresno County, California. The purpose of the project is to provide a solution to the flooding, sedimentation, and asbestos problems threatening a jointly financed Federal and State water conveyance facility, and San Luis reach of the Governor Edmund G. Brown California Aqueduct (also called the San Luis Canal), at its junction with the Arroyo Pasajero.

Arroyo Pasajero is an intermittent stream near the cities of Coalinga and Huron in southwestern Fresno County. The Arroyo drains Los Gatos Creek, Warthan Creek, Jacalitos Creek, and Zapato-Chino Creek. Flood waters from the Arroyo intersect the San Luis Canal two miles east of the mouth of the Arroyo, where the canel forms a barrier to floor waters and sediment flowing out of the Arroyo during heavy rainstorms. In recent years flood waters from the Arroyo Pasajero drainage have threatened to overtop the San Luis Canal because a retention basin designed to store flood waters and sediment on the west side of the canal is more than half filled with sediment. The sediment has significantly reduced the storage capacity of the basin. As a result, flood waters from even minor storms raise the water level in the basin to a point where the canal and the southern barrier of the basin are threatened by overtopping. In the past, when threats occurred, water containing sediment and asbestos has been discharged into the San Luis Canal. Recently, this procedure has been highly criticized due to the possible health effects associated with asbestos which enters Los Gatos Creek from an upstream tributary.

Four alternatives are proposed to protect the San Luis Canal and reduce sediment flow. The alternatives being evaluated include:

(1) Enlarging the west side ponding basin to increase water and sediment storage capacity and to prevent Arroyo flood waters from overtopping the canal;

(2) Constructing new ponding basins on the east side of the canal to route Arroyo flood waters across the canal through overchutes;

(3) Enlarging the west side ponding basin and constructing a dam on Warthan Creek; and

(4) Enlaring the west side ponding basin and constructing a dam on Los Gatos Creek.

There will be one or more scoping sessions at which information will be solicited from all interested public entities and persons to identify significant issues related to the alternatives.

The Draft EIS/EIR is expected to be completed and avaiable for review and comment by mid-1987. The contact person for the draft report is:

Dave Gore, U.S. Department of the Interior, Mid-Pacific Region, Bureau of Reclamation, 2800 Cottage Way, Sacramento, CA 95825, (916) 978–4966;

or

Delores Brown, California Department of Water Resources, 1416 Ninth Street, Room 252–20, Sacramento, CA 95814, (916) 445–6176.

Dated: August 6, 1985.

B.H. Spillers,

Acting Commissioner.

[FR Doc. 85–19065 Filed 8–9–85; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–6 (Sub-No. 247)]

Burlington Northern Railroad Co.; Abandonment in Hennepin, Carver, and McLeod Counties, MN; Findings

The Commission has issued a certificate authorizing the Burlington Northern Railroad Company to abandon its 43.66-mile rail line between Wayzota (milepost 24.90) and Hutchinson (milepost 68.56) in Hennepin, Carver, and McLeod Counties, MN. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is

likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB–OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR Part 1152.

James H. Bayne,

Secretary.

[FR Doc. 85–19082 Filed 8–9–85; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF LABOR

Office of the Secretary

Advisory Council on Employee Welfare and Pension Benefit Plans; Announcement of Vacancies; Request for Nominations

Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA) 88 Stat. 895, 29 U.S.C. 1142, provides for the establishment of an "Advisory Council on Employee Welfare and Pension Benefit Plans" (the Council) which is to consist of 15 members to be appointed by the Secretary of Labor (the Secretary) as follows: Three representatives of employee organizations (at least one of whom shall be representative of an organization whose members are participants in a multiemployer plan); three representatives of employers (at least one of whom shall be representative of employers maintaining or contributing to multiemployer plans); one representative each from the fields of insurance, corporate trust, actuarial counseling, investment counseling, investment management, and accounting; and three representatives from the general public (one of whom shall be a person representing those receiving benefits from a pension plan). Not more than eight members of the Council shall be members of the same political party.

Members shall be persons qualified to appraise the programs instituted under ERISA. Appointments are for terms of three years.

The prescribed duties of the Council are to advise the Secretary with respect to the carrying out of his functions under ERISA, and to submit to the Secretary recommendations with respect thereto. The Council will meet at least four times each year, and recommendations of the Council to the Secretary will be included in the Secretary's annual report to the Congress on ERISA.

The terms of five members of the Council expire on November 14, 1985. The groups or fields represented are as follows: employee organizations (representing an organization whose members are participants in a multiemployer plan), employers, actuarial counseling, investment counseling and the general public (representing those receiving benefits from a pension plan).

Accordingly, notice is hereby given that any person or organization desiring to recommend one or more individuals for appointment to the ERISA Advisory Council on Employee Welfare and Pension Benefit Plans to represent any of the groups or fields specified in the preceding paragraph, may submit recommendations to the Secretary of Labor, Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, DC 20210. Recommendations must be delivered or mailed on or before September 6, 1985. Recommendations may be in the form of a letter, resolution, or petition, signed by the person making the recommendation, or, in the case of a recommendation by an organization, by an authorized representative of the organization. Each recommendation shall identify the candidate by name, occupation or position, telephone number and address. It shall include a brief description of the candidate's qualifications and shall specify the group or field which he or she would represent for the purposes of Section 512 of ERISA, the candidates' political party affiliation, and whether the candidate is available and would accept.

Signed at Washington, D.C., this 6th day of August 1985.

Morton Klevan,

Acting Administrator, Office of Pension and Welfare Benefit Programs.

[FR Doc. 85–19071 Filed 8–9–85; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 85–53]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Agency Report Forms Under OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made the submission.

Copies of the proposed forms, the requests for clearance (S.F. 83's), supporting statements, instructions, transmittal letters, and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

DATE: Comments must be received in writing by August 19, 1985. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Reviewer and the Agency Clearance Officer of your intent as early as possible.

ADDRESS: Carl F. Steinmetz, NASA Agency Clearance Officer, Code NIM, NASA Headquarters, Washington, DC 20546. Michael Weinstein, Office of Information and Regulatory Affairs, OMB, Room 3235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Carl F. Steinmetz, NASA Agency Clearance Officer, (202) 453–2941.

Reports

Title: Application for Patent License.
OMB Number: 2700–0039.
Type of Request: Extension.
Frequency of Report: As Required.
Type of Respondent: Businesses or other for-profit.
Annual Responses: 184.
Annual Reporting Hours: 184.

Abstract-Need/Uses: Pursuant to 35 U.S.C. 209, applicants for patent licenses must submit specific information in support of the application for license. The information is used to determine whether a request is approved or denied.

L.W. Vogel,

Director, Logistics Management and Information Programs Division.

[FR Doc. 85–19062 Filed 8–9–85; 8:45 am]

BILLING CODE 7510–01–M

NUCLEAR REGULATORY COMMISSION

Commonwealth Edison Co. (Braidwood Nuclear Power Station, Units 1 and 2); Reconstitution of Board

[Docket Nos. 50-456-OL and 50-457-OL; ASLBP No. 79-410-03 OL]

Pursuant to the authority contained in 10 CFR 2.721, the Atomic Safety and Licensing Board for *Commonwealth Edison Company* (Braidwood Nuclear Power Station, Units 1 and 2), Docket Nos. 50-456-OL and 50-457-OL, is hereby reconstituted by appointing Administrative Judge Herbert Grossman as Chairman of this Licensing Board for all issues except those arising under Neiner Farms' Contention 1 (765 kV transmission lines). Judge Brenner will continue to preside as Chairman on Neiner Farms' Contention 1 issues. The two technical members of the Licensing Board, Judges A. Dixon Callihan and Richard F. Cole, will continue to serve as members of this Licensing Board for all issues.

This action is taken because Judge Brenner will not be available to serve on this Licensing Board after November 1985.

As reconstituted, the Board is comprised of the following Administrative Judges:

Herbert Grossman, Chairman
Dr. A. Dixon Callihan
Dr. Richard F. Cole

All correspondence, documents and other material shall be filed with the Board in accordance with 10 CFR 2.701 (1980). For the present, all filings submitted in this proceeding should be served on both Judges Grossman and Brenner. The address of the new Board member is: Administrative Judge Herbert Grossman, Chairman, Atomic Safety and Licensing Board, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Issued at Bethesda, Maryland, this 5th day of August, 1985.

B. Paul Cotter, Jr.,

Chief, Administrator Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 85-19149 Filed 8-9-85; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-14657 (File No. 812-6144)]

Libra U.S. Capital Corp.; Application Permitting Applicant To Issue and Sell Commercial Paper in the United States for Its Parent Corporation

August 5, 1985.

Notice is hereby given that Libra U.S. Capital Corporation (the "Applicant") 70 Pine Street, New York, New York 10270, filed an application on July 1, 1985, pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act"), for an order of the Commission, exempting Applicant from all provisions of the Act. All interested persons are referred to the application of file with the Commission for a statement of the representations made therein, which are summarized below, and to the Act for a statement of the relevant provisions thereof.

Applicant represents that it was incorporated on June 19, 1985, under Delaware state law and is a wholly owned subsidiary of Libra Bank plc ("Libra"). Applicant states that its principal business will be raising funds for Libra through the issuance and sale of commercial paper throughout the United States. Applicant will advance to or deposit with Libra substantially all of the proceeds from the sale of commercial paper (except for amounts needed to repay maturing sales) so Libra may finance currend transactions. According to the application, substantially all of Applicant's assets will consist of amounts receivable from Libra.

Applicant states that Libra is a commercial bank organized under the United Kingdom's Companies Act of 1948 and is a "recognized bank" under the United Kingdom's Banking Act of 1979. Applicant represents that Libra is headquartered in London, England and maintains offices in Latin America, as well as a state-licensed agency in New York. By virtue of its maintenance of a state-licensed agency in New York, Libra is subject to regulation by the Board of Governors of the Federal Reserve System under the International Banking Act of 1978 with respect to, among other things, the types of activities in the United States in which it may engage.

On May 2, 1985, the Commission issued an order (Investment Company Rel. No. 14500) ("Libra Order") exempting Libra from all provisions of the Act. The Libra Order permits Libra to issue and sell its commercial paper in the United States. Applicant now wishes to undertake, on behalf of Libra, the issuance and sale of commercial paper in the United States.

Applicant represents that the commercial paper proposed to be issued and sold in the United States will be evidenced by short-term notes ("Notes"). Applicant also represents that the payment of principal of and interest on the Notes will be unconditionally guaranteed by Libra. Applicant believes that to the extent that the guarantees of the Notes by Libra constitute separate securities for purposes of the Act, the offer and sale of such securities are permitted by the Libra Order. The Notes will have those characteristics, including a maturity of not more than 270 calendar days and minimum denomination of not less than $100,000, which will enable them to qualify for the exemption from registration under Section 3(a)(3) of the Securities Act of 1933 ("1933 Act"). Furthermore, the Notes will be prime quality negotiable commercial paper and contain no provision for payment on demand, extension, renewal or automatic "rollover". Applicant presently anticipates that during the first year in which the Notes are sold, the aggregate amount of Notes outstanding at any on time is unlikely to exceed $2000,000,000.

Applicant does not propose to register the Notes under the 1933 Act. However, Applicant will not offer or sell any Notes in the United States until it has received a written opinion from its United States counsel stating that the Notes and the related guarantees of Libra are entitled to the section 3(a)(3) exemption. Applicant does not request the Commission's review or approval of such opinion. Applicant represents that the Notes and any future issue of Applicant's securities will receive prior to issuance one of the three highest short-term investment grade rating from at least one of the nationally recognized statistical rating organizations and that Applicant's United States counsel will certify in writing as to receipt of such rating. Applicant states that no such rating will be obtained, however, if in the opinion of Applicant's United States counsel, and exemption from registration is available under section 4(2) of the 1933 Act (after due consideration of the doctrine of "integration").

According to the application, the

Notice will be direct liabilities of Applicant and will rank *pari passu* among themselves and equally with all other unsecured, unsubordinated indebtedness of Applicant and prior to rights of shareholders. Applicant submits that the guarantees of Libra will rank *pari passu* among themselves and equally with all other unsecured, unsubordinated, indebtedness of Libra, including deposit liabilities (other than indebtedness to the United Kingdom to the extent such indebtedness is preferred by operation of law) and prior to right of shareholders. The Notes will be sold through one or more registered securities dealers to the types of institutional and other sophisticated investors that ordinarily participate in the United States commercial paper market.

Applicant undertakes to ensure that each dealer in the United States through which Applicant sells the Notes will provide to each offeree, prior to any sale of the Notes, a memorandum that describes Applicant's and Libra's business and contains a balance sheet and income statement of both Applicant and Libra for the most recent fiscal year (audited with respect to Libra in accordance with United Kingdom accounting principles applicable to banks) and, as publicly available, for the most recent fiscal quarter (unaudited). Applicant states that the memorandum and financial statements will be as comprehensive as those customarily used in commercial paper offerings in the United States, will describe any material differences between accounting principles applicable to United Kingdom banks and generally accepted accounting principles applicable to United States commercial banks, and will be updated periodically to reflect material changes in Applicant's and Libra's financial status.

While it has no present intention of doing so, Applicant may in the future offer other debt securities for sale in the United States. Any such future offering by Applicant in the United States will be made pursuant to a registration under the 1933 Act or pursuant to an applicable exemption from registration under the 1933 Act. Any future offering will be made on the basis of a disclosure document appropriate and customary for such registration or exemption and in any event as comprehensive as those used in offerings of similar debt securities by issuers in the United States. Applicant undertakes to ensure that such a disclosure document will be provided to each offeree who has indicated an interest in such securities prior to any sale except in the case of an offering made pursuant to a registration statement under the 1933 Act.

Applicant represents that it will appoint a bank or trust company having an office in New York City as agent to issue the Notes on behalf of Applicant.

Applicant and Libra will expressly submit to the jurisdiction of those New York State and United States federal courts which sit in the City and County of New York for the purposes of any action brought on the Notes or guarantees thereof. Applicant and Libra also submit that each will be subject to suit in any other court in the United States which shall have jurisdiction over Applicant and Libra by virtue of the manner of the offering of the Notes, guarantees thereof or otherwise. Such submission to jurisdiction will also pertain to any future debt offerings in the United States. Applicant and Libra each will appoint an agent to accept service of process in any proceeding. Such appointment of an agent to accept service of process and consent to jurisdiction will be continuously maintained until all amounts due and to become due in respect of the Notes or the guarantees thereof have been paid or set aside.

Applicant asserts that the application is consistent with the protection of investors and necessary and appropriate in the public interest because the particular abuses against which the Act was directed, such as excessive management and brokerage fees, investments in companies in which the investment company management has a personal interest and other forms of self-dealing, were thought not be prevalent in the commercial banking industry. Applicant asserts further that Libra is already exempted from the provisions of the Act thereby entitling it to issue and sell directly commercial paper in the United States, and that Applicant is functioning solely as a vehicle through which sales of Notes would be accomplished. In addition, Applicant states that the Notes would be guaranteed unconditionally by Libra.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 30, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-19085 Filed 8-9-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14658 (File No. 812-6170)]

Donald Sheldon Group, Inc., Donald Sheldon & Co., Inc., Donald Sheldon Government Securities, Inc., and Investor's Portfolio Management, Inc.; Application and Temporary Order

August 5, 1985.

Notice is hereby given that Donald Sheldon Group, Inc. ("Group"), Donald Sheldon & Co., Inc. ("Company"), Donald Sheldon Government Securities, Inc. ("Government"), and Investor's Portfolio Management, Inc. ("IPM") (collectively, "Applicants") have filed an Application with the Commission on August 5, 1985 pursuant to section 9(c) of the Investment Company Act of 1940, as amended (the "1940 Act"), for an order of the Commission exempting them from the provisions of section 9(a) of the Act, and a temporary exemption from section 9(a) pending the Commission's determination of the Application for a permanent exemption.

Applicants state that Group is a holding company approximately 75% owned by Donald T. Sheldon. Among the wholly-owned subsidiaries of Group are Company, a registered broker-dealer and member of the NASD, Government, which is engaged in the offer and sale to retail customers of U.S.-backed securities, and IPM ("IPM"), a registered investment adviser, which acts as investment adviser to New York Muni Fund, Inc., The California Muni Fund and The California Tax Free Money Fund (the "Funds"), registered investment companies. Applicants state that if IPM or any of its assets are sold, there will be no distribution of proceeds to shareholders or principals of IPM and Group until all claims against Company and Government have been satisfied and provided for in full.[1]

Applicants state that on July 30, 1985, pursuant to a Complaint filed by the Commission, the United States District Court for the Southern District of New York (the "Court"), entered an Order to Show Cause, a Temporary Restraining

[1] In the event of any sale, any distribution of proceeds shall be deemed to be a "benefit" to IPM within the meaning of section 15(f) of the 1940 Act. Nothing herein shall relieve Applicants of any statutory responsibility under the federal securities laws that may apply to a sale of IPM or any of its assets.

Order and an Order appointing a Temporary Receiver against the Company and Government, enjoining them from violating various provisions, including section 17(a) of the Securities Act, and sections 10(b), 15(c)(1) and 15(c)(3) of the Exchange Act and rules 10b–5, 15c1–2 and 15c3–1 promulgated thereunder. The Complaint alleges that Company and Government violated Federal securities laws as a result of allegedly fraudulent trading in government securities, violations of the minimum net capital requirements and other Commission rules.

Applicants further state that on July 30, 1985 the Court also entered an Order to Show Cause, and a Temporary Restraining Order appointing a Special Fiscal Agent pending a further order of the Commission setting forth the duties of the Special Fiscal Agent.

Applicants state that on July 31, 1985 the Court extended indefinitely the Temporary Restraining Order and Order appointing a Temporary Receiver, and entered an Order appointing a Special Fiscal Agent and delineating his duties.

Applicants state that section 9(a)(2) of the Act, in pertinent part, makes it unlawful for any person to act in the capacity of employee, officer, director, member of an advisory board, investment adviser, or depositor of any registered investment company or principal underwriter for any registered open-end investment company, if such person, by reason of any misconduct, is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from engaging in or continuing any conduct or practice in connection with any activity as an underwriter, broker, dealer, or investment adviser or as an affiliated person, salesman or employee of an investment company.

In addition, Applicants state that Section 9(a)(3) makes it unlawful for a company any affiliated person of which is ineligible by reason of section 9(a)(2) to act in the capacities set forth above.

Applicants further state that section 9(c) provides that upon application the Commission shall by order grant an exemption from the provisions of section 9(a) unconditionally or on an appropriate temporary or other conditional basis, if it is established that the prohibitions of Section 9(a), as applied to the applicant are unduly or disproportionately severe, or that the conduct of such person has been such as not to make it against the public interest to grant such application.

In support of their position, Applicants submit that the Commission should grant them an exemption from the provisions of section 9(a) of the Act for the following reasons:

1. The allegations of the Orders to Show Cause and the Temporary Restraining Orders and the facts and circumstances to which they relate in no way involve any activities of IPM or the Funds. Further, since a Special Fiscal Agent has been appointed, the activities of IPM are not controlled by Group. Moreover, additional safeguards have been instituted by IPM and the Funds such as the formation of an Interfund Committee composed of disinterested directors which will monitor the operations of IPM, and the institution of daily and weekly compliance reports, and monthly financial statements.

2. The prohibitions of section 9(a) would be unduly and disproportionately severe as applied to IPM and the Funds because they would deprive the Funds of IPM's investment advisory and distribution services. The prohibitions of section 9(a) could operate significantly to the detriment of the financial interests of the Funds and their shareholders, since the Funds may be forced to temporarily operate without investment advice. In addition, the termination of IPM as investment advisor would seriously impair the ability of the Funds to sell their shares, and open-end investment companies depend upon the continuous investment of new money by shareholders.

3. Since Applicants are not aware of any involvement by IPM in the events that gave rise to the Orders wherein funds were improperly transferred, the requested relief as applied to IPM and the Funds is not against the public interest or the protection of investors of the Funds.

4. In order to maintain uninterrupted operations of the Funds, it is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act that the temporary exemption requested herein be issued.

5. In making the instant Application, Applicants acknowledge, understand and agree that the Application and any temporary exemption issued herein shall be without prejudice to, and shall not limit the Commission's rights in any manner with respect to any Commission investigation or enforcement actions pursuant to the Federal securities laws, or the consideration by the Commission of any application for exemptions from Statutory requirements, including, without limitation, the consideration of the instant Application for a permanent exemption pursuant to section 9(c) from the provisions of section 9(a) of the Act or the revocation or removal of any temporary exemption granted in connection with this Application.

Applicants further undertake that they will cooperate and use best efforts to cause their present and former employees to cooperate with the Commission in any investigation by the Commission into any matters relating to, regarding or arising out of the facts alleged in the Complaint, including the production of documents within their possession, custody or control and the testimony of their officers, directors, employees and agents.

6. Applicants have never before applied for an exemption from the provisions of section 9(a) of the Act.

Accordingly, the Application concludes that the Applicants believe that granting the requested order and temporary order pursuant to section 9(c) of the Act is not inconsistent with the public interest and the protection of investors and the purposes fairly intended by the policy of the Act.

The Commission has considered the matter and finds that:

(1) The prohibitions of section 9(a) may be unduly or disproportionately severe as applied to IPM and the Funds; and

(2) In order to maintain the uninterrupted services provided by IPM to the Funds, it is necessary and appropriate in the public interest, and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act, that a temporary order be issued forthwith.

Accordingly, it is ordered that, pursuant to section 9(c) of the Act, Applicants as of the date of this Order, be and hereby are granted a temporary exemption from the prohibitions of section 9(a) of the Act with respect to their affiliations with the Funds, for a period of 45 days from the day of this Order, or at such earlier time as the Commission may direct, or unless otherwise extended by the Commission on its own motion or upon further application by the Applicants, pending final determination by the Commission of the Application for an order granting an exemption from such prohibitions; provided, however, that this temporary exemption is conditioned upon Applicants' compliance with its undertakings as set forth above.

Notice is further given that any interested person may, not later than August 30, 1985, at 5:30 P.M., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of

fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, incuding the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

John Wheeler,

Secretary.

[FR Doc. 85–19086 Filed 8–9–85; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirement Under OMB Review

ACTION: Notice of reporting and recordkeeping requirement submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirement to OMB for review and approval, and to publish notice in the Federal Register that the agency has made such a submission.

DATE: Comments must be received on or before August 15, 1985. If you anticipate commenting on a submission but find that time to prepare will prevent you from submitting comments promptly, advise the OMB reviewer and the Agency Clearance Officer of you intent as early as possible before the comment deadline.

Copies: Copies of forms, request for clearance (S.F. 83s), supporting statements instructions, and other documents submitted to OMB for review may be obtained from Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Richard Vizachero, Small Business Administration, 1441 L Street NW., Room 200, Washington, DC 20416, Telephone: (202) 653–8538

OMB Reviewer: David Reed, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, DC 20503, Telephone: (202) 395–7231.

Information Collections Submitted for Review

Title: 13 CFR 112.9 and 113.5 of SBA's Nondiscrimination Rules and Regulations
Form No. SBA 793
Freqency: On occasion
Description of Respondents: Companies are required to keep records in order for SBA to determine the compliance status of the recipient
Annual Responses: 144,500
Annual Burden Hours: 11,000
Type of Requests: Resubmission

Title: Score and Ace Application for Membership
Form No: SBA 610
Freqency: On occasion
Description of Respondents: The form is completed by individuals desiring membership in the SCORE/ACE program. The information is used by SBA and SCORE to match the members skills with the counseling and/or training needs of the small business community.
Annual Responses: 2800
Annual Burden Hours: 700
Type of Requests: Extension.

Richard Vizachero,

Chief, Information Resources Development Section.

[FR Doc. 85–19044 Filed 8–9–85; 8:45 am]

BILLING CODE 8025–01–M

[Proposed License No. 06/06–0290]

Application for License To Operate as a Small Business Investment Company; Ameriway Venture Partners I

An application for a license to operate as a small business investment company under the provisions as section 301(c) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*) has been filed by Ameriway Venture Partners I with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1985).

The officers, directors and owners of the applicant are as follows:

Ameriway Venture Capital, Inc., Corporate General Partner

Officers of Ameriway Venture Capital, Inc.:

Joseph E. Russo, 121 North Post Oak Lane, #1906, Houston, Texas 77024—Chairman of The Board of Directors

Emmanuel T. Ballases, 350 Tynebrook, Houston, Texas 77024—Vice Chairman of the Board of Directors

James L. Hurn, 6150 Delmonte, Houston, Texas 77057—President and Director

Harold B. Klinger, 11702 Greenbay, Houston, Texas 77024—Vice President, Treasurer and Directors

Benjamin B. Andrews, 1908 Milford, Houston, Texas 77098—Vice President

Management and control of Ameriway Venture Partners I:

Ameriway Venture Capital, Inc., 7575 San Felipe, Houston, Texas 77063—Corporate General Partner—.75%

James L. Hurn, 7575 San Felipe, Houston, Texas 77063—Individual General Partner—.25%

Ameriway Savings Association, 7575 San Felipe, Houston, Texas 77063—Limited—72.46%

Mr. Joseph E. Russo controls Ameriway Savings Association.

The Applicant, a Texas Limited Partnership, with its principal place of business at 7575 San Felipe, Houston, Texas 77063 will begin operations with $1,045,000 in Partnership capital.

The applicant will conduct its activities principally in the State of Texas.

As a small business investment company under section 301(c) of the Act, the applicant has been organized and chartered soley for the purposes of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed new owners and management, and the probability of successful operations of the company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments on the proposed applicant to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW, Washington, DC 20416.

A copy of this Notice will be published in a newspaper of general circulation in Houston, Texas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 31, 1985.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 85-19045 Filed 8-9-85; 8:45 am]

BILLING CODE 8025-01-M

[License No. 03/03-0178]

Issuance of a Small Business Investment Company License; DC Bancorp Venture Capital Co.

On April 17, 1985, a notice was published in the Federal Register (50 FR 15264) stating that an application has been filed by DC Bancorp Venture Capital Company, 1801 "K" Street, NW., Washington, DC 20006 with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102(1985)) for a license as a small business investment company.

Interested parties were given until close of business May 17, 1985, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 03/03-0178 on July 18, 1985, to DC Bancorp Venture Capital Company to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 26, 1985.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 85-19046 Filed 8-9-85; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-5358]

Issuance of a Small Business Investment Company License; Losco Investment & Finance Corp.

On February 11, 1985, a notice was published in the **Federal Register** (28 FR 5721) stating that an application has been filed by Losco Investment & Finance Corporation, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1985)) for a license as a small business investment company.

Interested parties were given until close of business March 13, 1985, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(d) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 09/09-5358 on July 18, 1985, to Losco Investment & Finance Corporation to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 26, 1985.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 85-19047 Filed 8-9-85; 8:45 am]

BILLING CODE 8025-01-M

[License No. 05/05-0203]

Issuance of a Small Business Investment Company License; SeaGate Small Business Investment Co.

On April 17, 1985, a notice was published in the **Federal Register** (50 FR 15265) stating that an application has been filed by SeaGate Small Business Investment Company, 245 Summit Street, Suite 1403, Toledo, Ohio 43603 with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102(1985)) for a license as a small business investment company.

Interested parties were given until close of business May 18, 1985, to submit their comments to SBA. One comment was received, but it had no impact on SBA's decision to license SeaGate Small Business Investment Company.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 05/05-0203 on July 19, 1985, to SeaGate Small Business Investment Company to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 26, 1985.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 85-19048 Filed 8-9-85; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0361]

Application for Transfer of Control of Licensed Small Business Investment Company; Wood River Capital Corp.

Notice is hereby given that an application has been filed with the Small Business Administration (SBA), pursuant to § 107.601 of the Regulations governing small business investment companies (13 CFR 107.601 (1985)), for transfer of control of Wood River Capital Corporation (Wood River), 645 Madison Avenue, New York, New York 10022, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661 et seq.), and the Rules and Regulations.

Wood River was licensed on May 9, 1979, and its present capitalization is $11,012,000. Its common stock is 92 percent owned by Marline Resources Company, Inc. (Marline), located at the same address as the Licensee. The remaining 8 percent is owned by four trusts also located at the same address as the Licensee. The Licensee's Series "A" common stock is 100 percent owned by the Prospect Group, Inc. (Prospect Group) located at the same address as the Licensee.

Under the proposed transfer of control, the Prospect Group will purchase the common stock from Marline and the four trusts by issuing its stock to the sellers, which stock has a value of approximately $5,585,391.

The officers, directors and 10 percent or more shareholders of Wood River will be as follows:

Name	Office	Percent of ownership
W. Wallace McDowell, Jr.	Chairman of the Board	0
Elizabeth W. Smith	President, Director	0
Suzanne H. Braga	Vice President, Director	0
Peter C. Wendell	Vice President, Director	0
Peter A. Banker	Vice President	0
Donald R. Dwight	Vice President	0
Frank W. Miller	Vice President	0
James Rawn	Vice President	0
Vincent H. Tobkin	Vice President	0
Thomas J. Hemmer	Treasurer, Secretary	0
Robert W. Lenthe	Assistant Secretary	0
Thomas A. Barron	Director	0
Herbert Friedman	Director	0
Montague H. Hackett	Director	0
Peter R. Kirwan-Taylor	Director	0
Gilbert H. Lamphere	Director	0

The Prospect Group, Inc., 645 Madison Avenue, New York, New York 10022, Stockholder—Common, 100%; Series A Common, 100%

Danville Resources, Inc., 645 Madison Avenue, New York, New York 10022, owns 37% indirectly through 37% ownership of the Prospect Group stock

Inspiration Resources Corporation, 250 Park Avenue, New York, New York 10177, owns 30% indirectly through 80% ownership of the Danville Resources, Inc. stock

Minerals and Resources, Corporation Limited, Sofia House, 48 Church Street, Hamilton 5–24 Bermuda, owns 14% indirectly through 45.59% ownership of the Inspiration Resources Corporation stock

Louis Marx, Jr., 1115 Fifth Avenue, New York, New York 10028, owns 15% indirectly through 100% ownership of the Marline stock which will own 15% of the Prospect Group stock after the acquisitions described in the application.

The proposed officers and directors are the same officers and directors under the previous management. Also, Wood River will continue operations at 645 Madison Avenue, New York, New York 10022, with no change in the investment policy or in the area of operations.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed new owners, and the probability of successful operations of the company under this ownership, including adequate profitability and financial soundness in accordance with the Act and Regulations.

Notice is given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments on the proposed transfer of ownership and control to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW, Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 31, 1985.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 85–19049 Filed 8–9–85; 8:45 am]

BILLING CODE 8025–01–M

Meeting; Presidential Advisory Committee on Small and Minority Business Ownership

The Presidential Advisory Committee on Small and Minority Business Ownership, located in Washington, D.C., will hold a public meeting at 9:00 a.m. until 5:00 p.m., Monday, August 12, 1985, in the Peachtree-Baker Street Building, also known as the IRS Building, 275 Peachtree Street NE., 5th Floor Conference Room—Room 556, Atlanta, Georgia 30303 to conduct a meeting between the Committee members, representatives from the large corporate sector, small and small minority entrepreneurs, local officials and associations on the availability of procurement, capitalization and marketing assistance from the private sector. The meeting will be open to the interested public, however, space is limited.

Persons wishing to obtain further information should contact Mrs. Maurine Fisher, Office of Private Industry Programs, Small Business Administration, Room 602, 1441 L Street NW., Washington, D.C. 20416, telephone (202) 653–6851.

Dated: July 29, 1985.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 85–19050 Filed 8–9–85; 8:45 am]

BILLING CODE 8025–01–M

Privacy Act of 1974; Proposed New System of Records

In 41 FR 41647 September 22, 1976, and in a notice of proposed new systems in 42 FR 12108, March 2, 1977 the Small Business Administration published notices of systems of records in compliance with the Privacy Act of 1974 (Pub. L. 93–579, 5 U.S.C. 552a(e)(11)).

Notice is hereby given that SBA has submitted a proposed new system of records pursuant to guidelines of the Office of Management and Budget regarding the preparation and submission of reports by Federal Agencies of their intention to establish or alter systems of records as required by The Privacy Act of 1974.

Any person interested in commenting on the following proposed additional system may do so by submitting comments in writing to Administrator, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416. Comments must be submitted on or before September 11, 1985.

Dated: July 29, 1985.

James C. Sanders,

Administrator.

SBA450

SYSTEM NAME:

Economic Research Program Surveys—SBA450.

SYSTEM LOCATION:

Office of Economic Research, Office of Advocacy, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416, and offices of contractors of the Agency.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Respondents to economic research program surveys.

CATEGORIES OF RECORDS IN THE SYSTEM:

SBA forms resulting from surveys conducted by the Small Business Administration or by contractors for the Agency, as apporoved by the Office of Management and Budget.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

For internal Agency use only. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

Records are maintained in locked files or locked storage spaces of the Small Business Administration or contractors of the Agency.

RETRIEVABILITY:

Records are alphabetical by name of survey respondent.

SAFEGUARDS:

Information is released to authorized persons on a need-to-know basis.

RETENTION AND DISPOSAL:

Records are maintained for three years, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Economic Research, Office of Advocacy, Small Business Administration, 1441 "L" Street, NW. Washington, D.C. 20416.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to the Small Business Administration, Director, Office of Economic Research, Office of Advocacy, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

RECORD ACCESS PROCEDURE:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the system manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Individuals to whom the records pertain.

[FR Doc. 85-19041 Filed 8-9-85; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

[Order 85-8-14; Docket 42748]

Application of Bay Air, Inc. for Certificate Authority Under Subpart Q

AGENCY: Department of Transportation.

ACTION. Notice of Order to Show Cause.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding Bay Air, Inc., fit and awarding it a certificate of public convenience and necessity to engage in scheduled interstate and overseas air transportation.

DATES: Persons wishing to file objections should do so no later than August 27, 1985.

ADDRESSES: Objections and answers to objections should be filed in Docket 42748 and addressed to the Documentary Services Division (C-55, Room 4107), U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, DC 20590 and should be served upon the parties listed in Attachment B to the order.

FOR FURTHER INFORMATION CONTACT: Mrs. Mary Cathrine Terry, Special Authorities Division (P-47, Room 6420), U.S. Department of Transportation, 400 Seventy Street, SW, Washington, DC 20590, (202) 755-3812.

SUPPLEMENTARY INFORMATION: The complete text of Order 85-8-14 is available for inspection from our Documentary Services Division at the above address.

Dated: August 6, 1985.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 85-19081 Filed 8-9-85; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

Advisory Circular on Injury Criteria for Human Exposure to Impact

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of an advisory circular.

SUMMARY: The FAA has issued an advisory circular that describes a range of impact trauma which may be used to establish bases for acceptance levels or performance criteria in the evaluation of occupant survivability characteristics in civil aircraft. The advisory circular provides reasonable estimates of impact injury criteria for humans and cites their application and limitations.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur J. Hayes, Aerospace Engineer, Technical Analysis Branch (AWS-120), Aircraft Engineering Division, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone (202) 426-8374.

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this Advisory Circular, AC No. 21-22, by writing to: U.S. Department of Transportation, Distribution Requirements Section, M-494.1, Washington, D.C. 20590.

Background

On September 21, 1984, the FAA issued a notice in the **Federal Register** (49 FR 37111) announcing the elements of its crash dynamics program leading to improved seats and the availability of a proposed advisory circular that discusses what the FAA considers to be reasonable human impact injury criteria for use in evaluating human survivability in civil aircraft seats. Some of the human impact injury values in Advisory Circular No. 21-22 (issued 6/20/85) may be used as pass/fail criteria directly in any rules requiring dynamic testing of aircraft seats.

Issued in Washington, D.C., on August 2, 1985.

William J. Sullivan,

Acting Director of Airworthiness.

[FR Doc. 85-19018 Filed 8-9-85; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

[Docket IP 85-5; Notice 2]

Chrysler Corp.; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by Chrysler Corporation of Detroit, Michigan, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.111, Motor Vehicle Safety Standard No. 111 *Rearview Mirrors*. The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on April 4, 1985, and an opportunity was afforded for comment (50 FR 13446).

Paragraph S7.1 of Federal Motor Vehicle Safety Standard No. 111 requires that a truck with a GVWR of more than 10,000 and less than 25,000 pounds be fitted with mirrors with at least 50 square inches of reflective surface each, on both sides of the vehicle.

Paragraph S6.1(b) states that trucks with a GVWR of 10,000 pounds or less must have mirrors with surface areas of at least 19.5 square inches. Chrysler produced 2,145 Dodge D-350 pickup trucks rated at 10,100 pounds GVW with outside rearview mirrors with reflective surface areas of either 43 (about 2,000 vehicles) or 35 (about 145 vehicles) square inches. These 1984 and 1985 model year vehicles were produced for sale in the United States from August 1983 through mid-December 1984.

The petitioner stated that the configurations of the subject vehicles (conventional and crew cab pickup trucks with dual rear wheels) are the same as the 1981 to 1983 model year equivalent vehicles which were rated at 10,000 pounds. The petitioner claims that the difference in GVWR of 100 pounds is only a "paper change"; the requirement to increase the surface area of the mirrors was inadvertently overlooked. Chrysler stated that the noncompliance was detected during a routine review of design release specifications for future model year vehicles rated at more than 10,000 pounds GVW, and it took immediate steps to correct the problem on subsequent vehicles.

Chrysler claimed that the mirrors provide the driver with rear views on both sides of the vehicle, adjusted in both horizontal and vertical directions, and meet all other requirements of the

Standard. Chrysler stated that the vehicle model configurations were unchanged from previous model years and so the mirrors on the vehicles in question should still be adequate in all respects. Furthermore, Chrysler was unaware of any complaint or problems relating to the outside rearview mirrors, and is willing to install new mirrors that exceed 50 square inches at no cost to the owner, should any complaints arise.

No comments were received on the petition.

The agency has carefully reviewed Chrysler's arguments. It notes that when the vehicles were rated at 10,000 pounds GVWR they were equipped with mirrors whose reflective surface areas greatly exceeded the minimum standard established for that weight category, in the instance of the 43-square inch mirrors, by over 100%. There have been no modifications to the vehicle such as an increase in its width or length that would warrant a retrofit installation of a mirror with a minimum reflective surface area of 50 square inches. The noncompliance existed, to be sure, but the slight increase in weight rating, 100 pounds, makes it of a technical nature. Given the size of the mirrors already on the vehicles, the noncompliance is not only technical, but inconsequential.

Accordingly, petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety and its petition is hereby granted.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on August 7, 1985.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 85–19080 Filed 8–9–85; 8:45 am]

BILLING CODE 4910–59–M

Research and Special Programs Administration

Hazardous Materials; Applications for Renewal or Modification of Exemptions

AGENCY: Research and Special Programs Administration, Materials Transportation Bureau, DOT.

ACTION: List of Applications for Renewal or Modification of Exemptions or Application to Become a Party to an Exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATE: Comment period closes August 27, 1985.

ADDRESS: Address comments to: Dockets Branch, Office of Regulatory Planning and Analysis, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
2582-X	Matheson Gas Products, Inc., Secaucus, NJ.	2582
2582-X	Union Carbide Corp., Danbury, CT	2582
3415-X	U.S. Department of Defense, Falls Church, VA.	3415
4291-X	United Technologies Chemical Systems, San Jose, CA.	4291
4291-X	Pacific Engineering & Production Co., of Nevada, Henderson, NV.	4291
4354-X	PPG Industries, Inc., Pittsburgh, PA	4354
4453-X	Atlas Powder Co., Dallas, TX	4453
6614-X	Swimming Pool Chemical Manufacturers Association, Saugus, CA (see footnote 1).	6614
6614-X	Jones Chemicals, Inc., Caledonia, NY	6614
6614-X	GPS Industries, City of Industry, CA (see footnote 2).	6614
6657-X	Liquid Air Corp., San Francisco, CA	6657
6816-X	McDonnell Douglas Astronautics Co., Saint Louis, MO.	6816
6816-X	U.S. Department of Defense, Falls Church, VA.	6816
6974-X	U.S. Department of Defense, Falls Church, VA.	6974
7052-X	Union Carbide Corp., Danbury, CT (see footnote 3).	7052
7835-X	Ashland Chemical, Dublin, OH	7835
7907-X	Hercules, Inc., Wilmington, DE	7907
8037-X	Mauser-Werke G.m.b.H (Mauser Packaging, Ltd.) New York, NY (see footnote 4).	8037
8059-X	EFI Corporation formerly Acurex Los Gatos, CA (see footnote 5).	8059
8175-X	The Norac Company, Inc., Azusa, CA	8175
8178-X	National Aeronautics and Space Administration, Washington, DC (see footnote 6).	8178
8195-X	McDonnell Douglas Corp., Saint Louis, MO.	8195
8214-X	Mercedes-Benz of North America, Inc., Montvale, NJ.	8214
8248-X	China Metallurgical Import & Export Corp., Shanghai, China.	8248
8248-X	Air Products and Chemicals Inc., Allentown, PA.	8248
8248-X	C.M. China Trade, Inc., New York, NY	8248
8248-X	Cerametals, Inc., New York, NY	8248
8278-X	Maintenance Mechanical Corp., Houston, TX.	8278
8307-X	U.S. Department of Defense, Falls Church, VA.	8307
8354-X	Fauvet-Girel, Paris, France	8354
8465-X	Chase Bag Co., Oak Brook, IL (see footnote 7).	8465
8564-X	Eaton Corp., Westlake Village, CA (see footnote 8).	8564
8689-X	Schlumberger Offshore Services, Houston, TX.	8689
8693-X	CAN-TRO Inc., Kansas City, MO	8693
8732-X	Ashland Services Co., Dublin, OH	8732
8732-X	Dow Chemical U.S.A., Midland, MI	8732
8750-X	Applied Environments Corp., Woodland Hills, CA.	8750
8751-X	Delta Tech Service, Inc., Martinez, CA	8751
8874-X	Justus Enterprises of Kansas, Inc., Chanute, KS (see footnote 9).	8874
8988-X	Flopetrol Johnson, Houston, TX	8988
9047-X	Union Carbide Corp., Danbury, CT	9047
9058-X	Gearhart Industries, Inc., Fort Worth, TX	9058
9066-X	Bayern-Chemie GmbH, Ottobrunn, West Germany.	9066
9070-X	Warner, Bros. Inc., Sunderland, MA	9070
9073-X	Natico, Inc., Chicago, IL	9073
9082-X	Union Carbide Agricultural Products Co., Inc., Danbury, CT.	9082
9082-X	Union Carbide Corp., Danbury, CT	9082
9108-X	Austin Powder Co., Cleveland, OH	9108
9114-X	AT&T Technologies, Inc., Lee's Summit, MO.	9114
9140-X	Crown Rotational Molded Products, Inc., Marked Tree, AR.	9140
9144-X	Cajun Bag & Supply Co., Crowley, LA (see footnote 10).	9144
9256-X	U.S. Department of Defense, Falls Church, VA (see footnote 11).	9256
9340-X	Pioneer Plastics & Services Co., Ltd., Brampton, Ont., Canada (see footnote 12).	9340
9379-X	Kaiser International Corp., Savannah, GA.	9379
9437-X	Eagle Enterprises, Inc., Anchorage, AK (see footnote 13).	9437

[1] To align the test requirements more to DOT Specification 2E instead of DOT Specification 34.

[2] To authorize a lighter weight inside polyethylene bottle for shipment of sodium hypochlorite and hydrochloric acid.

[3] To authorize titanium disulfide as an additional chemical of the lithium battery composition.

[4] To authorize additional fiber drums of 100 and 130 liters capacity having plywood bottoms and steel tops with inside polyethylene bag for shipment of certain flammable liquids or solids.

[5] To authorize epoxy resin repairs of FRP cylinders which are damaged during service in accordance with the Compressed Gas Association's Pamphlet C-6.2.

[6] To authorize an alternate type cylinder design for shipment of oxygen.

[7] To authorize use of a 6.0 mil nominal duplex triextruded plastic valve bag of 100 pound capacity for shipment of a sodium nitrate mixture.

[8] To authorize cargo vessel as an additional mode of transportation.

[9] To authorize additional compressed gases for shipment in non-DOT specification aluminum cylinders.

[10] To authorize coated magnesium granules, classed as flammable solid, as an additional commodity.

[11] To accommodate the expanded delegation of authority within the Department of Defense for interim classification of new explosive.

[12] To authorize a 540 gallon capacity polyethylene portable tank for shipment of certain corrosive liquids.

[13] To renew an exemption previously issued as an emergency authorizing shipment of corrosive liquids exceeding weight limitations by cargo aircraft only.

Application No.	Applicant	Parties to exemption
4453-P	D&J Maurer, Inc., Philipsburg, PA	4453
5704-P	Atlas Powder Co., Dallas TX	5704
7052-P	Physical Measurement Devices, Inc., Melbourne, FL	7052
7052-P	Baldt Inc., Chester, PA	7052
7052-P	Remote Systems Technology, Inc., Houston, TX	7052
7638-P	Big Three Industries, Inc., Houston, TX	7638
7657-P	Big Three Industries, Inc., Houston, TX	7657
8238-P	Speciality Metals & Minerals, Inc., Baton Rouge, LA (see footnote 1).	8238
8445-P	Drug & Laboratory Disposal, Inc., Plainwell, MI.	8445
8445-P	The Upjohn Co., Kalamazoo, MI	8445
8445-P	S&W Waste, Inc., South Kearny, NJ	8445
8519-P	Hoegh Ugland Auto Liners A/S, Oslo, Norway,.	8519
8657-P	BASF Wyandotte Corp., Parsippany, NJ	8657
8667-P	U.S. Department of Energy, Washington, DC.	8667
8845-P	HL McCullough/NL Industries, Inc., Houston, TX.	8845

[1] Request party status and to authorize highway as additional mode of transportation.

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on August 6, 1985.

J.R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 85-19087 Filed 8-9-85; 8:45 am]

BILLING CODE 4910-60-M

Hazardous Materials; Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of Applicants for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATES: Comment period closes September 12, 1985.

ADDRESS: Address comments to: Dockets Branch, Office of Regulatory Planning and Analysis, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9478-N	Systron Donner, Concord, CA	49 CFR 173.304, 173.34(e), 178.46	To manufacture, mark and sell non-DOT specification cylinders complying with DOT Specification 3AL except for shape and certain testing, for shipment of bromotrifluoromethane, classed as nonflammable gas. (Modes 1, 2, 4.)
9479-N	Great Lakes Chemical Corporation, West Lafayette, IN.	49 CFR 173.315, 178.245	To authorize shipment of bromotrifluoromethane (Halon 1301), classed as a nonflammable gas in three portable tanks comparable to DOT Specification 51 except they are equipped with a bottom outlet and recirculation line. (Modes 1, 2, 3.)
9480-N	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 173.302(a)(5)	To authorize shipment of a compressed gas, n.o.s., nonflammable gas, (Halocarbon 14) in DOT Specification 3AL cylinders (Modes 1, 2, 3.)
9481-N	C-I-L Inc., North York, Ont., Canada	49 CFR 173.77(b)	To authorize shipment of an initiating explosive, (PETN) class A explosive (25% wet) in 2 ply, each 3 mils thick, polyethylene bag overpacked in DOT Specification 12H65 fiberboard box. (Mode 1.)
9482-N	Dow Corning Corporation, Midland, MI	49 CFR 173.119(m)	To authorize shipment of certain chlorosilane materials meeting the definition of flammable liquid, corrosive, n.o.s. in DOT Specification 51 portable tanks. (Modes 1, 3.)
9483-N	Lan-O-Sheen, Inc., Saint Paul, MN	49 CFR 173.1200(a)(6)(i)	To authorized shipment of 1.3 ounces of methyl ethly ketone peroxide, classed as an organic peroxide, in a plastic tube, overpacked in strong outside packaging, without using inside cushioning material. (Mode 1.)
9484-N	EM Science, Cincinnati, OH	49 CFR 173.119(b)(4), 178.205	To authorized shipment of certain flammable liquids contained in four inner glass bottles or PVC coated glass bottles of 1 gallon capacity each overpacked in a fiberboard carton comparable to DOT Specification 12B65 except for handholes. (Modes 1, 2, 3, 4.)
9485-N	Chem-Tech, Ltd., Des Moines, IA	49 CFR 173.304	To authorized shipment of insecticide, liquefied gas, classed as nonflammable gas in DOT Specification 4BA260 cylinders. (Modes 1, 2, 3.)
9487-N	Kaw Valley, Inc., Leavenworth, KS	49 CFR 173.304(a)(2)	To authorize shipment of an insecticide, liquefied gas, classed as nonflammable gas, in DOT Specification 39 cylinders. (Mode 1.)
9488-N	Conference of Radiation Control Program Directors, Frankfort, KY.	49 CFR 173.435	To authorize shipment of certain radium sources, described as radioactive materials, n.o.s. in specially designed packaging for disposal. (Mode 1.)
9489-N	Custom Air Service, Howell, MI	49 CFR 172.101, 172.204(c)(3), 173.27, 175.320(b), 175/30(a)(1), Part 107 Appendix B.	To authorize carriage of various Class A, B and C explosives not permitted for air shipment or in quantities greater than those prescribed for air shipment. (Mode 4.)
9490-N	ANF-Industrie Paris, France	49 CFR 173.315, 178.245	To authorized shipment of certain flammable and nonflammable gases in non-DOT specification IMO Type 5 portable tanks. (Modes 1, 2, 3.)
9491-N	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 173.302, 173.304	To authorized shipment of certain fluorinated hydrocarbon compressed gases, in DOT Specification 3AL cylinders. (Modes 1, 2, 3, 4.)
9492-N	Jet Research Center, Inc., Arlington, TX	49 CFR 173.100(v)	To authorized shipment of shaped charges commerical with grain content not exceeding 500 grains each described as oil well cartridges, class C explosive. (Modes 1, 3, 4.)
9493-N	Bennett Industries, Peotone, IL	49 CFR 178.135	To authorized shipment of paint and paint related materials, classed as flammable liquids in DOT Specification 37C 5 gallon capacity container without circumferential rings in the head. (Mode 1.)
9494-N	Romiro Technology Corp., Cleveland, OH	49 CFR 173.302(a)(1), 175.3	To authorized shipment of oxygen, classed as nonflammable gas, in non-DOT specification cylinders similar to DOT Specification 3E with certain exceptions. (Modes 1, 2, 3, 4, 5.)

This notice of receipt of applications for new exemptions is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on August 6, 1985.

J.R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 85-19088 Filed 8-9-85; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular—Public Debt Series—No. 23-85]

Treasury Notes of August 15, 1988, Series T-1988

Washington, August 1, 1985.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $8,500,000,000 of United States securities, designated Treasury Notes of August 15, 1988, Series T-1988 (CUSIP No. 912827 SN 3), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated August 15, 1985, and will accrue interest from that date, payable on a semiannual basis on February 15, 1986, and each subsequent 6 months on August 15 and February 15 through the date that the principal becomes payable. They will mature August 15, 1988, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. Notes in registered definitive form will be issued in denominations of $5,000, $10,000, $100,000 and $1,000,000. Notes in book-entry form will be issued in multiples of those amounts. Notes will not be issued in bearer form.

2.5. Denominational exchanges of registered definitive Notes, exchanges of Notes between registered definitive and book-entry forms, and transfers will be permitted.

2.6. The Department of the Treasury's general regulations governing United States securities apply to the Notes offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:00 p.m., Eastern Daylight Saving time, Tuesday, August 6, 1985. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, August 5, 1985, and received no later than Thursday, August 15, 1985.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds memberships; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.250. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to

provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7 Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1 The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Note allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to insitutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.5. must be made or completed on or before Thursday, August 15, 1985. Payment in full must accompany tenders submitted by all other investors. Payments must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from insititutional investors no later than Tuesday, August 13, 1985. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Thursday, August 15, 1985. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premimum must be complieted timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted are not required to be assigned if the new Notes are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new Notes are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (Notes offered by this circular) in the name of (name and taxpayer identifying number)". Specific instructions for the issuance and delivery of the new Notes, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment must be delivered at the expense and risk of the holder.

5.4. Registered definitive Notes will not be issued if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (e.g., an individual's social security number or an employer identification number) is not furnished. Delivery of the Notes in registered definitive form will be made after the requested form of registration has been validated, the registered interest account has been established, and the Notes have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, to issue and deliver the Notes on full-paid allotments, and to maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendment do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 85-19089 Filed 8-7-85; 2:16 pm]

BILLING CODE 4810-40-M

[Department Circular—Pubic Debt Series—No. 24-85]

Treasury Notes of August 15, 1995, Series C-1995

Washington, August 1, 1985.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $6,750,000,000 of United States securities, designated Treasury Notes of August 15, 1995, Series C-1995 (CUSIP No. 912827 SP 8), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated August 15, 1985, and will accure interest from that date, payable on a semiannual basis on February 15, 1986 and each subsequent 6 months on August 15 and February 15 through the date that the principal becomes payable. They will mature August 15, 1995, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. Notes in registered definitive form will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Notes in book-entry form will be issued in multiples of those amounts. Notes will not be issued in bearer form.

2.5. Denominational exchanges of registered definitive Notes, exchanges of Notes between registered definitive and book-entry forms, and transfers will be permitted.

2.6. A book-entry Note may be held in its fully constituted form or it may be divided into its separate Principal and Interest Components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as fiscal agents of the United States. The provisions specifically applicable to the separation, maintenance, and transfer of Principal and Interest Components are set forth in Section 6 of this circular. Subsections 2.1. through 2.5. of this section are descriptive of Notes in their fully constituted form; the description of the separate Principal and Interest Components is set forth in Section 6 of this circular.

2.7. The Department of the Treasury's general regulations governing United States securities apply to the Notes offered in this circular. These general regulations include those currrently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:00 p.m., Eastern Daylight Saving time, Wednesday, August 7, 1985. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, August 6, 1985, and received no later than Thursday, August 15, 1985.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve banks; and Government accounts. Tenders from all others must be acompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 97.500. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.5 must be made or completed on or before Thursday, August 15, 1985. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bill, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Tuesday, August 13, 1985. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Thursday, August 15, 1985. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the

discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted are not required to be assigned if the new Notes are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new Notes are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (Notes offered by this circular) in the name of (name and taxpayer identifying number)". Specific instructions for the issuance and delivery of the new Notes, signed by the owner or authorized representative, must accompay the securities presented. Securities tendered in payment must be delivered at the expense and risk of the holder.

5.4.Registered definitive Notes will not be issued if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (e.g., an individual's social security number or an employee identification number) is not furnished. Delivery of the Notes in registered definitive form will be made after the requested form of registration has been validated, the registered interest account has been established, and the Notes have been inscribed.

6. Separability of Principal and Interest

6.1. Under the Treasury's STRIPS program (Separate Trading of Registered Interest and Principal of Securities), a book-entry Note may be divided into its separate components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as Fiscal Agents of the United States. The components of a Note are: each future semiannual interest payment (hereafter referred to as an Interest Component); and the principal payment (hereafter referred to as the Principal Component). Each Interest Component and Principal Component shall have its own CUSIP number and designation, which are set forth in Attachment A hereto.

6.2. In order for a book-entry Note to be separated into the components described in Section 6.1., the par amount of the Note must be in an amount which, based on the stated interest rate of the Note, will produce a semiannual interest payment of $1,000 or a multiple of $1,000. The minimum and multiple par amount required to obtain the separate components for this offering will be provided in the public announcement of the amount and yield range of accepted bids for the Notes. The chart in Attachment B hereto provides the minimum and multiple par amounts required to separate a security into components at various stated interest rates.

6.3. Only Notes in book-entry form may be separated into their components. Such separation may be effected at any time from the issue date until maturity. A request to obtain the separate components must be made to the Federal Reserve Bank maintaining the account for the book-entry Notes. Normally, any such request shall be executed by the Federal Reserve Bank within 3 business days after it is received.

6.4. The Principal Component will be payable on August 15, 1995.

6.5. Each Interest Component will be payable on its particular due date designated in Attachment A hereto.

6.6. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

6.7. Once a book-entry Note has been separated into its components, each Interest Component and the Principal Component may be maintained and transferred in multiples of $1,000, regardless of the par amount intially required for separation or the resulting amount of each Interest Component.

6.8. Interest Components and Principal Components may be held only in book-entry form.

6.9. Once there is a disposition of any amount of an Interest Component or of a Principal Component, the holder of the Note will be considered for tax purposes to have stripped the amount of principal allocable to the amount of the components disposed of as of the date such first disposition occurs. Both the retained amount allocable to the stripped principal and the amount disposed of are thereafter treated as discount obligations, and the holders of such are subject to periodic income inclusion and other provisions of the Internal Revenue Code of 1954.

6.10. Interest Components and Principal Components in multiples of $1,000 will be acceptable to secure deposits of Federal public monies at such time and such value as will be determined by the Secretary of the Treasury. They will not be acceptable in payment of Federal taxes.

6.11. Unless otherwise provided in this offering circular, the Department of the Treasury's general regulations governing United States securities apply to the Notes separated into their components.

7. General Provisions

7.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, to issue and deliver the Notes on full-paid allotments, and to maintain, service, and make payment on the Notes.

7.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect exiting rights of holders of the Notes. Public announcement of such changes will be promptly provided.

7.3. The Notes issued under this circular shall be obligations of the United States, whether held in the fully consituted form or as separate Interest and Principal Components, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

7.4. Attachments A and B are incorporated as part of this circular.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

Attachment A

CUSIP Numbers and Designations for the Principal Component and Interest Components of Treasury Notes of August 15, 1995, Series C–1995, CUSIP No. 912827 SP 8

The Principal Component is designated (Interest Rate) Treasury Principal (TPRN) Series C–1995 due August 15, 1995, CUSIP No. 912820 AD 9.

INTEREST COMPONENTS

Designation	CUSIP No. 912833	Designation	CUSIP No. 912833
Treasury Interest (TINT) C–1995 Due		Treasury Interest (TINT) C–1995 Due.	
Feb. 15, 1986	AX 6	February 15, 1991.	BH 2
Aug. 15, 1986	AY 6	August 15, 1991	BJ 8
Feb. 15, 1987	AZ 3	February 15, 1992.	BK 5
Aug. 15, 1987	BA 7	August 15, 1992	BL 3
Feb. 15, 1988	BB 5	February 15, 1993.	BM 1
Aug. 15, 1988	BC 3	August 15, 1993	BN 9
Feb. 15, 1989	BD 1	February 15, 1994.	BP 4
Aug. 15, 1989	BE 9	August 15, 1994	BQ 2
Feb. 15, 1990	BF 6	February 15, 1995.	BR 0
Aug. 15, 1990	BG 4	August 15, 1995	BS 8

Attachment B

MINIMUM FACE AMOUNTS WHICH ARE MULTIPLES OF $1,000 REQUIRED IN ORDER TO PRODUCE INTEREST PAYMENTS THAT ARE MULTIPLES OF $1,000

Coupon (percent)	Minimum face	Interest payment
5.000	$40,000.00	$1,000.00
5.125	1,600,000.00	41,000.00
5.250	800,000.00	21,000.00
5.375	1,600,000.00	43,000.00
5.500	400,000.00	11,000.00
5.625	320,000.00	9,000.00
5.750	800,000.00	23,000.00
5.875	1,600,000.00	47,000.00
6.000	100,000.00	3,000.00
6.125	1,600,000.00	49,000.00
6.250	32,000.00	1,000.00
6.375	1,600,000.00	51,000.00
6.500	400,000.00	13,000.00
6.625	1,600,000.00	53,000.00
6.750	800,000.00	27,000.00
6.875	320,000.00	11,000.00
7.000	200,000.00	7,000.00
7.125	1,600,000.00	57,000.00
7.250	800,000.00	29,000.00
7.375	1,600,000.00	59,000.00
7.500	80,000.00	3,000.00
7.625	1,600,000.00	61,000.00
7.750	800,000.00	31,000.00
7.875	1,600,000.00	63,000.00
8.000	25,000.00	1,000.00
8.125	320,000.00	13,000.00
8.250	800,000.00	33,000.00
8.375	1600,000.00	67,000.00
8.500	400,000.00	17,000.00
8.625	1,600,000.00	69,000.00
8.750	160,000.00	7,000.00
8.875	1,600,000.00	71,000.00
9.000	200,000.00	9,000.00
9.125	1,600,000.00	73,000.00
9.250	800,000.00	37,000.00
9.375	64,000.00	3,000.00
9.500	400,000.00	19,000.00
9.625	1,600,000.00	77,000.00
9.750	800,000.00	39,000.00
9.875	1,600,000.00	79,000.00
10.000	20,000.00	1,000.00
10.125	1,600,000.00	81,000.00
10.250	800,000.00	41,000.00
10.375	1,600,000.00	83,000.00
10.500	400,000.00	21,000.00
10.625	320,000.00	17,000.00
10.750	800,000.00	43,000.00
10.875	1,600,000.00	87,000.00
11.000	200,000.00	11,000.00
11.125	1,600,000.00	89,000.00
11.250	160,000.00	9,000.00
11.375	1,600,000.00	91,000.00
11.500	400,000.00	23,000.00
11.625	1,600,000.00	93,000.00
11.750	800,000.00	47,000.00
11.875	320,000.00	19,000.00
12.000	50,000.00	3,000.00
12.125	1,600,000.00	97,000.00
12.250	800,000.00	49,000.00
12.375	1,600,000.00	99,000.00
12.500	16,000.00	1,000.00
12.625	1,600,000.00	101,000.00
12.750	800,000.00	51,000.00
12.875	1,600,000.00	103,000.00
13.000	200,000.00	13,000.00
13.125	320,000.00	21,000.00
13.250	800,000.00	53,000.00
13.375	1,600,000.00	107,000.00
13.500	400,000.00	27,000.00
13.625	1,600,000.00	109,000.00
13.750	16,000.00	110,000.00
13.875	1,600,000.00	111,000.00
14.000	100,000.00	7,000.00
14.125	1,600,000.00	113,000.00
14.250	800,000.00	57,000.00
14.375	320,000.00	23,000.00
14.500	400,000.00	29,000.00
14.625	1,600,000.00	117,000.00
14.750	800,000.00	59,000.00
14.875	1,600,000.00	119,000.00
15.000	40,000.00	3,000.00
15.125	1,600,000.00	121,000.00
15.250	800,000.00	61,000.00
15.375	160,000.00	123,000.00

MINIMUM FACE AMOUNTS WHICH ARE MULTIPLES OF $1,000 REQUIRED IN ORDER TO PRODUCE INTEREST PAYMENTS THAT ARE MULTIPLES OF $1,000—Continued

Coupon (percent)	Minimum face	Interest payment
15.500	400,000.00	31,000.00
15.625	64,000.00	5,000.00
15.750	800,000.00	63,000.00
15.875	1,600,000.00	127,000.00
16.000	25,000.00	2,000.00
16.125	1,600,000.00	129,000.00
16.250	160,000.00	13,000.00
16.375	1,600,000.00	131,000.00
16.500	400,000.00	33,000.00
16.625	1,600,000.00	133,000.00
16.750	800,000.00	67,000.00
16.875	320,000.00	27,000.00
17.000	200,000.00	17,000.00
17.125	1,600,000.00	137,000.00
17.250	800,000.00	69,000.00
17.375	1,600,000.00	139,000.00
17.500	80,000.00	7,000.00
17.625	1,600,000.00	141,000.00
17.750	800,000.00	71,000.00
17.875	1,600,000.00	143,000.00
18.000	100,000.00	9,000.00
18.125	320,000.00	29,000.00
18.250	800,000.00	73,000.00
18.375	1,600,000.00	147,000.00
18.500	400,000.00	37,000.00
18.625	1,600,000.00	149,000.00
18.750	32,000.00	3,000.00
18.875	1,600,000.00	151,000.00
19.000	200,000.00	19,000.00
19.125	1,600,000.00	153,000.00
19.250	800,000.00	77,000.00
19.375	320,000.00	31,000.00
19.500	400,000.00	39,000.00
19.625	1,600,000.00	157,000.00
19.750	800,000.00	79,000.00
19.875	1,600,000.00	159,000.00
20.000	10,000.00	1,000.00
20.125	1,600,000.00	161,000.00
20.250	800,000.00	81,000.00

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[Department Circular—Public Debt Series—No. 25-85]

Treasury Bonds of 2015

Washington, August 1, 1985.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $6,500,000,000 of United States securities, designated Treasury Bonds of 2015 (CUSIP No. 912810 DS 4), hereafter referred to as Bonds. The Bonds will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Bonds and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Bonds may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Bonds may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Bonds will be dated August 15, 1985, and will accrue interest from that date, payable on a semiannual basis on February 15, 1986, and each subsequent 6 months on August 15 and February 15 through the date that the principal becomes payable. They will mature August 15, 2015, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

2.2. The Bonds are subject to all taxes imposed under the Internal Revenue Code of 1954. The Bonds are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Bonds will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. Bonds in registered definitive form will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Bonds in book-entry form will be issued in multiple of those amounts. Bonds will not be issued in bearer form.

2.5. Denominational exchanges of registered definitive Bonds, exchanges of Bonds between registered definitive and book-entry forms, and transfers will be permitted.

2.6. A book-entry Bond may be held in its fully constituted form or it may be divided into its separate Principal and Interest Components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as fiscal agents of the United States. The provisions specifically applicable to the separation, maintenance, and transfer of Principal and Interest Components are set forth in Section 6 of this circular. Subsections 2.1. through 2.5. of this section are descriptive of Bonds in their fully constituted form; the description of the separate Principal and Interest Components is set forth in Section 6 of this circular.

2.7. The Department of the Treasury's general regulations governing United States securities apply to the Bonds offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:00 p.m., Eastern Daylight Saving time, Thursday, August 8, 1985. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, August 7, 1985, and received no later than Thursday, August 15, 1985.

3.2. The par amount of Bonds bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Bonds applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 92.500. That stated rate of interest will be paid on all of the Bonds. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidder will be advised of the acceptance of their bids. Those submittting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Bonds specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Bonds allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Bonds allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.5. must be made or completed on or before Thursday, August 15, 1985. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Tuesday, August 13, 1985. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Bonds allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Thursday, August 15, 1985. When payment has been submitted with the tender and the purchase price of the Bonds allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Bonds allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Bonds allotted are not required to be assigned if the new Bonds are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new Bonds are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (Bonds offered by this circular) in the name of (name and taxpayer identifying number)". Specific instructions for the issuance and delivery of the new Bonds, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment must be delivered at the expense and risk of the holder.

5.4 Registered definitive Bonds will not be issued if the appropriate identifying number as required on tax

returns and other documents submitted to the Internal Revenue Service (e.g., an individual's social security number or an employer identification number) is not furnished. Delivery of the Bonds in registered definitive form will be made after the requested form of registration has been validated, the registered interest account has been established, and the Bonds have been inscribed.

6. Separability of Principal and Interest

6.1. Under the Treasury's STRIPS program (Separate Trading of Registered Interest and Principal of Securities), a book-entry Bond may be divided into its separate components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as Fiscal Agents of the United States. The components of a Bond are: each future semiannual interest payment (hereafter referred to as an Interest Component); and the principal payment (hereafter referred to as the Principal Component). Each Interest Component and Principal Component shall have its own CUSIP number and designation, which are set forth in Attaching A hereto.

6.2. In order for a book-entry Bond to be separated into the components described in Section 6.1., the par amount of the Bond must be in an amount which, based on the stated interest rate of the Bond, will produce a semiannual interest payment of $1,000 or a multiple of $1,000. The minimum and multiple par amount required to obtain the separate components for this offering will be provided in the public announcement of the amount and yield range of accepted bids for the Bonds. The chart in Attachment B hereto provides the minimum and multiple per amounts required to separate a security into components at various stated interest rates.

6.3. Only Bonds in book-entry form may be separated into their components. Such separation may be effected at any time from the issue date until maturity. A request to obtain the separate components must be made to the Federal Reserve Bank maintaining the account for the book-entry Bonds. Normally, any such request shall be executed by the Federal Reserve Bank within 3 business days after it is received.

6.4. The Principal Component will be payable on August 15, 2015.

6.5. Each Interest Component will be payable on its particular due date designated in Attachment A hereto.

6.6 In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

6.7 Once a book-entry Bond has been separated into its components, each Interest Component and the Principal Component may be maintained and transferred in multiples of $1,000, regardless of the par amount initially required for separation or the resulting amount of each Interest Component.

6.8. Interest Components and Principal Components may be held only in book-entry form.

6.9 Once there is a disposition of any amount of an Interest Component or of a Principal Component, the holder of the Bond will be considered for tax purposes to have stripped the amount of principal allocable to the amount of the components disposed of as of the date such first dispostion occurs. Both the retained amount allocable to the stripped principal and the amount disposed of are thereafter treated as discount obligations, and the holders of such are subject to periodic income inclusion and other provisions of the Internal Revenue Code of 1954.

6.10. Interest Components and Principal Components in multiples of $1,000 will be acceptable to secure deposits of Federal public monies at such time and such value as will be determined by the Secretary of the Treasury. They will not be acceptable in payment of Federal taxes.

6.11. Unless otherwise provided in this offering circular, the Department of the Treasury's general regulations governing United States securities apply to the Bonds separated into their components.

7. General Provisions

7.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, to issue and deliver the Bonds on full-paid allotments, and to maintain, service, and make payment on the Bonds.

7.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Bonds. Public announcement of such changes will be promptly provided.

7.3. The Bonds issued under this circular shall be obligations of the United States, whether held in the fully constituted form or as separate Interest and Principal Components, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Bonds.

7.4. Attachments A and B are incorporated as part of this offering circular.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

Attachment A

CUSIP Numbers and Designations for the Principal Component and Interest Components of Treasury Bonds of August 15, 2015, CUSIP No. 912810 DS 4

The Principal Component is designated (Interest Rate) Treasury Principal (TPRN) 2015 due August 15, 2015, CUSIP No. 912803 AC 7.

INTEREST COMPONENTS

Designation	CUSIP No. 912833	Designation	CUSIP No. 912833
Treasury Interest (TINT) 2015 Due		Treasury Interest (TINT) 2015 Due	
Feb. 15, 1986	AX 8	Feb. 15, 2001	CD 0
Aug. 15, 1986	AY 6	Aug. 15, 2001	CE 8
Feb. 15, 1987	AZ 3	Feb. 15, 2002	CF 5
Aug. 15, 1987	BA 7	Aug. 15, 2002	CG 3
Feb. 15, 1988	BB 5	Feb. 15, 2003	CH 1
Aug. 15, 1988	BC 3	Aug. 15, 2003	CJ 7
Feb. 15, 1989	BD 1	Feb. 15, 2004	CK 4
Aug. 15, 1989	BE 9	Aug. 15, 2004	CL 2
Feb. 15, 1990	BF 6	Feb. 15, 2005	CM 0
Aug. 15, 1990	BG 4	Aug. 15, 2005	CN 8
Feb. 15, 1991	BH 2	Feb. 15, 2006	CP 3
Aug. 15, 1991	BJ 8	Aug. 15, 2006	CQ 1
Feb. 15, 1992	BK 5	Feb. 15, 2007	CR 9
Aug. 15, 1992	BL 3	Aug. 15, 2007	CS 7
Feb. 15, 1993	BM 1	Feb. 15, 2008	CT 5
Aug. 15, 1993	BN 9	Aug. 15, 2008	CU 2
Feb. 15, 1994	BP 4	Feb. 15, 2009	CV 0
Aug. 15, 1994	BQ 2	Aug. 15, 2009	CW 8
Feb. 15, 1995	BR 0	Feb. 15, 2010	CX 6
Aug. 15, 1995	BS 8	Aug. 15, 2010	CY 4
Feb. 15, 1996	BT 6	Feb. 15, 2011	CZ 1
Aug. 15, 1996	BU 3	Aug. 15, 2011	DA 5
Feb. 15, 1997	BV 1	Feb. 15, 2012	DB 3
Aug. 15, 1997	BW 9	Aug. 15, 2012	DC 1
Feb. 15, 1998	BX 7	Feb. 15, 2013	DD 9
Aug. 15, 1998	BY 5	Aug. 15, 2013	DE 7
Feb. 15, 1999	BZ 2	Feb. 15, 2014	DF 4
Aug. 15, 1999	CA 6	Aug. 15, 2014	DG 2
Feb. 15, 2000	CB 4	Feb. 15, 2015	DH 0
Aug. 15, 2000	CC 2	Aug. 15, 2015	JT 8

MINIMUM FACE AMOUNTS WHICH ARE MULTIPLES OF $1,000 REQUIRED IN ORDER TO PRODUCE INTEREST PAYMENTS THAT ARE MULTIPLES OF $1,000

Coupon (Percent)	Minimum face	Interest payment
5.000	$40,000.00	$1,000.00
5.125	1,600,000.00	41,000.00
5.250	800,000.00	21,000.00
5.375	1,600,000.00	43,000.00
5.500	400,000.00	11,000.00
5.625	320,000.00	9,000.00
5.750	800,000.00	23,000.00
5.875	1,600,000.00	47,000.00
6.000	100,000.00	3,000.00
6.125	1,600,000.00	49,000.00
6.250	32,000.00	1,000.00
6.375	1,600,000.00	51,000.00
6.500	400,000.00	13,000.00
6.625	1,600,000.00	53,000.00
6.750	800,000.00	27,000.00
6.875	320,000.00	11,000.00
7.000	200,000.00	7,000.00
7.125	1,600,000.00	57,000.00
7.250	800,000.00	29,000.00
7.375	1,600,000.00	59,000.00
7.500	80,000.00	3,000.00
7.625	1,600,000.00	61,000.00

MINIMUM FACE AMOUNTS WHICH ARE MULTIPLES OF $1,000 REQUIRED IN ORDER TO PRODUCE INTEREST PAYMENTS THAT ARE MULTIPLES OF $1,000—Continued

Coupon (Percent)	Minimum face	Interest payment
7.750	800,000.00	31,000.00
7.875	1,600,000.00	63,000.00
8.000	25,000.00	1,000.00
8.125	320,000.00	13,000.00
8.250	800,000.00	33,000.00
8.375	1,600,000.00	67,000.00
8.500	400,000.00	17,000.00
8.625	1,600,000.00	69,000.00
8.750	160,000.00	7,000.00
8.875	1,600,000.00	71,000.00
9.000	200,000.00	9,000.00
9.125	1,600,000.00	73,000.00
9.250	800,000.00	37,000.00
9.375	64,000.00	3,000.00
9.500	400,000.00	19,000.00
9.625	1,600,000.00	77,000.00
9.750	800,000.00	39,000.00
9.875	1,600,000.00	79,000.00
10.000	20,000.00	1,000.00
10.125	1,600,000.00	81,000.00
10.250	800,000.00	41,000.00
10.375	1,600,000.00	83,000.00
10.500	400,000.00	21,000.00
10.625	320,000.00	17,000.00
10.750	800,000.00	43,000.00
10.875	1,600,000.00	87,000.00
11.000	200,000.00	11,000.00
11.125	1,600,000.00	89,000.00
11.250	160,000.00	9,000.00
11.375	1,600,000.00	91,000.00
11.500	400,000.00	23,000.00
11.625	1,600,000.00	93,000.00
11.750	800,000.00	47,000.00
11.875	320,000.00	19,000.00
12.000	50,000.00	3,000.00
12.125	1,600,000.00	97,000.00
12.250	800,000.00	49,000.00
12.375	1,600,000.00	99,000.00
12.500	16,000.00	1,000.00
12.625	1,600,000.00	101,000.00
12.750	800,000.00	51,000.00
12.875	1,600,000.00	103,000.00
13.000	200,000.00	13,000.00
13.125	320,000.00	21,000.00
13.250	800,000.00	53,000.00
13.375	1,600,000.00	107,000.00
13.500	400,000.00	27,000.00
13.625	1,600,000.00	109,000.00
13.750	160,000.00	11,000.00
13.875	1,600,000.00	111,000.00
14.000	100,000.00	7,000.00
14.125	1,600,000.00	113,000.00
14.250	800,000.00	57,000.00
14.375	320,000.00	23,000.00
14.500	400,000.00	29,000.00
14.625	1,600,000.00	117,000.00
14.750	800,000.00	59,000.00
14.875	1,600,000.00	119,000.00
15.000	40,000.00	3,000.00
15.125	1,600,000.00	121,000.00
15.250	800,000.00	61,000.00
15.375	1,600,000.00	123,000.00
15.500	400,000.00	31,000.00
15.625	64,000.00	5,000.00
15.750	800,000.00	63,000.00
15.875	1,600,000.00	127,000.00
16.000	25,000.00	2,000.00
16.125	1,600,000.00	129,000.00
16.250	160,000.00	13,000.00
16.375	1,600,000.00	131,000.00
16.500	400,000.00	33,000.00
16.625	1,600,000.00	133,000.00
16.750	800,000.00	67,000.00
16.875	320,000.00	27,000.00
17.000	200,000.00	17,000.00
17.125	1,600,000.00	137,000.00
17.250	800,000.00	69,000.00
17.375	1,600,000.00	139,000.00
17.500	80,000.00	7,000.00
17.625	1,600,000.00	141,000.00
17.750	800,000.00	71,000.00
17.875	1,600,000.00	143,000.00
18.000	100,000.00	9,000.00
18.125	320,000.00	29,000.00
18.250	800,000.00	73,000.00
18.375	1,600,000.00	147,000.00
18.500	400,000.00	37,000.00

MINIMUM FACE AMOUNTS WHICH ARE MULTIPLES OF $1,000 REQUIRED IN ORDER TO PRODUCE INTEREST PAYMENTS THAT ARE MULTIPLES OF $1,000—Continued

Coupon (Percent)	Minimum face	Interest payment
18.625	1,600,000.00	149,000.00
18.750	32,000.00	3,000.00
18.875	1,600,000.00	151,000.00
19.000	200,000.00	19,000.00
19.125	1,600,000.00	153,000.00
19.250	800,000.00	77,000.00
19.375	320,000.00	31,000.00
19.500	400,000.00	39,000.00
19.625	1,600,000.00	157,000.00
19.750	800,000.00	79,000.00
19.875	1,600,000.00	159,000.00
20.000	10,000.00	1,000.00
20.125	1,600,000.00	161,000.00
20.250	800,000.00	81,000.00

[FR Doc. 19091 Filed 8-7-85; 2:16 pm]

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Internal Revenue Service

[Delegation Order No. 156 (Rev. 6) and Chief Counsel Directives Manual (30)330.1]

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of Authority.

SUMMARY: Delegation Order No. 156 and Chief Counsel Order 1031.3 are revised to delegate the authority for the IRS to make disclosures of unearned income information from the IRS' Information Returns Processing Master File to Federal, State and local agencies administering certain welfare programs pursuant to section 6103(1)(7) of the Internal Revenue Code.

EFFECTIVE DATE: August 1, 1985.

FOR FURTHER INFORMATION CONTACT: Michael Sincarage, PM:S:DS:O:D, 1111 Constitution Ave., NW, Room 3617, Washington, D.C. 20224, (202) 566-3038. (Not a Toll-Free telephone number.)

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

Guerry G. Notte,

Director, Disclosure and Security Division.

Order No. 156 (Rev. 6)

Directives Manual (30)330.1

Effective date: August 1, 1985.

Authority To Permit Disclosure of Tax Information and To Permit Testimony or the Production of Documents

Pursuant to the authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 156-37 and in the Chief Counsel by General Counsel Order 4, and by Treasury Department Order No. 190 (as revised), authority to act in matters officially before their respective functions is hereby delegated.

The authority to disclose returns and/or return information under certain provisions of the IR Code, such as IRC 6103 (h)(1) and (k)(6) is not delegated herein as the language of these provisions themselves permits officers and employees of the Internal Revenue Service and the Office of the Chief Counsel to disclose such information. The authority to disclose returns and return information under IRC 6103(k)(4) is also not delegated herein as Delegation Order 114 (as revised) governs these disclosures.

(1) The Deputy Commissioner; Associate Commissioners; Assistant Commissioners; Deputy Assistant Commissioners; Division Directors (or equivalent level position); Assistant Director, Disclosure and Security Division; Deputy Chief Counsel; Associates Chief Counsel; Deputy Associates Chief Counsel; Chief Counsel Division Directors; Regional Commissioners; Regional Inspectors; Regional Counsels; Deputy Regional Counsels; District Counsels; District and Service Center Directors; Director, National Computer Center; and Director, Data Center are authorized:

(a) To disclose or, in specific instances, authorize the disclosure of returns or return information to such persons as the taxpayer may designate in a written request, subject to the conditions prescribed in IRC 6103(c) and the Treasury Regulations thereunder. The authority to withhold return information upon a determination that such disclosure would seriously impair Federal tax administration is also delegated. The authority delegated in this paragraph to disclose returns or return information may be redelegated to Internal Revenue Service employees and employees of the Office of Chief Counsel to the extent necessary within the exercise of their official duties. The authority delegated in this paragraph to withhold return information may be redelegated not lower than Chiefs, Special Procedures function; Group Managers (or their equivalent); Chiefs, Appeals Offices; Chiefs, Criminal Investigation Branch; and Disclosure Officers.

(b) To disclose or, in specific instances, authorize the disclosure of returns, upon the written request of an individual taxpayer, partner, corporate officer, shareholder, administrator, executor, trustee, or other person having a material interest subject to the

conditions prescribed in IRC 6103(e). The authority to disclose or, in specific instances, authorize the disclosure of return information to such persons, upon a determination that disclosure would not seriously impair Federal tax administration, as prescribed in IRC 6103(e)(7), is also delegated. The authority to withhold return information upon a determination that disclosure would seriously impair Federal tax administration is also delegated. The authority delegated in this paragraph to disclose or authorize the disclosure of returns or return information may be redelegated to Internal Revenue Service employees and employees of the Office of Chief Counsel to the extent necessary within the exercise of their official duties. In the event a disclosure of return information would seriously impair Federal tax administration, the decision to withhold such return information will be referred to officials not lower than Chiefs, Special Procedures function; Group Managers (or their equivalent); Chiefs, Appeals Offices; Chiefs, Criminal Investigation Branch; and Disclosure Officers.

(c) To disclose or, in specific instances, authorize the disclosure of returns or return information to officers and employees of the Department of Justice including United States attorneys, in a matter involving tax administration, subject to the conditions prescribed in IRC 6103(h)(2), the Treasury Regulations thereunder, and (h)(3)(A). The authority delegated in this paragraph may be redelegated not lower than Chiefs, Special Procedures function; and Group Managers (or their equivalent including Disclosure Officers). The authority delegated in this paragraph to Chief Counsel employees may be redelegated not lower than Chiefs, Appeals Officers; and to attorneys of the Office of Chief Counsel directly involved in such matters. (See paragraph (17) below.)

(d) To disclose or, in specific instances, authorize the disclosure of returns or return return information to officers and employees of the Department of Treasury, as specified in IRC 6103(i)(4)(B) or, upon written request, to employees and other persons specified in IRC 6103(I)(4)(A) for use in personnel or claimant representative matters, and to make relevancy and materiality determiniations as provided in section 6103(I)(4)(A), subject to the conditions prescribed in IRC 6103(I)(4). The authority delegated in this paragraph may be redelegated only to Assistant Division Directors (or equivalent level position); Assistant Regional Commissioners; Regional Director of Appeals; Assistant Regional Inspectors; Regional Chief, Personnel Branch; Assistant District and Service Center Directors; Division Chiefs; National Office Branch Chiefs, Internal Security Division; Staff Assistants to Regional Counsels; and to attorneys of the Office of Chief Counsel and inspectors directly involved in such matters. (See paragraph 13(e).)

(e) To disclose or, in specific instances, authorize the disclosure of returns or return information to the extent necessary in connection with contractual procurement by the Service or Office of the Chief Counsel of equipment or other property or services, subject to the conditions prescribed in IRC 6103(n) and the Treasury Regulations thereunder. The authority delegated in this paragraph may be redelegated only to Assistant Division Directors (or equivalent level position); Assistant Regional Commissioners; Regional Director of Appeals; Assistant Regional Inspectors; Assistant District and Service Center Directors; Division Chiefs; Chief Counsel Assistant Division Directors; Associate Regional Counsel; and Disclosure Officers.

(f) To disclose, or in specific instances, authroize the disclosure of return information (other than taxpayer return information) which may constitute evidence of a violation of any Federal criminal law (not involving tax administration) or to disclose return information under circumstances involving a threat or other imminent danger of death or other physical injury, which is directed against the President or other government official, to the U.S. Secret Service, subject to the conditions prescribed in IRC 6103(1)(3). The authority delegated in this paragraph is also delegated to Assistant District and Service Center Directors. This does not limit the authority granted in paragraph 6(d) of this order.

(g) To determine whether a disclosure of standards used or to be used for selection of returns for examination, or data used or to be used for determining such standards will seriously impair assessment, collection or enforcement under the internal revenue laws pursuant to IRC 6103(b)(2). The authority delegated in this paragraph may be redelegated to Disclosure Officers.

(2) The Deputy Commissioner; Associate Commissioners; Assistant Commissioners; Deputy Assistant Commissioners; Division Directors (or equivalent level position); Assistant Director, Disclosure and Security Division; Regional Commissioners; Regional Inspectors; District and Service Center Directors; Director, National Computer Center, and Director, Data Center are authorized to determine whether a disclosure of returns or return information in a Federal or State judicial or administrative proceeding pertaining to tax administration would identify a confidential informant or seriously impair a civil or criminal tax investigation, subject to the conditions prescribed in IRC 6103(h)(4). The authority delegated in this paragraph may not be redelegated.

(3) The Deputy Commissioner; Associate Commissioner (Policy and Management); Assistant Commissioner (Support and Services); Deputy Assistant Commissioner (Support and Services); Regional Commissioners; Director, Disclosure and Security Division; Assistant Director, Disclosure and Security Division; and District and Service Center Directors are authorized:

(a) To furnish an affirmative or negative response to a written inquiry from an attorney of the Department of Justice (including a United States Attorney) involved in a judicial proceeding pertaining to tax administration, or any person (or his/her legal representative) who is a party to such proceeding, as to whether a prospective juror has or has not been the subject of any audit or other tax investigation by the Internal Revenue Service, subject to the conditions prescribed in IRC 6103(h)(5). The authority delegated in this paragraph may be redelegated only to Assistant District and service Center Directors; Division Chiefs, and Disclosure Officers.

(b) To disclose or, in specific instances, authorize the disclosure of:

(i) Accepted offers-in-compromise to members of the general public, subject to the conditions prescribed in IRC 6103(k)(1).

(ii) The amount of an outstanding obligation secured by a lien, notice of which has been filed pursuant to section 6323(f), to any person who furnishes satisfactory written evidence establishing a right in or intent to obtain a right in property subject to such lien, subject to the conditions precribed in IRC 6103(k)(2). The authority to disclose or, in specific instances, authorize the disclosure of the amount of such outstanding obligation is also delegated to the Associate Commissioner (Operations); Assistant Commissioner (Collection); and Deputy Assistant Commissioner (Collection).

(iii) Taxpayer identity information with respect to any income tax return preparer and information as to whether any penalty has been assessed against such preparer to officers and employees of any agency charged under State or

local law with the regulation of such preparers, upon written request and subject to the conditions prescribed in IRC 6103(k)(5);

(iv) Returns or return information with respect to taxes imposed by IRC chapters 2, 21, and 24 to the Social Security Administration, upon written request and subject to the conditions prescribed in IRC 6103(l)(1)(A);

(v) Returns or return information with respect to taxes imposed by IRC chapter 22 to the Railroad Retirement Board, upon written request and subject to the conditions prescribed in IRC 6103(l)(1)(C).

(vi) Returns or return information with respect to taxes imposed by IRC subtitle E (relating to taxes on alcohol, tobacco and firearms) to officers and employees of the Bureau of Alcohol, Tobacco and Firearms, upon written request and pursuant to IRC 6103(o)(1).

The authority delegated in subparagraphs (iv) and (v) is also delegated to the Associate Commissioner (Operations); the Associate Chief Counsel (Technical); and the Assistant Commissioner (Examination). The authority delegated in this paragraph may be redelegated only to Assistant District and Service Center Directors; Division Chiefs; and Disclosure Officers. In addition, the authority delegated in subparagraph (i) may also be redelegated only to Chiefs, Special Procedures function; Special Procedures function Advisor Reviewers; and Group Managers (or their equivalent). The authority delegated in subparagraph (ii) may also be redelegated only to Chiefs, Special Procedures function; Special Procedures function Advisor Reviewers; Group Managers (or their equivalent); and Revenue Officers. The authority delegated in subparagraph (iv) may be redelegated not lower than Branch Chief.

(4) The Deputy Commissioner; Regional Commissioner; District and Service Center Directors are authorized to disclose or, in specific instances, authorize the disclosure of returns or return information to designated State tax officials, upon written request by the head of a State tax agency, for the purpose of and to the extent necessary in the administration of State tax laws, pursuant to the provisions of IRC 6103(d) and subject to the conditions prescribed in IRC 6103 (h)(4) and (p)(8). The authority to withhold return information pursuant to IRC 6103 (d) and (h)(4) upon a determination that such disclosure would identify a confidential informant or seriously impair any civil or criminal tax investigation is also delegated. The authority delegated in this paragraph does not extend to the entry into Federal/State Agreements on the Coordination of Tax Administration. The authority delegated in this paragraph may be redelegated to any supervisory level deemed appropriate, but such redelegation shall not extend to the authority to withhold return information.

(5) The Deputy Commissioner; Regional Commissioners; District and Service Center Directors; and Director, National Computer Center are authorized to disclose or, in specific instances, authorize the disclosure of returns or return information pursuant to Federal/State Agreements on the Coordination of Tax Administration entered into between the head of any State tax agency and the Commissioners of Internal Revenue, pursuant to the provisions of IRC 6103(d) and subject to the conditions prescribed in IRC 6103 (h)(4) and (p)(8). The authority to withhold return information pursuant to IRC 6103 (d) and (h)(4) upon a determination that such disclosure would identify a confidential informant or seriously impair any civil or criminal tax investigation is also delegated. The authority delegated in this paragraph may be redelegated to any supervisory level deemed appropriate, but such redelegation shall not extend to the authority to withhold return information.

(6) The Deputy Commissioner; Associate Commissioner (Policy and Management); Assistant Commissioner (Support and Services); Deputy Assistant Commissioner (Support and Services); Director, Disclosure and Security Division; and Assistant Director, Disclosure and Security Division are authorized:

(a) To disclose or, in specific instances, authorize the disclosure of returns and return information to Congressional committees and other persons, upon written request and subject to the conditions prescribed in IRC 6103(f). The authority delegated in this paragraph is also delegated to the Assistant to the Commissioner (Legislative Liaison). The authority delegated in this paragraph may not be redelegated.

(b) To disclose or, in specific instances, authorize the disclosure of returns or return information to officers and employees of a Federal agency pursuant to an *ex parte* order by a Federal District Court judge or magistrate when needed for use in the enforcement of a Federal criminal statute (not involving tax administration), or to locate a fugitive from justice subject to the conditions prescribed in IRC 6103 (i)(1) or (i)(5) and the Treasury Regulations thereunder. The authority to withhold any return or return information, pursuant to IRC 6103(i)(6), upon a determination that such disclosure would identify a confidential informant or seriously impair any civil or criminal tax investigation is also delegated. The authority delegated in this paragraph is also delegated to Regional Commissioners; District and Service Center Directors; and Assistant District and Service Center Directors. This authority may not be redelegated.

(c) To disclose or, in specific instances, authorize the disclosure of return information (other than taxpayer return information) to officers and employees of a Federal agency upon written request by the head of such agency or the Inspector General thereof, or in the case of the Department of Justice, the Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, any United States attorney, any special prosecutor appointed under section 593 of title 28, United States Code, or any attorney in charge of a criminal division organized crime strike force established pursuant to section 510 of title 28, United States Code, when needed for use in the enforcement of a Federal criminal statute (not involving tax administration), subject to the conditions prescribed in IRC 6103(i)(2). The authority to withhold return information (other than taxpayer return information), pursuant to IRC 6103(i)(6), upon a determination that such disclosure would identify a confidential informant or seriously impair any civil or criminal tax investigation is also delegated. The authority delegated in this paragraph is also delegated to Regional Commissioners; District and Service Center Directors; and Assistant District and Service Center Directors. This authority may not be redelegated.

(d) To disclose or, in specific instances, authorize the disclosure of:

(i) Return information (other than taxpayer return information) which may constitute evidence of a violation of Federal criminal law (not involving tax administration) to the extent necessary to apprise the head of the appropriate Federal agency pursuant to IRC 6103(i)(3)(A);

(ii) Return information to the extent necessary to apprise appropriate officers or employees of a Federal or State law enforcement agency of circumstances involving an imminent danger of death or physical injury to any

individual pursuant to IRC 6103(i)(3)(B)(i);

(iii) Return information to the extent necessary to apprise appropriate officers or employees of a Federal law enforcement agency of circumstances involving the imminent flight of an individual from Federal prosecution pursuant to IRC 6103(i)(3)(B)(ii);

With respect to subparagraph (i), the authority to withhold any return information pursuant to IRC 6103(i)(6) upon a determination that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation is also delegated.

The authority delegated in this paragraph is also delegated to Regional Commissioners; District and Service Center Directors; and Assistant District and Service Center Directors. The authority delegated in this paragraph may be redelegated only to the Assistant Director, Disclosure and Security Division; and Branch Chiefs and Section Chiefs, Disclosure and Security Division, but such redelegation shall not extend to the authority to withhold return information (other than taxpayer return information). This authority is in addition to the authority previously delegated in paragraph (1)(f).

(e) To notify the Attorney General or his delegate of the head of a Federal agency that certain returns or return information obtained pursuant in IRC 6103(i) (1), (2) or (3)(A) shall not be admitted into evidence under IRC 6103(i)(4)(A)(i) or (B), upon a determination, in accordance with IRC 6103(i)(4)(C), that such admission would identify a confidential informant or seriously impair a civil or criminal tax investigation. The authority delegated in this paragraph is also delegated to Regional Commissioners; District and Service Center Directors; and Assistant District and Service Center Directors. This authority may not be redelegated.

(f) To disclose or, in specific instances, authorize the disclosure of returns or return information to officers and employees of the General Accounting Office, upon written request by the Comptroller General of the United States and subject to the conditions prescribed in IRC 6103(i)(7). The authority to withhold any return or return information, pursuant to IRC 6103(i)(6), upon a determination that such disclosure would impair any civil or criminal tax investigation or reveal the identity of a confidential informant is also delegated. The authority delegated in this paragraph may not be redelegated.

(g) To disclose or, in specific instances, authorize the disclosure of:

(i) The mailing address of taxpayer to officers and employees of an agency when needed in connection with a Federal claim against such taxpayer, upon written request to the conditions prescribed in IRC 6103(m)(2). The authority delegated in this paragraph is also delegated to Regional Commissioners, District and Service Center Directors; and Assistant District and Service Center Directors. Upon approval of a contractual agreement to such disclosures, the authority delegated in this paragraph is also delegated to the Assistant Commissioner (Returns and Information Processing); Deputy Assistant Commissioner (Returns and Information Processing); Director, Returns Processing and Accounting Division; and Director National Computer Center. The authority delegated in this paragraph may be redelegated only as set forth below. The authority delegated in this paragraph to the Director, Disclosure and Security Division and the Assistant Director, Disclosure and Security Division may be redelegated only to the Branch Chiefs and Section Chiefs, Disclosure and Security Division. The authority delegated to the Regional Commissioners; Director, National Computer Center; District and Service Center Directors; and Assistant District and Service Center Directors may be redelegated only to the Disclosure Officer, National Computer Center and Regional, District and Service Center Disclosure Officers. The authority delegated in this order does not include authority to enter into a contractual agreement, which is contained in Delegation Order No. 100, as revised.

(ii) Whether or not an applicant for a loan under an included Federal loan program has a tax delinquent account to the head of the Federal agency administering such program, upon written request and subject to the conditions prescribed in IRC 6103(1)(3). The authority delegated in this paragraph is also delegated to Regional Commissioners; District and Service Center Directors; and Assistant District and Service Center Directors. Upon approval of a contractual agreement for such disclosures, the authority delegated in this paragraph is also delegated to the Assistant Commissioner (Returns and Information Processing); Deputy Assistant Commissioner (Returns and Information Processing); Director, Returns Proceessing and Accounting Division; and Director, National Computer Center. The authority delegated in this paragraph may be redelegated only as set forth below. The authority delegated in this paragraph to the Director, Disclosure and Security Division and the Assistant Director, Disclosure and Security Division may be redelegated only to the Branch Chiefs and Section Chiefs, Disclosure and Security Division. The authority delegated to the Regional Commissioners, Director, National Computer Center; District and Service Center Directors; and Assistant District and Service Center Directors may be redelegated only to the Disclosure Officer, National Computer Center and Regional, District and Service Center Disclosure Officers. The authority delegated in this order does not include authority to enter into a contractual agreement, which is contained in Delegation Order No. 100, as revised.

(h) To disclose or, in specific instances, authorize the disclosure of the mailing address of taxpayers to officers and employees of the National Institute for Occupational Safety and Health, upon written request and subject to the conditions prescribed in IRC 6103(m)(3). Upon approval by the Director, Disclosure and Security Division or his/her delegate of a contractual agreement for such disclosures, the authority delegated in this paragraph is also delegated to the Assistant Commissioner (Computer Services); Deputy Assistant Commissioner (Computer Services); Director, Software Division; Director, National Computer Center; and Service Center Directors. The authority delegated in this paragraph to the Director, Disclosure and Security Division and the Assistant Director, Disclosure and Security Division, may be redelegated only to Branch Chiefs and Section Chiefs, Dislosure and Security Division. The authority delegated to the Assistant Commissioner (Computer Services); Deputy Assistant Commissioner (Computer Services); Director, Software Division; Director, National Computer Center; and Service Center Directors may not be redelegated. The authority delegated in this paragraph does not include authority to enter into a contractual agreement, which is contained in Delegated Order No. 100, as revised.

(i) To disclose, or in specific instances, authorize the disclosure of the mailing address of any taxpayer who has defaulted on a loan made from the student loan fund established under part B or E of title IV of the Higher Education Act of 1965 or a loan made to a student at an institute of higher education pursuant to section 3(a)(1) of the Migration and Refugee Assistance Act of 1962, to the Secretary of Education upon written request and subject to the conditions prescribed in IRC 6103(m)(4).

Upon approval by the Director, Disclosure and Security Division or his/her delegate of a contractual agreement for such disclosures, the authority delegated in this paragraph is also delegated to the following officials: Assistant Commissioner (Computer Services); Deputy Assistant Commissioner (Computer Services); Director, Software Division; Director, National Computer Center; and Service Center Directors. The authority delegated in this paragraph to the Director, Disclosure and Security Division and the Assistant Director, Disclosure and Security Division, may be redelegated only to Branch Chiefs and Section Chiefs, Disclosure and Security Division. The authority delegated to the Assistant Commissioner (Computer Services); Deputy Assistant Commissioner (Computer Services); Director, Software Division; Director, National Computer Center; and Service Center Directors may not be redelegated. The authority delegated in this paragraph does not include authority to enter into a contractual agreement, which is contained in Delegation Order No. 100, as revised.

(7) The Deputy Commissioner; Associate Commissioner (Data Processing); and Assistant Commissioner (Returns and Information Processing) are authorized:

(a) To disclose or, in specific instances, authorize the disclosure of returns or return information for statistical use to officers and employees of the Department of Commerce, Bureau of Census, upon the written request of the Secretary of Commerce or to officers and employees of the Department of the Treasury, subject to the conditions prescribed in IRC 6103(j)(1)(A) and the Treasury Regulations thereunder and (j)(3). The authority delegated in this paragraph may be redelegated only to the Director, Statistics of Income Division.

(b) To disclose or, in specific instances, authorize the disclosure of return information for statistical use to officers and employees of the Department of Commerce, Bureau of Economic Analysis, upon the written request of the Secretary of Commerce, or to officers and employees of the Federal Trade Commission, upon written request of the Chairman, subject to the conditions prescribed in IRC 6103(j)(1)(B) and (j)(2) and the Treasury Regulations thereunder. The authority delegated in this paragraph may be redelegated only to the Director, Statistics of Income Division.

(8) The Deputy Commissioner, Assistant to the Commissioner (Public Affairs); Director and Assistant Director, Public Affairs Division; Regional Commissioner; and District Directors are authorized to disclose or, in specific instances, authorize the disclosure of taxpayers' names and the city, state and zip code of their mailing addresses to the press and other media for purposes of notifying persons entitled to undelivered tax refunds, subject to the conditions prescribed in IRC 6103(m)(1). The authority delegated in this paragraph may be redelegated to Assistant District Directors and Public Affairs Officers.

(9) The Deputy Commissioner, Associate Commissioner (Policy and Management); and Assistant Commissioner (Support and Services) are authorized:

(a) Upon written request of the President, to disclose, or in specific instances, authorize the disclosure of return information (other than return information that is adverse to the taxpayer) of an individual who is under consideration for appointment to a position in the executive or judicial branch of the Federal Government to the authorized representative of the Executive Office of the President or to the Federal Bureau of Investigation on behalf of the President, subject to the conditions prescribed in IRC 6103(g)(2) and (g)(4). Authority is also delegated to disclose or, in specific instances, authorize the disclosure of return information with respect to the categories of individuals discussed above to the heads of Federal agencies upon written request, or the Federal Bureau of Investigation on behalf of and upon the written request of such agency heads, subject to the conditions described in IRC 6103(g)(2) and (g)(4). Upon receipt of any request for return information under IRC 6103(g)(2), authority to notify the individuals with respect to whom the request has been made is also delegated. The authority delegated in this paragraph may be redelegated but not lower than:

(i) Deputy Assistant Commissioner (Support and Services), in the case of requests by or on behalf of the President where the return information to be disclosed is not adverse to the taxpayer.

(ii) Assistant Director, Disclosure and Security Division, in the case of requests by or on behalf of the heads of Federal agencies where the return information to be disclosed is adverse to the taxpayer;

(iii) Branch Chiefs, Disclosure and Security Division, in the case of requests by or on behalf of the heads of Federal agencies where the return information to be disclosed is not adverse to the taxpayer; and

(iv) Section Chiefs, Disclosure and Security Division, concerning the notification of individuals with respect to whom a request has been made.

(b) To make the determination that an agency, body or commission or the General Accounting Office has failed to or does not meet the requirements of IRC 6103(p)(4). Subject to the administrative review applicable to State tax agencies described in IRC 6103(p)(7), authority to withhold returns and return information from any agency, body or commission or the General Accounting Office until a determination is made that the requirements of IRC 6103(p)(4) have been or will be met is also delegated. The authority delegated in this paragraph may not be redelegated.

(10) The Deputy Commissioner; Associate Commissioner (Operations); Assistant Commissioner (Employee Plans and Exempt Organizations); Deputy Assistant Commissioner (Employee Plans and Exempt Organizations); Director, Disclosure and Security Division; Assistant Director, Disclosure and Security Division; Regional Commissioners; District Directors of Key Districts for Employee Plans and Exempt Organizations matters; Service Center Directors; Director, National Computer Center; and Director, Data Center are authorized to disclose, or in specific instances, authorize the disclosure of:

(a) Statements, notifications, reports, or other return information described in IRC 6057(d) to officers and employees of the Social Security Administration for the administration of section 1131 of the Social Security Act, upon written request and subject to the conditions prescribed in IRC 6103(1)(1)(B). The authority delegated in this paragraph to the Assistant Commissioner and Deputy Assistant Commissioner (Employee Plans and Exempt Organizations) may be redelegated, but not lower than Branch Chiefs, Employee Plans Technical and Actuarial Division. The authority delegated in this paragraph to the Director and Assistant Director, Disclosure and Security Division may not be redelegated. The authority delegated in this paragraph to Regional Commissioners may be redelegated not lower than Assistant Regional Commissioner. The authority delegated in this paragraph to the District Directors of Key Districts may be redelegated, but not below Chiefs, Technical Review Staffs, Employee Plans and Exempt Organizations Division. The authority delegated in this paragraph to Service Center Directors may be redelegated, but not lower than

Section Chiefs (or their equivalent). The authority delegated in this paragraph to the Director, National Computer Center and Director Data Center may be redelegated, but not lower than Branch Chiefs (or their equivalent).

(b) Returns or return information, including compensation information, to officers and employees of the Department of Labor and Pension Benefit Guaranty Corporation for the administration of Titles I and IV of the Employee Retirement Income Security Act of 1974, upon written request and subject to the conditions prescribed in IRC 6103(1)(2) and the Treasury Regulations thereunder. The returns or return information which may be disclosed under this paragraph include:

(i) Upon specific written request, the information specified in 26 CFR 301.6103(1)(2)–1(a), 2(a), 3(b)(1), and 3(b)(2);

(ii) Upon receipt by the Commissioner of Internal Revenue of an annual written request, the information specified in 26 CFR 301.6103(1)(2)–3(a);

(iii) Upon receipt by the Commissioner of Internal Revenue of a general written request, information specified in 26 CFR 301.6103(1)(2)–3(d).

The authority delegated in this paragraph to the Assistant Commissioner and Deputy Assistant Commissioner (Employee Plans, and Exempt Organizations) may be redelegated, but not lower than Branch Chiefs, Employee Plans Technical and Actuarial Division. The authority delegated in this paragraph to the Director and Assistant Director, Disclourse and Security Division may not be redelegated. The authority delegated in this paragraph to Regional Commissioners may be redelegated not lower than Assistant Regional Commissioner. The authority delegated in this paragraph to District Directors of the Key Districts may be redelegated, but not lower than Chiefs, Technical Review Staff, Employee Plans and Exempt Organizations Division; Group Managers, Employee Plans and Exempt Organizations Division; and Employee Plans Specialist. The authority delegated in this paragraph to Service Center Directors may be redelegated, but not lower than Section Chiefs (or their equivalent). The authority delegated in this paragraph to the Director, National Computer Center and Director, Data Center may be redelegated, but not lower than Branch Chiefs (or their equivalent). The authority delegated in this paragraph is also delegated to the Director, Appeals Division; Regional Director of Appeals; Chief Appeals Office; and Associate Chief, Appeals Office and may not be redelegated.

(11) The Deputy Commissioner; Associate Commissioner (Operations); Assistant Commissioner (Employee Plans and Exempt Organizations); and Deputy Assistant Commissioner (Employee Plans and Exempt Organizations) are authorized to disclose or, in specific instances, authorize the disclosure of drafts of proposed exemptions or of proposed denials of exemption requests, denial letters, and copies of information submitted by taxpayers requesting exemptions to the proper officers of the Department of Labor for consultation and coordination as required by IRC 4975(c)(2). The authority delegated in this paragraph may be redelegated not lower than Branch Chiefs, Employee Plans Technical and Actuarial Division.

(12) Disclosure of information to appropriate Federal, State or local law enforcement officials may be made by Internal Revenue Service employees, and employees of the Office of Chief Counsel, concerning non-tax crimes which do not involve return information or the income or other financial information of an individual or entity, in accordance with the provisions of Chapter (35)00 of the Disclosure of Official Information Handbook, IRM 1272. In situations where there is a question as to whether the information to be disclosed is or is not return information, such as those described in IRM 1272, the Assistant Commissioner (Support and Services); Deputy Assistant Commissioner (Support and Services); Regional Commissioners; District and Service Center Directors; and Assistant District and Service Center Directors are authorized to approve or deny such requests for disclosure. The Assistant Commissioner (Support and Services) and the Deputy Assistant Commissioner (Support and Services) should act in all such matters only after coordination with the Disclosure Litigation Division, Office of Chief Counsel. Regional Commissioners; District and Service Center Directors; and Assistant District and Service Center Directors should act in all such matters only after coordination with the Office of Regional or District Counsel, as appropriate. The authority delegated in this paragraph may not be redelegated.

(13) The authority vested in the Commissioner of Internal Revenue by 26 CFR 301.9000–1 is delegated by this Order to the Deputy Commissioner. It is also delegated to the following officials to the extent described below. [No authorization is needed in cases referred to the Department of Justice which are discussed in paragraph (1)(c) where the testimony or disclosure is made on behalf of the government.]

(a) Regional Commissioners are authorized to determine whether officers and employees of the Internal Revenue Service assigned to their regions, including employees of the Office of the Regional Counsel, but not including employees of the Regional Inspector, will be permitted to testify or produce Service records because of a request or demand for the disclosure of such records or information. The Regional Commissioners should act in all such matters only after coordination with the Office of Regional Counsel. However, the personal testimony of a Regional Commissioner shall require authorization in accordance with (b) below. The authority delegated in this paragraph may not be redelegated. (See (d) and (e) below.) The authority delegated in this paragraph shall not extend to the disclosure of Internal Revenue Service records and information in response to a subpoena or request or other order of the tax Court. (See General Counsel Order No. 4, 44 Federal Register 58017 (1979), which provide the authority for disclosure of Internal Revenue Service records and information in tax court proceedings.)

(b) The Assistant Commissioner (Support and Services) and the Deputy Assistant Commissioner (Support and Services) are authorized to determine whether Regional Commissioners, officers and employees of the Internal Revenue Service assigned to the Naitonal Office, including employees of the Office of Chief Counsel, and employees assigned to Regional Inspectors will be permitted to testify or produce Service records because of a request or demand for the disclosure of such records or information. The Assistant Commissioner (Support and Services) or the Deputy Assistant Commissioner (Support and Services) should act in all such matters only after coordination with the Disclosure Litigation Division, Office of Chief Counsel. The authority delegated in this paragraph may not be redelegated. (See (d) and (e) below.) The authority delegated in this paragraph shall not extend to the disclosure of Internal Revenue Service records and information in response to a subpoena or request or other order of the Tax Court. (See General Counsel Order No. 4, 44 Federal Register 58017 (1979).)

(c) The District Directors and Service Center Directors are authorized to determine whether officers and employees of the Internal Revenue Service assigned to their district or

service center (including regional appellate employees located in the district) will be permitted to testify or produce Service records because of a request or demand for disclosure of such records or information. For purposes of this paragraph, employees of the Office of the District Counsel come under the authority of the District Director. Employees of the Regional Inspector are covered under paragraph (b), above. The District and Service Center Directors should act in all such matters only after coordination with the Office of the District Counsel. However, the personal testimony of a District Director or Service Center Director shall require authorization in accordance with (a) above. The authority in this paragraph may not be redelegated. (See (d) and (e) below.) The authority delegated in this paragraph shall not extend to the disclosure of Internal Revenue Service records and information in response to a subpoena or request or other order of the Tax Court. (See General Counsel Order No. 4, 44 Federal Register 58017 (1979).)

(d) The authoprity delegated in paragraphs (a), (b) and (c) shall not extend to testimony or the production of Service records because of a request or demand for the disclosure of such records or information:

(i) By a Congressional Committee;

(ii) Involving a disclosure to the President or certain other persons pursuant to IRC 6103(g);

(iii) Involving a disclosure to the Comptroller General pursuant to IRC 6103(i)(7); or

(iv) Involving a disclosure to correct a misstatement of fact pursuant to IRC 6103(k)(3).

(e) The Director, General Legal Services Division and Assistant Regional Counsel (GLS), with the concurrence of the Director, General Legal Services Division are authorized to determine whether officers and employees of the Internal Revenue Service, including employees of the Office of Chief Counsel, will be permitted to testify or produce internal revenue records or information because of a request or demand for the disclosure of such records or information, if the request or demand is made in connection with personnel or claimant representative matters under the jurisdiction of the General Legal Services Division for which they have been delegated authority to disclose returns or return information as described in paragraph 1(d). The authority delegated above in this paragraph to the Director, General Legal Services Division may be redelegated only to the Assistant Director, General Legal Services Division and to Branch Chiefs and attorneys of the Office of Chief Counsel directly involved in such matters. This paragraph does not limit the authority granted in (a), (b), or (c) above.

(f) The authority delegated to Regional Commissioners and District and Service Center Directors in paragraphs (a) and (c) shall not extend to testimony or the production of Service records because of a request or demand for the disclosure of such records or information which may require a disclosure to a competent authority under a tax convention, whether or not such records or information were previously disclosed pursuant to such convention. The Associate Commissioner (Policy and Management), Assistant Commissioner (Support and Services) and the Deputy Assistant Commissioner (Support and Services) should act in all such matters only after authorization by the appropriate United States competent authority. (See Delegation Order 114, as revised).

(g) In addition to paragraphs (a), (b), (c) and (e) above, authority is further delegated to Regional Commissioners; Assistant Regional Commissioners (Resource Management); Regional Inspectors; Regional and District Counsel; District and Service Center Directors; and Director, Data Center, to release or, in specific instances, authorize the release of information from the leave and payroll records of employees under their jurisdiction, and to the Fiscal Management Officer to release or, in specific instances, authorize the release of information from the leave and payroll records of all employees of the National Office, when such information is requested or subpoenaed in connection with private litigation, upon determination that release of the information would not be detrimental to the Internal Revenue Service. This delegation does not include authority to release or authorize the release of information contained in official personnel folders, which is covered by IRM 0293. When any uncertainty exists as to the availability of furnishing leave and pay information in a particular case, the matter should be referred to the National Office, Attention: PM:PRF:F, with a complete report of the circumstances. The authority delegated in this paragraph may not be redelegated.

The provisions of this paragraph (13(a)(–(g)) are limited to the authorization of testimony or the production of documents pursuant to a request or demand as referred to in paragraphs (d)(1) (i) and (ii) of 26 CFR 301.9000–1 and does not extend to or affect other disclosure authority previously delegated in paragraphs (6) and (9) of this order. Furthermore, in instances where it is anticipated that the testimony or production of Service records by a Chief Counsel attorney will involve matters which may fall within the attorney-client privilege, the determination of whether to waive the privilege, as well as the authority to authorize the testimony or production shall lie with the Assistant Commissioner (Support and Services) and Deputy Assistant Commissioner (Support and Services) who will act in these matters only after coordination with the Disclosure Litigation Division. In instances involving Regional or District Counsel attorneys and the attorney-client privilege, authority shall lie with the Regional Commissioner who will act in these matters only after coordination with the Regional Counsel.

(14) The Deputy Commissioner; Associate Commissioner (Data Processing); Assistant Commissioner (Computer Services); Deputy Assistant Commissioner (Computer Services); Regional Commissioners; Director, Software Division; Director, National Computer Center; and Service Center Directors are authorized to disclose or, in specific instances, authorize the disclosure of individual master file information to the head of a Federal, State or local child support enforcement agency or an authorized supervisory official under a contractual agreement entered into pursuant to Delegation Order 100, as revised, Revenue Procedure 78–10, and subject to the conditions prescribed in IRC 6103(1)(6)(A)(i). Such contractual agreement should be entered ino only after coordination with the Director or Assistant Director, Disclosure and Security Division. The authority delegated in this paragraph may be redelegated to any supervisory level deemed appropriate.

(15) The Deputy Commissioner; Associate Commissioner (Policy and Management); Assistant Commissioner (Support and Services); Deputy Assistant Commissioner (Support and Services); Regional Commissioners; and Service Center Directors are authorized to disclose or, in specific instances, authorize the disclosure of return information to the head of a Federal, State or local child support enforcement agency or an authorized supervisory official under a contractual agreement entered into pursuant to Delegation Order 100, as revised, Revenue Procedure 78–10, ans subject to the conditions prescribed in IRC 6103(1)(6)(A)(ii). Such contractual

agreement should be entered into only after coordination with the Director, Disclosure and Security Division. The authority delegated in this paragraph may be redelegated to any supervisory level deemed appropriate.

(16) The Deputy Commissioner; Associate Commissioner (Policy and Management); Assistant Commissioner (Support and Services); Deputy Assistant Commissioner (Support and Services); Regional Commissioners; Service Center Directors; Director, National Computer Center, and Director, Data Center are authorized to disclose or, in specific instances, authorize the disclosure of information returns filed pursuant to part III of subchapter A of IRC chapter 61 to designated personnel of the Social Security Administration for the purpose of carrying out an effective return processing program in accordance with section 232 of the Social Security Act and pursuant to IRC 6103(1)(5). The authority delegated in this paragraph may not be redelegated.

(17) The Deputy Commissioner, Deputy Chief Counsel and Associate Chief Counsel (Litigation) are authorized to disclose or, in specific instances, authorize the disclosure of returns and return information to the designated officers and employees of the Department of Justice pursuant to a written request from the Attorney General, the Deputy Attorney General, or an Assistant Attorney General in a matter involving tax administration, subject to the conditions prescribed in IRC 6103(h)(3)(B). The authority delegated in this paragraph may not be redelegated.

(18) The Deputy Commissioner; Associate Commissioner (Data Processing); Assistant Commissioner (Computer Services); Assistant Commissioner (Returns and Information Processing); Director, Disclosure and Security Division; Assistant Director, Disclosure and Security Division; Service Center Directors and Director, National Computer Center are authorized upon written request to disclose, or in specific instances, authorize the disclosure of return information pursuant to IRC 6103(h)(6) with respect to the address and status of an individual as a nonresident alien, citizen or resident of the United States to the Social Security Administration or the Railroad Retirement Board for purposes of carrying out responsibilities for withholding tax from social security benefits under IRC 1441.

(19) At the requet of the Commissioner of Internal Revenue and with the approval of the Joint Committee on Taxation, the following officials may disclose information with respect to a specific taxpayer pursuant to IRC 6103(k)(3): Deputy Commissioner; Regional Commissioners; District and Service Center Directors; Associate Commissioner (Operations); Associate Commissioner (Policy and Management); Assistant Commissioner (Support and Services); Assistant Commissioner (Examination); Assistant Commissioner (Collection); Assistant Commissioner (Criminal Investigation); Assistant Commissioner (Employee Plans and Exempt Organizations); Director, Disclosure and Security Division; any individual who is specifically designated by the Commissioner of Internal Revenue. The authority delegated in this paragraph may not be redelegated.

(20) Associate Commissioner (Data Processing); Assistant Commissioner (Returns and Information Processing); Director, National Computer Center; and Director, Disclosure and Security Division, are authorized to disclose or, in specific instances, to authorize the disclosure of return information from the Information Returns Processing Master File under a contractual agreement entered into pursuant to Delegation Order No. 100, as revised, and Revenue Procedure 85-21, as revised, to Federal, State, and local agencies administering certain welfare programs, subject to the conditions of IRC 6103(1)(7). Such contractual agreements may be entered into only after coordination with the Director, Disclosure and Security Division. The authority in this paragraph may be redelegated to any supervisory level deemed appropriate, but only by the officials named above.

(21) Delegation Order No. 156 (Rev. 5) and Chief Counsel Order 1031.3D, effective March 15, 1984, are superseded.

Dated: July 26, 1985.

Approved:

Jean Owens,

Deputy Chief Counsel.

Dated: August 1, 1985.

Approved:

James I. Owens,

Deputy Commissioner.

[FR Doc. 85-19151 Filed 8-9-85; 8:45 am]

BILLING CODE 4830-01-M

VETERANS ADMINISTRATION

Meeting; Veterans' Advisory Committee on Rehabilitation

The Veterans Administation gives notice that a meeting of the Veterans' Advisory Committee on Rehabilitation, authorized by 38 U.S.C. 1521, will be held in Room 1010 of the Veterans Administation Central Office, 810 Vermont Avenue, NW, Washington, DC 20420, September 10 and 11, 1985. The sessions will begin at 9 a.m. The purpose of the meeting will be to review the administration of veterans' rehabilitation programs and provide recommendations to the Administator.

The meeting will be open to the public up to the seating capacity of the conference room. Because of the limited seating capacity, it will be necessary for those wishing to attend to contact Dr. Carole J. Westerman, Executive Secretary, Veterans' Advisory Committee on Rehabilitation (phone 202-389-2888) prior to September 4, 1985.

Interested persons may attend, appear before, or file statements with the Committee. Statements, if in written from, may be filed before or within 10 days after meeting. Oral statements will be heard at 9:45 a.m. on September 11, 1985.

Dated: August 6, 1985.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 85-19095 Filed 8-9-85; 8:45 am]

BILLING CODE 8320-01-M

Meeting; Voluntary Service National Advisory Committee

The Veterans Administration gives notice that the annual meeting of the Veterans Administration Voluntary Service National Advisory Committee, comprised of 53 national voluntary organizations, will be held at the John Ascuaga's Nugget Hotel, Sparks, Nevada on October 24 through October 27, 1985.

Registration of the conferees and orientation of new committee members will be held beginning at 12:30 p.m. on October 24, 1985. The committee will officially convene with the Opening Session at 9 a.m., October 25, 1985 and will conlcude at 12 noon, October 27, 1985.

The purposes of the meeting are to instruct committee members and organization officials of the obligations they have accepted for volunteer recruitment, communications and program interpretation, and to seek the advice of the Committee in further developing volunteer participation in the care and treatment of veteran patients throughout the agency's nationwide medical program.

Dated: August 6, 1985.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 85-19096 Filed 8-9-85; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 155
Monday, August 12, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 9:30 a.m., Tuesday, August 13, 1985.

LOCATION: Third Floor Hearing Room, 1111—18th Street, NW., Washington, DC.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED:

Commission Procedures

The Commission and staff will consider internal procedures relating to Commission decisionmaking.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, MD 20207 301–492–6800.

Dated: August 7, 1985.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 85–19123 Filed 8–7–85; 4:32 pm]

BILLING CODE 6355–01–M

2

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 9:30 a.m., Wednesday, August 14, 1985.

LOCATION: Room 456, 5401 Westbard Avenue, Bethesda, MD.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. FY 87 Budget

The staff will brief the Commission on the Fiscal Year 1987 Budget.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION CALL: 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, MD. 20207 301–492–6800.

Dated: August 7, 1985.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 85–19124 Filed 8–7–85; 4:32 pm]

BILLING CODE 6355–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:30 p.m. on Tuesday, August 6, 1985, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Mineola State Bank, Mineola, Iowa, which was closed by the Superintendent of Banking for the State of Iowa on Tuesday, August 6, 1985; (2) accept the bid for the transaction submitted by Glenwood State Bank, Glenwood, Iowa, a State member bank; and (3) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Mr. Michael A. Mancusi, acting in the place and stead of Director H. Joe Selby (Acting Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: August 8, 1985.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 85–19185 Filed 8–8–85; 12:29 pm]

BILLING CODE 6714–01–M

4

FEDERAL ENERGY REGULATORY COMMISSION

August 7, 1985

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. 94–409), 5 U.S.C. 552B:

TIME AND DATE: 10:00 a.m., August 14, 1985.

PLACE: 825 North Capitol Street, NE., Room 9306, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

*Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357–8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the division of public information.

Consent Power Agenda, 818th Meeting—August 14, 1985, Regular Meeting (10:00 a.m.)

CAP–1.
Project No. 6902–002, the city of New Martinsville, West Virginia

CAP–2.
Project No. 2984–005, S.D. Warren

CAP–3.
Project No. 9134–001, D&D Stauffer, Inc.

CAP–4.
Project Nos. 2761–001, 002 and 003, El Dorado Irrigation District and El Dorado County Water Agency
Project No. 184–000, Pacific Gas and Electric Company

CAP–5.
Project No. 3195–005, Joseph M. Keating

CAP–6.
Project No. 4796–010, Niagara Mohawk Power Corporation

CAP–7.
Project No. 8713–001, Kittitas Reclamation District

CAP–8.
Docket No. EL–78–24–031 (Phase II), Municipal Electric Utilities Association of New York State v. Power Authority of the State of New York

Docket No. EL78-37-004 (Phase II), village of Ilion, New York v. Power Authority of the State of New York

CAP-9.
Project No. 3623-001, the Borough of Seven Springs, Pennsylvania

CAP-10.
Project No. 2251-000, New England Fish Company

CAP-11.
Project No. 3206-004, city of New Martinsville, West Virginia

CAP-12.
Project No. 3757-001, city of Bountiful, Utah
Project No. 5983-001, Morgan City Corporation, Utah

CAP-13.
Docket No. ER85-477-001, Southwestern Public Service Company

CAP-14.
Docket No. ER85-582-000, Gulf States Utilities Company

CAP-15.
Docket No. ER85-603-000, South Carolina Generating Company, Inc.

CAP-16.
Docket No. ER85-461-002, Kansas Gas and Electric Company

CAP-17.
Docket Nos. ER85-468-000, ER85-424-003 and ER85-425-001, Southwestern Electric Power Company

CAP-18.
Docket Nos. ER82-616-016 and 025 (remand), Middle South Energy, Inc.

CAP-19.
Docket No. EL82-3-003, city of Oakland, California v. Pacific Gas and Electric Company

CAP-20.
Docket Nos. ER85-424-002 and ER85-425-002, Southwestern Electric Power Company

CAP-21.
Docket No. EL85-11-003, Southern California Edison Company

CAP-22.
(A) Docket No. RE84-1-001, Central Illinois Public Service Company
(B) Docket No. RE84-3-001, Alabama Power Company

CAP-23.
Docket No. IR-000-1231, town of Smyrna, Delaware
Docket No. IR-000-1238, town of Clayton, Delaware
Docket No. IR-000-1242, town of Middletown, Delaware
Docket No. IR-000-1329, city of New Castle, Delaware

CAP-24.
Docket Nos. ER85-81-000 and ER85-251-000, West Texas Utilities Company

CAP-25.
Docket Nos. ER84-587-000, ER84-588-000, ER84-589-000 and ER84-590-000, Indiana & Michigan Electric Company

CAP-26.
Docket No. ER85-264-000, Duquesne Light Company

CAP-27.
Docket No. ER84-690-000, Northern States Power Company (Minnesota), Northern States Power Company (Wisconsin) and Lake Superior District Power Company

CAP-28.
Docket Nos. ER82-462-000, ER82-734-000, ER83-127-000, ER83-573-000, ER84-42-000, ER84-347-000, ER84-492-000, ER84-696-000, ER82-539-000, ER82-810-000, ER83-540-000, ER83-748-000, ER84-163-000, ER84-403-000, ER84-618-000, and ER85-187-000, Portland General Electric Company

Consent Miscellaneous Agenda

CAM-1.
Docket Nos. RM84-15-001, 002, 003 and 004, generic determination of rate of return on common equity for public utilities

CAM-2.
Docket Nos. RM81-19-024 and RM81-29-019, interstate pipeline blanket certificates for routine transactions and sales and transportation by interstate pipelines and distributors

CAM-3.
Docket No. RM83-53-001, obligations of sellers and purchasers of first-sale natural gas for refunds owed for collections in excess of maximum lawful prices under the Natural Gas Policy Act of 1978

CAM-4.
Docket No. RM85-2-001, rules of practice and procedure: Commission review of remedial orders

CAM-5.
Docket No. RM85-11-000, revision of FERC Form No. 73, oil pipeline data for depreciation analysis

CAM-6.
Docket No. RM79-76-088 (Texas-15 amendment), high-cost gas produced from tight formations

CAM-7.
Docket No. RM79-76-182 (Texas-8 amendment), high-cost gas produced from tight formations

CAM-8.
Docket No. RM79-76-241 (Kentucky-4), high-cost gas produced from tight formations

CAM-9.
Docket No. GP84-54-001, Hawthorne Oil and Gas Corporation, et al.

CAM-10.
Docket No. GP84-20-001, city of Farmington v. Amoco Gas Company and Amoco Production Company

CAM-11.
Docket No. GP84-29-000, State of Oklahoma, Oklahoma Corporation Commission, Golden Oil Company, Old Kerr #1 Well, FERC J.D. No. 8306607

CAM-12.
Docket No. GP85-22-000, State of Colorado, section 107 NGPA determinations, Amoco Production Company, State of Colorado "Z" No. 1 Well, CO Docket No. 84-16, FERC JD No. 84-38919

CAM-13.
Omitted

CAM-14.
Docket No. GP84-41-000, B.J. Gierhart, Inc. v. Valero Transmission Company

CAM-15.
Docket No. GP84-23-011, Strowers Oil & Gas Company, et al.

CAM-16.
Docket No. GP83-15-000, Pressure Transport, Inc.

CAM-17.
Docket No. RA83-12-000, Winston Refining Company

CAM-18.
Docket No. RA82-21-000, Powerine Oil Company

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Docket No. RO82-89-000, Stanco Petroleum, Inc.

CAM-20.
Docket No. RO84-12-000, County Fuel Company, Inc.

CAM-21.
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CAM-22.
Docket No. RO85-11-000, Hudson Oil Company, Inc. and Hudson Refining Company, Inc.

CAM-23.
Docket No. RA85-4-000, Young Refining Corporation

CAM-24.
Docket No. RO83-10-000, Davis & Forbes

CAM-25.
Docket No. FA84-23-000, Northern Border Pipeline Company

Consent Gas Agenda

CAG-1.
Docket Nos. OR79-1-026, 027, 028, 029 and 030, Williams Pipe Line Company

CAG-2.
Docket Nos. ST85-387-001, ST85-521-001, ST85-562-001, ST85-614-001 and ST85-616-001, Panhandle Eastern Pipe Line Company

CAG-3.
Docket No. TA85-2-9-003, Tennessee Gas Pipeline Company, a division of Tenneco Inc.

CAG-4.
Docket No. TA85-2-11-002, United Gas Pipe Line Company

CAG-5.
Docket Nos. RP85-149-001, 002 and 003, East Tennessee Natural Gas Company

CAG-6.
Docket No. RP85-150-001, Natural Gas Pipeline Company of America

CAG-7.
Docket Nos. RP85-155-001 and RP84-11-005, Columbia Gas Transmission Corporation

CAG-8.
Docket No. RP85-157-001, United Gas Pipe Line Company

CAG-9.
Docket No. RP83-113-017, Pacific Gas Transmission Company, Pacific Interstate Transmission Company, Pacific Offshore Production Company, Pacific Interstate Offshore Company and El Paso Natural Gas Company
Docket No. RP81-130-023 (not consolidated), Transwestern Pipeline Company

CAG-10.
Docket No. RP85-165-001, Distrigas of Massachusetts Corporation

CAG-11.

Docket Nos. RP81-130-024, 025, 026, RP83-25-014 and 015, Transwestern Pipeline Company

CAG-12.
Docket No. RP85-63-001, Northwest Pipeline Corporation v. Cascade Natural Gas Corporation
Docket No. RP85-103-001, Cascade Natural Gas Corporation v. Northwest Pipeline Corporation

CAG-13.
Omitted

CAG-14.
Docket No. RP85-141-001, Texas Gas Transmission Corporation

CAG-15.
Docket Nos. RP80-55-010, RP80-118-012, RP81-73-004 and RP82-32-005, Sea Robin Pipeline Company

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Docket No. TA85-1-26-005, Natural Gas Pipeline Company of America

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Docket No. TA85-1-53-005, KN Energy, Inc.

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Docket No. TA85-3-37-000, Northwest Pipeline Corporation

CAG-21.
Docket No. RP85-168-000, Transwestern Pipeline Company

CAG-22.
Docket No. TA85-1-13-002 (PGA85-1a), Gas Gathering Corporation

CAG-23.
Docket No. TA85-2-8-002, South Georgia Natural Gas Company

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Docket No. TA85-2-42-003, Transwestern Pipeline Company

CAG-25.
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CAG-35.
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CAG-36.
Docket No. CI85-284-001, Pioneer Production Corporation

CAG-37.
Docket No. CI64-26-013 (force majeure), Gulf Oil Corporation

CAG-38.
Docket Nos. RI83-7-000, 001, 002 and 003, Ashland Oil Inc., Ashland Exploration, Inc., Tenneco Oil Company, Mesa Petroleum Company and Tema Oil Company

CAG-39.
Docket Nos. RI74-188-058 and RI75-21-053, Independent Oil & Gas Association of West Virginia

CAG-40.
Docket Nos. RI74-188-059 and RI75-21-054, Independent Oil & Gas Association of West Virginia

CAG-41.
Docket Nos. RI74-188-060 and RI74-21-055, Independent Oil & Gas Association of West Virginia

CAG-42.
Docket Nos. RP71-29-030, 031, 032, 033, 034, 035, 036 and RP71-120-000 (phase III), United Gas Pipe Line Company

CAG-43.
Docket Nos. CP84-654-002 and 003, Algonquin Gas Transmission Company
Docket No. CP84-429-002, Texas Eastern Transmission Corporation

CAG-44. Omitted

CAG-45.
Docket No. CP82-355-006, Natural Gas Pipeline Company of America

CAG-46.
Docket No. CP75-104-046, High Island Offshore System

CAG-47.
Docket Nos. CI85-94-001, CI85-95-001 and 002, Tenngasco Exchange Corporation, Tenngasco Corporation, Tenneco Oil Company, Houston Oil & Minerals Corporation, Tenneco Exploration, Ltd., Tenneco Exploration II, Ltd. and Tenneco West, Inc.

CAG-48.
Docket No. CI84-374-001, TXP Operating Company

CAG-49.
Docket No. CI84-332-013, Cities Service Oil & Gas Corporation, Cities Offshore Production Companies and Oxy Petroleum, Inc.

CAG-50.
Docket No. CP85-550-000, Northwest Central Pipeline Corporation

CAG-51.
Docket No. CP85-319-000, Seagull Interstate Corporation

CAG-52.
Docket No. CP85-490-000, International Paper Company

CAG-53.
Docket No. CP85-278-000, Southern Natural Gas Company
Docket No. CP85-331-000, SNG Intrastate Pipeline, Inc.

CAG-54.
Docket No. CP85-477-000, Natural Gas Pipeline Company of America

CAG-55.
Docket No. CP85-28-000, Tennessee Gas Pipeline Company, a division of Tenneco Inc.

CAG-56.
Docket No. CP85-46-001, Southern Natural Gas Company

CAG-57.
Docket No. CP85-206-000, Trunkline Gas Company

CAG-58.
Docket No. CP85-386-000, Northwest Central Pipeline Corporation

CAG-59.
Docket No. CP85-244-008 (Teemark SMP), Texas Eastern Transmission Corporation and producer-suppliers of Texas Eastern Transmission Corporation

I. Licensed Project Matters

P-1.
Project No. 4919-003, city of Gillette, Wyoming
Project No. 3749-000, Mitchell Energy Company
Project No. 4210-000, STS Energenics, Ltd.

P-2.
Project No. 8167-003, Synergics, Inc.

P-3.
Project No. 4869-000, Dennis V. McGrew

P-4.
Project No. EL85-13-001, Georgia Power Company

P-5.
Project No. EL85-41-000, proposed procedure for implementing a review of power projects land withdrawals and vacating non-essential withdrawals

II. Electric Rate Matters

ER-1.
Docket No. QF84-147-000, Alcon (Puerto Rico) Inc.

ER-2.
Docket No. EL85-15-001, Public Service Company of New Hampshire

Miscellaneous Agenda

M-1.
Omitted

M-2.
Reserved

M-3.
Reserved

M-4.
Docket No. RM83-31-000, emergency natural gas sale, transportation and exchange transactions

M-5.
Docket No. GP80-24-004, Transcontinental Gas Pipe Line Corporation
Docket No. GP80-11-000, Columbia Gas Transmission Corporation
Docket No. GP80-15-000, Michigan Wisconsin Pipe Line Company
Docket No. GP80-23-000, Texas Gas Transmission Corporation

Docket No. GP80–16–000, Mid-Louisiana Gas Company
Docket No. GP80–17–000, Mississippi River Transmission Corporation
Docket No. GP80–5–000, Natural Gas Pipeline Company of America
Docket No. GP80–19–000, Panhandle Eastern Pipe Line Company
Docket No. GP80–33–000, South Texas Natural Gas Company
Docket No. GP80–20–000, Tennessee Gas Pipeline Company, a division of Tenneco Inc.
Docket No. GP80–22–000, Texas Gas Pipeline Corporation
Docket No. GP80–25–000, Transwestern Pipeline Company
Docket No. GP80–26–000, Trunkline Gas Company
Docket No. GP80–41–000, United Gas Pipeline Company
Docket No. GP80–42–000, Sea Robin Pipeline Company
Docket No. GP80–36–000, Northwest Pipeline Company
Docket No. GP80–32–000, Montana-Dakota Utilities Company
Docket No. GP80–21–000, Texas Eastern Transmission Corporation
Docket No. GP80–6–000, Arkansas Louisiana Gas Company, a division of Arkla, Inc.
Docket No. GP80–28–000, Cimarron Transmission, Company
Docket No. GP80–31–000, Cities Service Gas Company
Docket No. GP80–8–000, Colorado Interstate Gas Company
Docket No. GP80–45–000, Eastern Shore Natural Gas Company
Docket No. GP80–40–000, El Paso Natural Gas Company
Docket No. GP80–29–000, Florida Gas Transmission Company
Docket No. GP80–13–000, Kansas-Nebraska Natural Gas Company
Docket No. GP80–30–000, Mountain Fuel Supply Company

I. Pipeline Rate Matters

RP–1.
Omitted
RP–2.
Omitted
RP–3.
Docket No. TA83–30–000, Trunkline Gas Company
RP–4.
Docket No. RP83–86–000, Public Service Company of Colorado, Western Slope Gas Company and Cheyenne Light, Fuel and Power Company v. Colorado Interstate Gas Company

II. Producer Matters

CI–1.
Docket Nos. CI84–381–000, CI84–382–000 and CI84–383–000, Man-Gas Transmission Company

III. Pipeline Certificate Matters

CP–1.
Docket No. CP85–402–000, Mississippi River Transmission Company
CP–2.
Docket No. CP85–392–000, Southern Natural Gas Company
CP–3.
Docket No. CP84–729–000, Northern Natural Gas Company, Division of Internorth, Inc.
CP–4.
Docket Nos. CP84–441–000, 001 and 002, Tennessee Gas Pipeline Company, a division of Tenneco Inc.
CP–5.
(A) Docket Nos. CP84–429–000 and 001, Texas Eastern Transmission Corporation
Docket Nos. CP84–654–000 and 001, Algonquin Gas Transmission Corporation
(B) Docket No. CP85–161–000, National Fuel Gas Supply Corporation
Docket No. CP84–429–000, et al., Texas Eastern Transmission Corporation
Docket No. CP84–441–000, et al., Tennessee Gas Pipeline Company, a division of Tenneco Inc.
Docket Nos. CP85–264–000 and CP85–294–000, Transcontinental Gas Pipe Line Corporation
(C) Docket Nos. CP85–190–000, CP85–000 and CP85–294–000, Transcontinental Gas Pipe Line Corporation

Kenneth F. Plumb,
Secretary.
[FR. Doc. 85–19122 Filed 8–7–85; 4:25 p.m.]
BILLING CODE 6717–01–M

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FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Friday, August 16, 1985.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: August 8, 1985.

Barbara R. Lowrey,
Associate Secretary of the Board.
[FR Doc. 85–19238 Filed 8–8–85; 3:51 pm]
BILLING CODE 6210–01–M

6

NATIONAL LABOR RELATIONS BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: July 25, 1985, 50 FR 30331.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: August 8, 1985, 10:00 a.m.

CHANGE IN THE MEETING: Portion open to the public on Case handling procedures was cancelled.

CONTACT PERSON FOR MORE INFORMATION: John C. Truesdale, Executive Secretary, Washington, DC 20570, Telephone: (202) 254–9430.

Dated, Washington, DC, August 7, 1985.
By direction of the Board.

John C. Truesdale,
Executive Secretary, National Labor Relations Board.
[FR Doc. 85–19178 Filed 8–8–85; 12:01 p.m.]
BILLING CODE 7545–01–M

7

POSTAL RATE COMMISSION

Change in Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 50 FR 30561, July 26, 1985.

TIME AND DATE: 9:00 a.m., August 14, 1985.

PLACE: 1333 H Street, NW., Suite 300 (Conference Room), Washington, DC 20268–0001.

STATUS: Open.

CHANGE IN MEETING: Following item to be added to "Matters To Be Considered":

(1) Election of Vice Chairman

CONTACT PERSON FOR MORE INFORMATION: Charles L. Clapp, Secretary, Postal Rate Commission, Room 300, 1333 H Street, NW., Washington, DC 20268–001, Telephone: (202) 789–6840.

Charles L. Clapp,
Secretary.
[FR Doc. 85–19157 Filed 8–8–85; 10:06 am]
BILLING CODE 7715–01–M

Federal Register

Monday
August 12, 1985

Part II

Department of the Interior

Minerals Management Service

Outer Continental Shelf; Eastern Gulf of Mexico; Oil and Gas Lease Sale; Notices

Billing Code: 4310-MR

UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE

Outer Continental Shelf
Proposed Notice of Sale
Eastern Gulf of Mexico
Oil and Gas Lease Sale 94

With regard to oil and gas leasing on the Outer Continental Shelf (OCS), the Secretary of the Interior, pursuant to section 19 of the OCS Lands Act, as amended, provides the affected States the opportunity to review the proposed Notice of Sale. The following is a proposed Notice of Sale for Sale 94 in the offshore waters of the Eastern Gulf of Mexico. This Notice is hereby published as a matter of information to the public.

The reader's attention is directed to a separate Notice appearing elsewhere in this issue of the Federal Register requesting comments from all interested parties on alternate approaches involving restrictions on exploration activities in the sale area.

John D. Rigg
ACTING Director, Minerals Management Service

Approved:

J. Steven Griles
Deputy Assistant Secretary - Land and Minerals Management

AUG - 6 1985
Date

UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE

Outer Continental Shelf
Proposed Notice of Sale
Eastern Gulf of Mexico
Oil and Gas Lease Sale 94

1. Authority. This Notice is published pursuant to the Outer Continental Shelf (OCS) Lands Act of 1953 (43 U.S.C. 1331-1343), as amended (92 Stat. 629), and the regulations issued thereunder (30 CFR Part 256).

2. Filing of Bids. Sealed bids will be received by the Regional Director (RD), Gulf of Mexico Region, Minerals Management Service (MMS), 3301 North Causeway Boulevard, Metairie, Louisiana 70002. Bids may be delivered in person to the above address during normal business hours (8:00 a.m. to 4:00 p.m., c.s.t.) until the Bid Submission Deadline at _____, hereinafter, all times cited in this Notice refer to Central Standard Time (c.s.t.) unless otherwise stated. Bids will not be accepted on the day of Bid Opening, _____. Delivery by mail should be addressed to P.O. Box 7944, Metairie, Louisiana 70010 and must be received by the Bid Submission Deadline. Bids received by the RD later than the time and date specified above will be returned unopened to the bidders. Bids may not be modified unless written modification is received by the RD prior to _____. Bids may not be withdrawn unless written withdrawal is received by the RD prior to 8:30 a.m., _____. Bid Opening Time will be 9:00 a.m., _____ at the _____. All bids must be submitted and will be considered in accordance with applicable regulations, including 30 CFR Part 256. The list of restricted joint bidders which applies to this sale appeared in the Federal Register at _____.

3. Method of Bidding. Tract numbers will not be used. A separate bid in a sealed envelope labeled "Sealed Bid for Oil and Gas Lease Sale 94, (map number(s), map name(s), and block number(s)), not to be opened until 9:00 a.m., c.s.t., _____," must be submitted for each block or prescribed bidding unit bid upon. For example, a label would read as follows: "Sealed Bid for Oil and Gas Lease Sale 94, NH 16-8, Destin Dome, Block 701, not to be opened until 9:00 a.m., c.s.t., _____." For those blocks which must be bid upon together as a bidding unit (see paragraph 12), it is recommended that all numbers of blocks comprising the bidding unit appear in the label on the sealed envelope. A suggested bid form appears in 30 CFR Part 256, Appendix A. In addition, the total amount bid must be in whole dollar amounts (no cents). Bidders must submit with each bid one-fifth of the cash bonus, in cash or by cashier's check, bank draft, or certified check, payable to the order of the U.S. Department of the Interior--Minerals Management Service. No bid for less than all of the unleased portions of a block or bidding unit as described in paragraph 12 will be considered.

Bidders are advised to use the description "All the Unleased Federal Portion" for those blocks having only aliquot portions currently available for leasing. All documents must be executed in conformance with signatory authorizations on file. Partnerships also need to submit or have on file in the Gulf of Mexico Regional Office a list of signatories authorized to bind the partnership. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of five decimal places after the decimal point, e.g., 50.12345 percent. Other documents may be required of bidders under 30 CFR 256.46. Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

4. Bidding Systems. All bids submitted at this sale must provide for a cash bonus of $150 or more per acre or fraction thereof. All leases resulting from this sale will provide for a yearly rental payment of $3 per acre or fraction thereof. All leases awarded will provide for a minimum royalty of $3 per acre or fraction thereof. The bidding systems to be utilized for this sale apply to blocks or bidding units as shown on map 2 (see paragraph 12). The following bidding systems will be used.

(a) Bonus Bidding with a 12-1/2 Percent Royalty. Bids on the blocks and bidding units offered under this system must be submitted on a cash bonus basis with a fixed royalty of 12-1/2 percent.

(b) Bonus Bidding with a 16-2/3 Percent Royalty. Bids on the blocks and bidding units offered under this system must be submitted on a cash bonus basis with a fixed royalty of 16-2/3 percent.

5. Equal Opportunity. Each bidder must have submitted by the Bid Submission Deadline stated in paragraph 2, the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140-8 (June 1982), and the Affirmative Action Representation Form, Form 1140-7 (June 1982). See paragraph 14, "Information to Lessees."

6. Bid Opening. Bid opening will begin at the Bid Opening Time stated in paragraph 2. The opening of the bids is for the sole purpose of publicly announcing bids received, and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight on the day of Bid Opening, that bid will be returned unopened to the bidder as soon thereafter as possible.

7. Deposit of Payment. Any cash, cashier's checks, certified checks, or bank drafts submitted with a bid will be deposited by the Government in an interest bearing account in the U.S. Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

8. Withdrawal of Blocks. The United States reserves the right to withdraw any block from this sale prior to issuance of a written acceptance of a bid for the block.

9. Acceptance, Rejection, or Return of Bids. The United States reserves the right to reject any and all bids. In any case, no bid will be accepted, and no lease for any block or bidding unit will be awarded to any bidder, unless:

(a) the bidder has complied with all requirements of this Notice and applicable regulations;

(b) the bid is the highest valid bid; and

(c) the amount of the bid has been determined to be adequate by the authorized officer.

No bonus bid will be considered for acceptance unless it provides for a cash bonus in the amount of $150 or more per acre, or fraction thereof. Any bid submitted which does not conform to the requirements of this Notice, the OCS Lands Act, as amended, and other applicable regulations may be returned to the person submitting that bid by the RD and not considered for acceptance.

10. Successful Bidders. Each person who has submitted a bid accepted by the authorized officer will be required to execute copies of the lease, pay the balance of the cash bonus bid together with the first year's annual rental as specified below, and satisfy the bonding requirements of 30 CFR 256, Subpart I.

Successful bidders are required to submit the balance of the bonus and the first year's annual rental payment, for each lease issued, by electronic funds transfer (EFT) utilizing the Federal Reserve Communications System and the Treasury Financial Communications System, payable to the Department of the Interior--MMS.

The RD will provide detailed instructions on making the EFT payments when bidders are qualified to submit bids for the sale. Bidders are referred to 30 CFR 218.155.

11. Official Protraction Diagrams. Blocks or bidding units offered for lease may be located on the following Official Protraction Diagrams which may be purchased from the Gulf of Mexico Regional Office (see paragraph 14(a)). These diagrams sell for $2.00 each:

Outer Continental Shelf Official Protraction Diagrams:		(Latest Approval or Revision Date)
NH 16-5	Pensacola	(June 2, 1983)
NH 16-8	Destin Dome	(December 2, 1976)
NH 16-9	Apalachicola	(June 2, 1983)
NH 16-11	De Soto Canyon	(December 2, 1976)
NH 16-12	Florida Middle Ground	(December 2, 1976)
NH 17-7	Gainesville	(June 2, 1983)
NH 17-10	Tarpon Springs	(June 2, 1983)
NG 16-2	Lloyd Ridge	(November 10, 1983)
NG 16-3	The Elbow	(December 2, 1976)
NG 16-6	Vernon Basin	(November 10, 1983)
NG 16-9	Howell Hook	(April 18, 1979)
NG 17-1	St. Petersburg	(June 2, 1983)
NG 17-4	Charlotte Harbor	(June 2, 1983)
NG 17-7	Pulley Ridge	(October 24, 1978)

12. Description of the Areas Offered for Bids.

(a) Acreages of blocks are shown on Official Protraction Diagrams. Some of these blocks, however, are bisected by administrative lines such as the Federal/State jurisdictional line, or the section 8(g) line, or a combination of such lines. In these cases, the following supplemental documents to this Notice of Sale are available from the Gulf of Mexico Regional Office (see paragraph 14 (a)).

(1) Eastern Gulf of Mexico Lease Sale 94, Proposed - Unleased Split Blocks

(2) Eastern Gulf of Mexico Lease Sale 94, Proposed - Unleased Blocks Split by the 8(g) Line

(b) References to maps 1 and 2 in this Notice refer to the following maps which are available on request from the Gulf of Mexico Regional Office.

Map 1 entitled "Eastern Gulf of Mexico Lease Sale 94, Proposed, Stipulations, Lease Terms, and Warning Areas."

Map 2 entitled "Eastern Gulf of Mexico Lease Sale 94, Proposed, Bidding Systems and Bidding Units," refers largely to Royalty Rates and Bidding Units.

(c) The areas offered for leasing include all those blocks shown on the Official Protraction Diagrams listed in paragraph 11 except for those blocks in areas marked "Deferred from Bidding" on map 1 above, blocks which are in water depths greater than 2,400 meters (as shown on map 1), and blocks described as follows.

(1) EASTERN GULF OF MEXICO LEASED LANDS

Descriptions of Blocks Listed Represent All Federal Acreage Leased Unless Otherwise Noted

Pensacola	Destin Dome (continued)	De Soto Canyon (continued)	Charlotte Harbor (continued)	Pulley Ridge (continued)
881	328	424	709	671
946	329	427	710	672
949	375	466	711	673
952	376	467	712	674
969	377	468	753	675
970	378	469	754	687
996	419	472	755	688
	421	476	756	694
Destin Dome	422	511	796	695
	458	512	797	714
1	460	513	798	715
2	502	516	840	716
3	511	517	841	717
4	555	520	842	718
37	556	521	843	719
38	617	555	886	738
45	661	556	887	739
46	731	557	931	757
55	775	600	932	758
56	776	656	975	760
57		657		761
81	Apalachicola	700	Howell Hook	799
82				800
99	959	Florida Middle	528	830
100	960	Ground	573	831
114	1002		574	846
115	1003	35		847
116	1004		Pulley Ridge	874
158		Charlotte Harbor		875
155	Gainesville		589	890
160		577	590	891
161	706	578	598	930
166	707	579	599	931
167	750	580	600	963
203		581	629	964
204	De Soto Canyon	621	630	974
205		622	631	975
235	337	623	632	994
236	378	665	633	995
240	379	666	642	999
280	422	667	643	1000
284	423	668	644	1001
285				1007
				1008

(2) Although currently unleased and shown on Official Protraction Diagram NH 16-8, Destin Dome, no bids will be accepted on the following blocks.

Blocks 133 through 148
Blocks 177 through 192
Blocks 221 through 234
Blocks 265 through 279
Blocks 309 through 324
Blocks 353 through 368
Blocks 397 through 412
Blocks 441 through 456
Blocks 485 through 500
Blocks 529 through 544
Blocks 573 through 588
Blocks 618 through 632
Blocks 662 through 676
Blocks 705 through 720
Blocks 749 through 764
Blocks 793 through 808

(3) Although currently unleased and shown on Official Protraction Diagram NH 16-9, Apalachicola, no bids will be accepted on the following blocks.

Blocks 451 through 454
Blocks 495 through 500
Blocks 503 through 504
Blocks 541 through 548
Blocks 587 through 592
Blocks 632 through 634

13. Lease Terms and Stipulations.

(a) Leases resulting from this sale will have initial terms as shown on map 1 and will be issued on Form MMS-2005 (August 1982). Copies of the lease form are available from the Gulf of Mexico Regional Office.

(b) The applicability of Stipulations Nos. 1 through 7 that will be included in leases resulting from this sale is as shown on map 1 and supplemented by references in this Notice.

Stipulation No. 1--Protection of Cultural Resources.

(This stipulation will apply to all blocks offered for lease in this sale.)

(a) "Cultural resource" means any site, structure, or object of historic or prehistoric archaeological significance. "Operations" means any drilling, mining, or construction or placement of any structure for exploration, development, or production on the lease.

(b) If the Regional Director (RD) believes a cultural resource may exist in the lease area, the RD will notify the lessee in writing. The lessee shall then comply with subparagraphs (1) through (3).

(1) Prior to commencing any operations, the lessee shall prepare a report, as specified by the RD, to determine the potential existence of any cultural resource that may be affected by operations. The report, prepared by an archaeologist and geophysicist, shall be based on an assessment of data from remote-sensing surveys and other pertinent cultural and environmental information. The lessee shall submit this report to the RD for review.

(2) If the evidence suggests that a cultural resource may be present, the lessee shall either:

(i) locate the site of any operation so as not to adversely affect the area where the cultural resource may be; or

(ii) establish to the satisfaction of the RD that a cultural resource does not exist or will not be adversely affected by operations. This shall be done by further archaeological investigation conducted by an archaeologist and a geophysicist using survey equipment and techniques deemed necessary by the RD. A report on the investigation shall be submitted to the RD for review.

(3) If the RD determines that a cultural resource is likely to be present on the lease and may be adversely affected by operations, he will notify the lessee immediately. The lessee shall take no action that may adversely affect the cultural resource until the RD has told the lessee how to protect it.

(c) If the lessee discovers any cultural resource while conducting operations on the lease area, the lessee shall report the discovery immediately to the RD. The lessee shall make every reasonable effort to preserve the cultural resource until the RD has told the lessee how to protect it.

Stipulation No. 2--Live Bottom Areas.

(This stipulation will apply only to leases on blocks in water depths of 200 meters or less. For activities conducted under Plans of Exploration, the provisions of this stipulation shall apply only in water depths of 100 meters or less. For activities conducted under Plans of Development, the provisions of this stipulation shall apply in water depths of 200 meters or less.)

Prior to any drilling activity or the construction or placement of any structure for exploration or development on this lease including, but not limited to, well drilling and pipeline and platform placement, the lessee will submit to the Regional Director (RD) a bathymetry map prepared utilizing remote sensing and/or other survey techniques. This map will include interpretations for the presence of live bottom areas within a minimum of 1,820 meters radius of a proposed exploration or production activity site.

For the purpose of this stipulation, "live bottom areas" are defined as seagrass communities; or those areas which contain biological assemblages consisting of such sessile invertebrates as sea fans, sea whips, hydroids, anemones, ascidians, sponges, bryozoans, or corals living upon and attached to naturally occurring hard or rocky formations with rough, broken, or smooth topography; or areas whose lithotope favors the accumulation of turtles, fishes, and other fauna.

The lessee will also submit to the RD photodocumentation of the sea bottom within 1,820 meters of the proposed exploration drilling sites or proposed platform locations.

If it is determined that the live bottom areas might be adversely impacted by the proposed activity, then the RD will require the lessee to undertake any measure deemed economically, environmentally, and technically feasible to protect live bottom areas. These measures may include, but are not limited to, the following:

(a) the relocation of operations to avoid live bottom areas;

(b) the shunting of all drilling fluids and cuttings in such a manner as to avoid live bottom areas;

(c) the transportation of drilling fluids and cuttings to approved disposal sites; and

(d) the monitoring of live bottom areas to assess the adequacy of any mitigation measures taken and the impact of lessee initiated activities.

Stipulation No. 3--Military Warning Areas.

(This stipulation will be included in leases located within each warning area as shown on map 1 described in paragraph 12.)

(a) Hold Harmless

Whether compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the lessee assumes all risks of damage or injury to persons or property, which occur in, on, or above the Outer Continental Shelf, to any persons or to any property of any person or persons who are agents, employees, or invitees of the lessee, its agents, independent contractors, or subcontractors doing business with the lessee in connection with any activities being performed by the lessee in, on, or above the Outer Continental Shelf, if such injury or damage to such person or property occurs by reason of the activities of any agency of the U.S. Government, its contractors or subcontractors, or any of their officers, agents, or employees, being conducted as a part of, or in connection with, the programs and activities of the command headquarters listed in the table below.

Notwithstanding any limitation of the lessee's liability in section 14 of the lease, the lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of its officers, agents, or employees. The lessee further agrees to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the lessee and to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the agents, employees, or invitees of the lessee, its agents, or any independent contractors or subcontractors doing business with the lessee in connection with the programs and activities of the aforementioned military installation, whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors, or subcontractors, or any of its officers, agents, or employees and whether such claims might be sustained under a theory of strict or absolute liability or otherwise.

(b) Electromagnetic Emissions

The lessee agrees to control his own electromagnetic emissions and those of his agents, employees, invitees, independent contractors, or subcontractors, emanating from individual designated Department of Defense (DOD) warning areas in accordance with requirements specified by the commander of the command headquarters listed in the following table to the degree necessary to prevent damage to, or unacceptable interference with DOD flight, testing, or operational activities, conducted within individual designated warning areas. Necessary monitoring control and coordination with the lessee, his agents, employees, invitees, independent contractors or subcontractors will be effected by the commander of the appropriate onshore military installation conducting operations in the particular warning area; provided, however, that control of such electromagnetic emissions shall in no instance prohibit all manner of electromagnetic communication during any period of time between a lessee, its agents, employees, invitees, independent contractors, or subcontractors and onshore facilities.

(c) Operational Controls

The lessee, when operating or causing to be operated on his behalf boat or aircraft traffic in the individual designated warning area, shall enter into an agreement with the commander of the individual command headquarters listed in the following table, on utilizing an individual designated warning area prior to commencing such traffic. Such an agreement will provide for positive control of boats and aircraft operating in the warning areas at all times.

Warning Areas' Command Headquarters
Eastern Planning Area

Warning Areas	Command Headquarters	Remarks
W-151	Commander Armament Division Eglin AFB, Florida	Overall Operational Control
W-151	Commander Naval Coastal System Center Code 30 Panama City, Florida	Periodic Testing Stand Down
W-155	Naval Air Training Command Training Wing Six Naval Air Station Pensacola, Florida	Overall Operational Control
W-168	Commander Armament Division Eglin AFB, Florida	Overall Operational Control
W-174	Naval Air Training Command Naval Air Station Key West, Florida	Overall Operational Control
W-470	Commander Armament Division Eglin AFB, Florida	Overall Operational Control
Eglin Water Test Areas 1, 2, 3, 4, and 5	Commander Armament Division Eglin AFB, Florida	Overall Operational Control

(d) Evacuation (The following clause will apply to Warning Areas W-151, W-168, W-470, and the Eglin Water Test Areas 1, 2, 3, 4, and 5. It will not apply to blocks within W-155 and W-174).

When the activities of the Armament Development and Test Center at Eglin Air Force Base, Florida, may endanger personnel or property, the lessee agrees, upon receipt of a directive from the Regional Director (RD) to evacuate all personnel from all structures on the lease and to shut-in and secure all wells and other equipment, including pipelines on the lease, within 48 hours or within such longer period as may be specified by the directive. Such directive shall not require evacuation of personnel and shutting-in and securing of equipment for a period of time greater than 72 hours; however, such a period of time may be extended by a subsequent directive from the RD. Equipment and structures may remain in place on the lease during such time as the directive remains in effect.

Stipulation No. 4--Transportation.

(This stipulation will apply to all blocks offered for lease in this sale.)

(a) Pipelines will be required: (1) if pipeline rights-of-way can be determined and obtained; (2) if laying of such pipelines is technologically feasible and environmentally preferable; and (3) if, in the opinion of the lessor, pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced multiple use conflicts. The lessor specifically reserves the right to require that any pipeline used for transportation production to shore be placed in certain designated management areas. In selecting the means of transportation, consideration will be given to any recommendation of the intergovernmental planning program for assessment and management of transportation of offshore oil and gas with the participation of Federal, State, and local governments and the industry. All pipelines, including both flow lines and gathering lines for oil and gas, shall be designed and constructed to provide for adequate protection from water currents, storm scouring, and other hazards as determined on a case-by-case basis.

(b) Following the development of sufficient pipeline capacity, no crude oil will be transported by surface vessels from offshore production sites except in the case of emergency. Determination as to emergency conditions and appropriate responses to these conditions will be made by the Regional Director.

(c) Where the three criteria set forth in the first sentence of this stipulation are not met and surface transportation must be employed, all vessels used for carrying hydrocarbons to shore from the leased areas will conform with all standards established for such vessels pursuant to the Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.).

Stipulation No. 5--Restriction on Exploration Activities.

(This stipulation will be included in leases on blocks shown on map 1 within W-151, W-168, W-470, and Eglin Water Test Areas 1, 2, 3, and 4.)

The placement, location, and planned periods of operation of surface structures on this lease during the exploration stage are subject to approval by the Regional Director (RD) after the review of an operator's Plan of Exploration (POE). Prior to approval of the POE, the RD shall consult with the Commander, Armament Division, Eglin Air Force Base, Florida, and the Commanding Officer, Naval Coastal Systems Center, Panama City, Florida, in order to determine the POE's compatibility with scheduled military operations. The POE will serve as the instrument for promoting a predictable and orderly distribution of surface structures, determining the location and density of such structures, and maximizing exploration while minimizing conflicts with Department of Defense activities. A POE will be disapproved in accordance with 250.34-1(e)(2)(iii) if it is determined that the proposed operations will result in interference with scheduled military missions in such a manner as to possibly jeopardize the national defense or to pose unacceptable risks to life and property. Moreover, if there is a serious threat of harm or damage to life or property, or if it is in the interest of national security or defense, approved operations may be suspended in accordance with 30 CFR 250.12(a)(1)(ii) and (iii). The term of the lease will be extended to cover the period of such suspension or prohibition. It is recognized that the issuance of a lease conveys the right to the lessee as provided in section 8(b)(4) of the OCS Lands Acts to engage in exploration, development, and production activities pursuant to all other statutory and regulatory requirements.

Stipulation No. 6--Eight-Year Lease Term.

(This stipulation will be included in leases on blocks in the 400-meter to 900-meter depth range as shown on map 1.)

The lessee must commence the drilling of an exploratory well within 5 years of the date the lease becomes effective. The exploratory well shall meet the depth and other criteria established in an approved exploration plan.

Stipulation No. 7--Exploration in Warning Area W-174.

(This stipulation will be included in leases on the following blocks within Warning Area W-174: NG 17-7, Pulley Ridge, 552-567, 596-597, 601-611, 640-641, 645-655, 684-686, 689-693, 696-699, 728-737, 740-743, 772-787, 816-829, 860-873, 904-919, 948-962, 992-993, 996-998, and 1002-1006.)

During the months of November through March, location of exploratory drilling structures (rigs and platforms) will be limited, as necessary, to provide for maneuvering by naval ships conducting training in the area. This will take the form of a prohibition on exploratory drilling within 10 nautical miles of another exploratory structure. This procedure is necessary to provide for

placement of structures whereby exploration can be safely accomplished without interruption to or interference with the national defense missions or unacceptable risks to life and property. If it is in the interest of national security or defense, operations may be suspended in accordance with 30 CFR 250.12(a)(1)(iii) with notification to the lessee by the Regional Director.

14. Information to Lessees.

(a) Information on Supplemental Documents. There is available from the Gulf of Mexico Regional Office a set of drawings entitled "Split Blocks - Eastern Gulf of Mexico," depicting the State-Federal Boundary and including the acreage on the Federal side of the line. For copies of the various documents identified as available from the Gulf of Mexico Regional Office, prospective bidders should contact the Public Information Unit at the address stated in paragraph 2, either in writing or by telephone (504) 838-0519 or 838-0527. For additional informa-tion, contact the Regional Supervisor for Leasing and Environment at the address stated in paragraph 2 or by telephone at (504) 838-0755 or 838-0765.

(b) Information on Navigation Safety. Operations on some of the blocks offered for lease may be restricted by designation of fairways, precautionary zones, anchorages, safety zones, or traffic separation schemes established by the U.S. Coast Guard pursuant to the Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.). U.S. Corps of Engineers permits are required for construction of any artificial islands, installations, and other devices permanently or temporarily attached to the seabed located on the OCS in accordance with section 4(e) of the OCS Lands Act, as amended.

(c) Information on a Memorandum of Understanding with the Department of Transportation on Pipelines. Bidders are advised that the Departments of the Interior (DOI) and Transportation have entered into a Memorandum of Understanding dated May 6, 1976, concerning the design, installation, operation, and maintenance of offshore pipelines. Bidders should consult with both Departments for regulations applicable to offshore pipelines.

(d) Information on Unitization. Bidders are advised that, in accordance with section 16 of each lease issued, the lessor may require a lessee to operate under a unit, pooling, or drilling agreement and that the lessor will give particular consideration to requiring unitization in instances where one or more reservoirs underlie two or more leases with a different royalty rate or a net profit share payment.

(e) Information on 10-Year Leases. For those blocks identified as having lease terms with an initial period of 10 years, bidders are advised that pursuant to 30 CFR 250.34-1(a)(3) the lessee shall submit to the MMS either an exploration plan or a general statement of exploration intention prior to the end of the ninth lease year.

(f) Information on Affirmative Action. Revision of Department of Labor regulations on Affirmative Action requirements for Government contractors (including lessees) have been deferred pending review of those regulations (see Federal Register of August 25, 1981, at 46 FR 42865 and 42968). Should changes become effective at any time before the issuance of leases resulting

from this sale, section 18 of the lease form (Form MMS-2005, August 1982), would be deleted from leases resulting from this sale. In addition, existing stocks of the affirmative action forms described in paragraph 5 of this Notice of Sale contain language that would be superseded by the revised regulations at 41 CFR 60-1.5(a)(1) and 60-1.7(a)(1). Pending the issuance of revised versions of Form 1140-7 and 1140-8, submission of Form 1140-7 (June 1982) and Form 1140-8 (June 1982) will not invalidate an otherwise acceptable bid, and the revised regulations' requirements will be deemed to be part of the existing Affirmative Action forms.

(g) Information on Ordnance Disposal Areas. The U.S. Air Force has released an indeterminable amount of unexploded ordnance throughout Warning Areas 151, 168, and 470, and Eglin Water Test Areas 1 through 5. The exact location of this unexploded ordnance is unknown, and lessees are advised that all lease blocks in this sale should be considered potentially hazardous to drilling, platform, and pipeline placement.

(h) Information on Navy Operations. These blocks will be affected by the following clause: NH 16-5, Pensacola, 728, 772-778, 816-825, 860-872, 904-917, 950-951, 953-963, 992-996, and 957-1008; NH 16-9, Apalachicola, 1-4, 45-49, 85-94, 133-138, 177-183, 221-227, 265-271, 309-316, 353-360, 397-406, 441-449, 485-491, and 529-533; and NH 16-8, Destin Dome, 24-36, 68-80, 112-113, 117-126, 157, 162-165, 168-170, 201-202, 206-214, 246-258, 290-302, 335-346, 380-390, 425-434, 470-478, 514-522, and 561-566.

The Navy advises that its Naval Coastal Systems Center (NCSC) conducts testing between April and October with peak operating months during the summer. During this period, oil companies may be requested to stand down from activity for 5- to 10-day periods (to a maximum of 15 days) as determined by the NCSC testing schedule. Companies will be able to operate essentially unrestricted during the November to March time frame.

(i) Information on Protection of the West Indian Manatee. Bidders are advised that the West Indian manatee is a marine mammal which is officially listed as an endangered species by the DOI. It is protected by the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), and the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361-1407), and various other State and Federal laws and regulations. On October 22, 1979 (44 FR 60963), the DOI promulgated regulations (50 CFR 17.100-17.108) providing a means for establishing manatee protection areas. Also, there is the Florida Manatee Sanctuary Act of 1978 declaring the entire State of Florida as "refuge and sanctuary for the manatee." A Cooperative Agreement between the DOI and Florida on endangered species became effective on June 23, 1976.

(j) Information on Shallow Hazards. Federal regulation (30 CFR 250.34) requires a lessee to conduct shallow hazards and other geological and geophysical surveys that are necessary for the evaluation of activities to be carried out under a proposed exploration or development/production plan or activities being carried out under an approved plan.

Data collection by the lessee on a lease, and when necessary, off a lease, will be analyzed and submitted by the lessee and then reviewed and, when necessary, reanalyzed by the RD to ensure that drilling, development,

and production activities can be conducted in an acceptable manner with minimum risk or damage to human, marine, and coastal environments. Based on the review and analysis of the data received and other available data and information, the RD either approves or requires modification to an exploration or development/production plan or application for permit to drill or recommends that the Director, MMS temporarily prohibit or suspend the conduct of exploration or development/production activities according to provisions of the OCS Lands Act, as amended, and appropriate regulations. Existing regulations authorize the RD to take whatever steps are necessary to assure safe operations offshore, whether shallow hazards are delineated before or after the lease sale.

(k) Information on Stipulation No. 6. Any lease issued for a term of 8 years will be cancelled after 5 years, following notice pursuant to the OCS Lands Act, if, within the initial 5-year period of the lease, the drilling of an exploratory well has not been initiated, or if initiated, the well has not been drilled in conformance with the approved exploration plan criteria, or if there is not a suspension of operations in effect, etc. For further information, see the Federal Register Notice (50 FR 13289) published April 3, 1985, subject: Notification of OCS Programwide Policy of Water-Depth Criterion for Longer Primary Lease Terms for OCS Oil and Gas Leases. See also the Federal Register Notice (50 FR 24546) published June 11, 1985, subject: Proposed Rule on Primary Lease Terms for Leases in Water Depths of 400 to 900 meters.

(l) Information on Restriction of Exploration Activities. Bidders are advised that there will be restrictions on exploratory activites within areas identified as Eglin Water Test Areas (EwTA) 1, 2, 3, and 4 and Warning Areas W-151, W-168, and W-470 as shown on map 1. Stipulation No. 5 addresses these restrictions. Exploration activities will be confined to 30-by-30 mile drilling windows. The windows will shift from location to location as exploration progresses. Bidders should be aware that, because of the window concept, exploration on some leases may be delayed as operations proposed in drilling windows established for Sale 79 will take precedence over activities proposed in windows which would accomodate Sale 94 activities. Operations on Sale 94 leases issued on blocks within the 6 already established windows will be permitted as those windows open. Plans of Exploration (POE's) are presently approved in window A, the 2 northern rows of blocks in window B, and the eastern part of window F, as shown on map 1.

Bidders are also advised that there will be restrictions on exploratory activities during the months of November through March on certain blocks in Warning Area W-174. Stipulation No. 7 addresses these restrictions. Companies will be able to operate essentially unrestricted during the April through October time frame.

(m) Information on Oil Spill Modeling. Bidders are advised that the State of Florida may request site-specific oil spill trajectory modeling as part of the coastal zone consistency concurrence process.

(n) Information on Biological and Oceanographic Study of 26° N. latitude. Bidders are advised that no Applications for Permit to Drill (APD's) will be approved for POE's submitted on leases south of 26° N. latitude prior to completion of a biological and oceanographic resources study underway in the area. The study is expected to be completed in April 1986. If this requirement results in delay in approval of APD's, the lease may be suspended in accordance with 30 CFR 250.12(a)(1)(iv) with notification to the lessee by the RD.

15. OCS Orders. Operations on all leases resulting from this sale will be conducted in accordance with the provisions of all Gulf of Mexico OCS Orders, as of their effective dates, and any other applicable OCS Order as it becomes effective.

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UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE
Eastern Gulf of Mexico
Outer Continental Shelf
Proposed Oil and Gas Lease Sale 94
(Supplemental Notice)

AGENCY: Minerals Management Service, Interior

ACTION: Request for Information and Comments on Restrictions of Exploration Activities Proposed for Certain Military Operating Areas in the Eastern Gulf of Mexico (Proposed Oil and Gas Lease Sale 94).

SUMMARY: The Department of the Interior (DOI) is continuing in its effort to resolve joint use conflicts by seeking to define exploratory drilling priorities of present leaseholders as well as bidders who may acquire leases as a result of Sale 94. Leaseholders and potential bidders are requested to provide information and comments regarding the approaches set forth below which apply to blocks subject to possible military use conflicts. The proposed Notice of Sale (also published in this issue of the Federal Register) should be referred to in reviewing the issues.

In large portions of the Eastern Gulf of Mexico, the Department of Defense (DOD) conducts military maneuvers of major importance to the Nation's overall defense. The DOI would like to offer these same areas for oil and gas leasing. Joint use of the Eastern Gulf of Mexico causes conflicts. Consequently, the DOI has explored with the DOD means to allow both oil and gas exploration and military activities to occur

in the Eastern Gulf of Mecico. Comments of these issues and submission of additional options by commenters are requested.

Issue 1:

There are two items in the proposed Notice which focus on the limitations on exploratory drilling in the Eglin Water Test Areas and certain military warning areas. Stipulation No. 5--Restriction on Exploration Activities (paragraph 13) places restrictions on oil and gas exploration in these areas. Clause (1) in paragraph 14, entitled "Information on Restriction of Exploration Activities," advises potential lessees on areas where exploration will be restricted because of conflicts with ongoing Air Force activities. Clause (1) refers to the 30-by-30 mile drilling windows established for exploration in areas leased in Sale 79 in January 1984. Similarly, windows will be established as a result of leases resulting from Sale 94.

Precedence regarding exploratory activity on leases resulting from Sale 94 must be established so that orderly development is assured without infringing on the interests of Sale 79 leaseholders. Bidders are advised in Clause (1) that, because of the window concept, exploration on some leases may be delayed as operations proposed in drilling windows established for Sale 79 will be given priority over exploratory activity in windows established as a result of Sale 94. Interested parties are asked to review and comment on this approach.

Issue 2:

The Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(2)) and regulations at 30 CFR 256.32 (d) allow the Secretary to defer any part of the payment of the cash bonus bid for as long as 5 years after the date of the lease sale. The DOI is interested in comments on an approach for leases subject to Stipulation 5 which would allow successful high bidders to defer payment of the balance of their cash bonus bid until a Plan of Exploration (POE) is approved, if this occurs within the 5-year period. The 20 percent submitted with the bid would be deposited by the DOI in miscellaneous receipts as is normally done when a bid is accepted. Pursuant to 30 CFR 256.47, the first year's annual rental will be due at lease award. At this time, the successful bidder would also furnish a corporate security bond in a sum equal to the deferred balance of the cash bonus bid. Subsequent annual rentals would be due as prescribed in section 4 of the lease.

Payment of the balance will be due for all such leases at the end of the 5-year period whether or not a POE has been approved. No lessee will be permitted to default payment of the balance. Lessees who choose to relinquish a lease during this time are still liable to remit the balance of the bonus due. In the case of deferred payment, the right of the lessor to assign a lease to anyone qualified to hold a lease remains unaffected. The Regional Director would make sure that the assignee

assumes liability prior to approval of the assignment (30 CFR 256.62). Accordingly, the assignee would be required to submit a bond in a sum equal to the balance of the bonus due. Potential bidders are asked to comment on this proposed procedure.

Issue 3:

The blocks listed below, within Warning Area W-174, are included in the proposed Notice. (Note: There are 21 existing leases within the rectangle formed by these blocks).

Official Protraction Diagram NG-17-7 Pulley Ridge:

Blocks	552	through	567
Blocks	596	through	597
Blocks	601	through	611
Blocks	640	through	641
Blocks	645	through	655
Blocks	684	through	686
Blocks	689	through	693
Blocks	696	thorugh	699
Blocks	728	through	737
Blocks	740	through	743
Blocks	772	through	787
Blocks	816	through	829
Blocks	860	through	873
Blocks	904	through	919
Blocks	948	through	962
Blocks	992	through	993
Blocks	996	through	998
Blocks	1002	through	1006

The DOI is considering a stipulation for leases issued on any of the above blocks which would allow unrestricted exploratory activities during April through October. During the remaining months, location of exploratory drilling structures will be limited, as necessary, to provide for maneuvering by naval ships conducting training in the are. This will take the form of a prohibition on exploratory drilling on these

blocks within 10 nautical miles of another exploratory rig or structure. Respondents may comment on this approach or suggust other methods the DOI may consider in offering these blocks.

SEND INFORMATION TO: Responses should be directed to the Regional Supervisor, Leasing and Environment, Gulf of Mexico Region, Minerals Management Service, P.O. Box 7944, Metairie, Louisiana 70010, with a copy to the Chief, Offshore Leasing Management Division, Minerals Management Service, Mail Stop 645, Room 2523, DOI, 18th and C Streets, N.W., Washington, D.C. 20240 and are due within 45 days following publication of this Notice.

FOR FURTHER INFORMATION CONTACT: The Regional Supervisor, Leasing and Environment, Gulf of Mexico Region, at (504) 838-0755 or the Chief, Offshore Leasing Management Division, at (202) 343-6906.

John B. Rigg

ACTING Director, Minerals Management Service

Approved:

J. Steven Griles

Deputy Assistant Secretary - Land and Minerals Management

AUG - 6 1985

Date

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Federal Register

Monday
August 12, 1985

Part III

Department of Health and Human Services

Office of Human Development Services

Program Announcement 13612-861;
Native Americans

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

Program Announcement 13612-861; Native Americans

AGENCY: Office of Human Development Services, DHHS.

ACTION: Program announcement.

SUMMARY: The Administration for Native Americans (ANA) announces that applications are being accepted for competitive financial assistance under section 803 of the Native American Programs Act of 1974, Pub. L. 93-644, as amended, 42 U.S.C. 2991 *et seq.* ("the Act"). Regulations governing this program are published in the Code of Federal Regulations at 45 CFR Part 1336.

DATES: The closing dates for receipt of applications are October 21, 1985, February 28, 1986 and June 10, 1986.

FOR FURTHER INFORMATION CONTACT: Applicants that want additional information regarding this program announcement should contact:

Lucille Dawson, (202) 245-7727,

or

Sharon McCully (202) 245-7714,

Administration for Native Americans, Office of Human Development Services, DHHS, Room 5300, 330 Independence Avenue SW., Washington, DC 20201.

SUPPLEMENTARY INFORMATION:

Purpose of This Program Announcement

The purpose of this program announcement is to announce the availability of financial assistance to promote self-sufficiency for Native Americans through support of local governance, social and economic development projects.

Proposed projects will be reviewed on a competitive basis against the evaluation criteria in this announcement.

Program Purpose

As authorized by the Native American Programs Act, the purpose of the funding administered by the Administration for Native Americans (ANA) is to promote social and economic self-sufficiency for American Indians, Alaskan Natives and Native Hawaiians.

The Administration for Native Americans believes that responsibility for achieving self-sufficiency rests with the governing bodies of Indian tribes and in the leadership of Native American groups. The development of self-sufficiency requires strengthening governance, economic progress, and improvement of social systems which protect and enhance the health and well-being of individuals, families and communities.

Achievement of self-sufficiency is based on the community's ability to plan, organize and direct resources in a comprehensive manner to achieve long-range community goals. The Administration for Native Americans bases its program and policy initiatives on the following three program goals:

(1) *Governance.* To develop or strengthen tribal governments and Native American institutions and local leadership to assure local control and decision-making over all resources.

(2) *Economic Development.* To foster the development of stable, diversified local economies and economic activities which provide jobs, promote economic well-being, and reduce dependency on social services.

(3) *Social Development.* To support local access to, and coordination of, services and programs which safeguard the health and well-being of people, and which are essential to a thriving and self-sufficient community.

The overall approach followed by ANA in the accomplishment of these goals is to support Tribal governments and other Native American organizations in the development and implementation of community-based, long-term governance and social and economic development strategies (SEDS) aimed at promoting the self-sufficiency of their own communities. This approach is based on two fundamental principles:

(1) That the local community and its leadership are responsible for determining their own goals, setting priorities, and planning and implementing programs aimed at achieving those goals; that the unique mix of socio-economic, political and cultural factors involved in each community makes such self-determination necessary; that only the local community is in a position to apply its own cultural values and weigh the trade-offs in deciding on various strategies and programs which invariably have socio-cultural as well as economic consequences.

(2) That economic and social development are interrelated, and that development in one area should be balanced with development in the other in order to enhance self-sufficiency. Without a careful balance of the two, serious dislocations may result that can jeopardize all of the community's development efforts. It is now an accepted premise that an expansion of social services, without a strengthening of incentives for employment and economic development, may lead to greater dependency; conversely, inadequate social services can seriously impede efforts aimed at increased productively and economic development.

The fundamental task which Native American communities face is that of developing enduring social and economic strategies in keeping with local goals, resources and cultural values. ANA expects its applicants to undertake a long-term planning process that addresses the community's development and encourages social and economic growth for the community. ANA encourages the leadership of the communities to develop a long-range, coherent, and comprehensive approach to reach social and economic self-sufficiency. This approach must include the maximum use of whatever resources are available, directing those resources at opportunities and overcoming problems that stand in the way.

As a first step toward self-sufficiency, ANA places the highest emphasis on increasing the effectiveness of the governance and administrative capabilities of Indian Tribes and Native American groups. Efforts toward enhancing local governance are a necessary foundation for social and economic development and such efforts include: (1) Strengthening the effectiveness of Tribal governments; (2) increasing the ability of Tribes and Native Americans groups and organizations to plan, develop, and administer a comprehensive program supportive of community social and economic self-sufficiency; and (3) increasing awareness of the legal rights and benefits to which Native Americans are entitled either by virtue of the Federal trust relationship, legislative authority, or as citizens of the United States. Basic to ANA's program thrust is assistance to Native American groups to establish or improve their governing institutions and enhance the management of governmental functions.

Under the governance goal, ANA strongly encourages Tribal councils and other governing bodies to strengthen and streamline their institutional management in order to develop and implement social and economic development strategies and to improve the day-to-day management of programs. By improving such capabilities, Indian Tribes and Native American groups can better define and achieve the goals of their peoples and promote greater efficiency and

effectiveness in the use of available resources.

Building on the foundation of strong local governance, ANA expects Tribal governments and other Native American organizations to move toward the coordinated and balanced development and implementation of social and economic development strategies. These inter-related strategies should coordinate and direct all resources (Federal and non-Federal) toward locally determined priorities and impact the community and its members in ways that promote greater economic and social self-sufficiency.

Economic Development is the long-term mobilization and management of economic resources to achieve a diversified economy characterized by: widespread distribution of economic resources, services, and benefits; participation of community members in the productive activities and economic investments of the community; and pursuit of economic interests in ways that balance economic gain with social development.

Social Development is the mobilization and management of resources for the social benefit of community members, and involves the establishment of institutions, systems and practices that contribute to the social environment desired by the community. This includes the development of and access to the institutions that protect the health and welfare of individuals and families, and preserve the values, language and culture of the community.

Program Priority

The ANA program priority is to fund projects that will make the greatest impact in promoting improved governance and increased social and economic self-sufficiency for Native Americans. The project proposal must clearly identify in measurable terms the expected results of the project and its positive and continuing impact on the community. ANA encourages applicants to consider innovative approaches to achieve the specific governance and social and economic goals of the community, and to use non-ANA resources including human, natural, and financial ones to strengthen and broaden the proposed project's impact in the community.

Eligible Applicants

The following organizations which are not current grantees of ANA are eligible to apply for a grant award under this announcement: Federally recognized Indian Tribes; consortia of Indian Tribes; incorporated non-Federally recognized Tribes; incorporated non-profit multi-purpose community-based Indian organizations; urban Indian Centers; incorporated non-profit Native Hawaiian organizations; and national or regional incorporated non-profit Native American organizations with Native American community-specific objectives.

Current grantees of ANA, with the exception of Native Alaskan grantees, whose project period terminates in Fiscal Year 1986 (October 1, 1985–September 30, 1986), are also eligible to apply. (The Project Period is noted in Block 7 of the "Notice of Financial Assistance Awarded".) This program announcement does not apply to applicants for continuation funding of second and third year budget periods of multi-year projects.

Alaskan Native villages and Regional Alaskan Native non-profit corporations are not eligible under this program announcement because a separate program announcement for Fiscal Year 1986 funding will be published specifically for Alaska Native villages and Alaska Native non-profit organizations.

Available Funds

ANA expects to award approximately $5 million in financial assistance under section 803 of the Act for each of the three closing dates. Thus, a total of approximately $15 million in section 803 funds will be available under this program announcement.

Note.—Each tribe or Native American organization is eligible to receive no more than one grant award under this announcement.

Multi-Year Projects

Applicants may apply for projects of up to 36 months duration. A multi-year project affords applicants the opportunity to undertake long-range planning, unlike what can be achieved readily in a single annual plan or project.

Applicants proposing projects for more than 12 months ("multi-year projects") must fully describe project objectives and activities, as well as an itemized budget, for the entire project period, and must fully justify the entire time-frame of the project. The budget period for each multi-year project grant will be 12 months. Funding after the first twelve months of a multi-year project will be non-competitive and will depend upon the grantee's progress in achieving the objectives of the project according to the approved work plan, the availability of Federal funds, and compliance with the Native American Programs Act and all relevant regulations.

For projects approved for more than twelve months, copies of the budget and Part IV as initially approved in the original application or a revised budget and Part IV as negotiated with ANA are required for the subsequent months. Specific guidance will be provided to multi-year project grantees to whom these requirements apply in Fiscal Year 1987.

Multi-year projects, as well as single year projects, must be complete, self-sustaining or supported with other than ANA funds at the end of the project period. ANA's funding of multi-year projects is not for a program in the applicant community which operates indefinitely and has need for support funding on an annual basis.

Grantee Share of Project

Grantees must provide at least 20 percent of the total approved cost of the project, which may be cash or in-kind. The total approved cost of the project is the sum of the Federal share and the non-Federal share. An itemized budget detailing the applicant's non-Federal share and its source must be included in the application. A request for a waiver of the Non-Federal share requirement may be submitted in accordance to § 1336.50 (b)(3) of the Native American Program Regulations.

Executive Order 12372 Coverage

This program is not covered by Executive Order 12372, "Intergovernmental Review of Federal Programs".

The Application Process Availability of Application Forms

In order to be considered for a grant under this program announcement, an application must be submitted on the forms supplied and in the manner prescribed by ANA. The application kits containing the necessary forms may be obtained from: Administration for Native Americans, Office of Human Development Services, DHHS, Room 5300, North Building, 330 Independence Avenue SW., Washington, DC 20201, Attention: No. 13612–861, (202) 245–7727

Application Submission

One signed original and two copies of the grant application, including all attachments, must be submitted to the address specified in the application kit. The application shall be signed by an individual authorized to act for the applicant tribe or organization and to assume the applicant's obligations under the terms and conditions of the grant award, including Native American

Program statutory requirements and regulations.

Application Consideration

The Commissioner of the Administration for Native Americans determines the final action to be taken with respect to each grant application received under this announcement. The following points should be taken into consideration by all applicants:

- Incomplete applications and applications that do not conform to this announcement will not be accepted for review. Applicants will be notified in writing of any such determination by ANA.
- Complete applications that conform to all the requirements of this program announcement are subjected to a competitive review and evaluation process by an independent review panel against the published criteria. The results of this review will assist the Commissioner in making final funding decisions.
- The Commissioner's decision also takes into account the comments of the ANA staff and other interested parties.
- The Commissioner makes grant awards consistent with: the purpose of the Native American Programs Act; all relevant statutory requirements and regulations; this Program Announcement; and the limits of available funds.
- After the Commissioner has made decisions on all applications, unsuccessful applicants will be notified in writing. Successful applicants are notified through an official Notice of Financial Assistance Awarded (NFAA). The NFAA will state the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the project period, the budget period, and the amount of the non-Federal matching share requirement.

Review Process

I. *Eligibility Review*: The independent review panel will first review an application to determine:

(1) That the application proposes project objectives which are responsive to the Program Announcement;

(2) That the applicant is an eligible applicant in accordance with the Eligible Applicant Section of the announcement; and

(3) That the application is complete, with all required forms and material included.

An application that does not meet these three requirements will not be considered for funding.

II. *Evaluation Review and Review Criteria*: Applications that satisfy the three requirements in the Eligibility Review will be evaluated and rated by a review panel on the basis of the following criteria:

(1) The application describes long-range community goals, within the context of a long range plan, project objectives, and project activities which:

- Relate to each other in a logical way;
- Are realistic;
- Are based on a described locally determined, balanced social and economic development strategy;
- Clearly address a major problem within the community; and
- Describe a reasonable and sound strategy for achieving project self-sufficiency. (30 points)

(2) The proposed project will result in measurable, concrete outcomes which will clearly contribute to the overall development of the community and its members. Where possible, baselines are provided against which the outcomes can be evaluated at year end. (Example: Unemployment will decrease by 2% on the reservation, from 13% to 11%.) (25 points)

(3) Specific evidence is contained in the application of the commitment of the community, of the support of the governing body, of resource commitments for the proposed project from the community and the applicant organization, and of cited reports or studies which support the feasibility of the proposed project, if applicable. (15 points)

(4) The application presents a detailed budget and work plan, with the budget specifically related to the work plan. The budget and work plan contain complete explanations and justification of line items, including technical assistance. The budget is reasonable in terms of the outcome and benefits expected. The application demonstrates the coordinated use of specific non-Federal and Federal resources (other than from ANA) as part of its strategy. (15 points)

(5) Management and administrative capabilities necessary to ensure accountability and to justify receipt of Federal funds are evident in the application. The application identifies by position or role all proposed key personnel, consultants and contractors; and demonstrates their qualifications by the inclusion of résumés, position descriptions, or consultant and contractor capability statements. (15 points)

Guidance to Applicants

The following policies, pointers, and instructions are provided to assist applicants in developing a fully competitive application.

I. Projects or Activities That Generally Will Not Meet the Purposes of This Announcement

ANA seeks to fund projects that reflect self-determination at the local level; that cause measurable impact in the community at the end of the project period; that have a discernible completion date and do not require on-going support; and that incorporate a developed strategy for achieving social and economic self-sufficiency, a strategy that utilizes all resources in the community.

The following activities are inconsistent with the policies of ANA:

- Projects which support a grantee in providing training and/or technical assistance (T/TA) to other tribes and Native American organizations ("third party T/ TA"). However, the purchase of T/TA by a grantee for its own use or use for its members (as in the case of a consortium), where T/TA is necessary to carry out project objectives, is encouraged;
- Plans, feasibility studies or manuals that are not essential to achieving the long-range goals of the local community;
- On-going social service delivery, or expansion or continuation of existing social service delivery programs;
- Core administrative functions or major activities that essentially support the applicant's administrative office;
- Project goals which are not responsive to one or more of the three ANA goals (Governance, Economic Development, Social Development);
- Projects plans or strategies clearly not determined or developed at the local level;
- Proposals from consortia of Tribes that are not specific in regard to support from and roles of member Tribes;
- Projects which should be supported by other Federal funding sources appropriate and available for the proposed activity;
- Lack of measurable, concrete outcomes or benefits to the community;
- Activities that will not be completed, self-sustaining or supported by other than ANA funds at end of the project period;
- Lack of demonstrated coordination with non-ANA resources;
- The purchase of real estate (see 45 CFR 1336.50(e)) or construction with ANA funds (see HDS Grants Administration Manual 3–e).

ANA will also review very carefully and critically applications in which major capital expenditures, franchise or management fees, or the acquisition of

major capital equipment, especially computers or word processing equipment, are a major component of the budget. After negotiation, such expenditures may be deleted from the budget of an otherwise approved application.

II. Pointers on the Application Process Itself

- The application's Form 424 must be signed by the applicant's representative authorized to act with full authority for the applicant.
- ANA suggests that the pages of the application be numbered sequentially from the first page. This allows for easy reference during the review process. Simple tabbing of the sections of the application is also most helpful to the reviewers.
- Two copies plus the original are required. Four additional copies are requested, since a total of six copies ensures a more timely review.
- Applicants are encouraged to have someone other than the author apply the evaluation criteria and actually score the application prior to its submittal. In this way, applicants will gain a better sense of their application's quality and potential competitiveness.
- ANA suggests that applications containing proposed business development include a business plan: ownership stipulations, market potential, financing aspects, cost of production (service or product) and projected profit. The more information given a review panel on a proposed business, the better able it is to evaluate the potential for success.
- There is no upper or lower limit, either a maximum or a minimum, to the amount of Federal funds that may be requested. The average amount of a Fiscal Year 1985 SEDS grant was $125,000.
- A project abstract summarizing the proposed project must be included. Detailed instructions are included in the Application Kit.
- Applicants should describe the work already accomplished toward the completion of a proposed project. This information allows the panel to more fully evaluate the feasibility of the proposed project within the budget and time schedule provided.
- ANA does not fund on the basis of need. ANA funds those projects that have the greatest potential for positively affecting a community's local governance and social and economic development.
- For purposes of planning and developing an ANA application, the expected project start date for successful applicants will be 120 days after the closing date under which the application was submitted.

Due Dates For Receipt of Applications

The closing dates for applications submitted in response to this program announcement are October 21, 1985, February 28, 1986 and June 10, 1986.

Receipt of Applications

Applications must be hand delivered or mailed to: Department of Health and Human Services, Office of Human Development Services, Discretionary Grants Management Branch, William J. McCarron, Chief, Hubert H. Humphrey Building, Room 345–F, 200 Independence Avenue SW., Washington, DC 20201, Attention: 13612–861.

Applications mailed through the U.S. Postal Service or a commercial delivery service shall be considered as meeting the deadline if they are either:

(1) Received on or before the deadline date at the above address, or

(2) sent on or before the deadline date. (Applicants are cautioned to request a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late applications. Applications which do not meet the criteria in the above paragraph of this section are considered late applications. HDS shall notify each late applicant that its application will not be considered in the current competition.

Extension of deadlines. HDS may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc., or when there is a widespread disruption of the mails. However, if HDS does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicant.

(Catalog of Federal Domestic Assistance Program Number 13.612 Native American Programs)

Dated: August 6, 1985.

William Lynn Engles,

Commissioner, Administration for Native Americans.

Approved: August 5, 1985.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

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Monday
August 12, 1985

Part IV

Environmental Protection Agency

40 CFR Part 122

National Pollutant Discharge Elimination System Permit Regulations; Storm Water Point Sources; Additional Information and Request for Comments

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 122

[FRL-2880-1]

National Pollutant Discharge Elimination System Permit Regulations; Storm Water Point Sources; Additional Information and Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule; Reopening of comment period.

SUMMARY: On March 7, 1985, the Agency published a Notice of Proposed Rulemaking (50 FR 9362) which proposed to amend the final storm water regulations published on September 26, 1984 at 49 FR 37998. The March 7 proposal left the substantive coverage of the final rule intact but proposed some changes in the application process. First, the application deadline was proposed to be extended until at least December 31, 1985. Second, EPA proposed to eliminate the general requirement that the first category (Group I) of dischargers submit NPDES Application Form 2C (sampling data). In lieu of this requirement, it was proposed that Group I submit the narrative currently required of Group II, with two additions. As an alternative, the preamble requested comments on maintaining Form 2C but providing authority to waive this requirement for a category of sources where data representative of the category were submitted. One hundred and thirty-two comments were received on the proposed rule. Based on an evaluation of these comments and a re-examination of the issues, the Agency has decided to reopen the comment period on the March 7 proposal to provide an additional opportunity for comment. Today's notice invites comment on establishing a group application option for Group I dischargers.

In a separate rule, EPA plans to extend the deadline for storm water permit applications for Group I and Group II dischargers. The deadlines will take into account the time necessary to issue final regulations based on the March 7, 1985 proposal and today's notice and the time needed by applicants to identify and categorize their discharges, gather and analyze data, and prepare applications.

DATE: Comments on today's notice must be received on or before September 11, 1985.

ADDRESS: Interested persons may submit written comments to: Martha Kirkpatrick, Permits Division (EN-336), Office of Water Enforcement and Permits, U.S. Environmental Protection Agency, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Tom Laverty, Telephone: (202) 426-7035.

SUPPLEMENTARY INFORMATION:

I. Background

The Environmental Protection Agency published final regulations on September 26, 1984 (49 FR 37998) that addressed several issues concerning the National Pollutant Discharge Elimination System (NPDES) program administered under the Clean Water Act. One aspect of those final rules concerned the regulation of storm water discharges. The rule defined the scope of NPDES permit program coverage of storm water point sources and identified two types of storm water dischargers with different application requirements for each.

The September 26 rule also established an April 26, 1985 deadline for the submittal of storm water applications in those States in which EPA is the permitting authority. The application deadline does not eliminate the requirement for a point source to have a permit, nor does it provide protection from enforcement actions by citizen groups or NPDES States.

Although storm water discharges have been subject to NPDES permit requirements since 1976, the September 26 regulations generated considerable post-promulgation comment that mainly focused on two issues: the scope of coverage and the Agency's administrative strategy for regulating these sources. Concerns were raised over the number of applications that would need to be filed and the resulting burden on both applicants and permitting authorities. Many commenters argued that these sources posed so little threat to the environment that they did not justify such extensive and burdensome requirements.

Environmental groups maintained that the Agency's decisions reflected in the September 26 rule should be retained, at a minimum, and should not be changed without strong justification supported by data. They expressed reservations that any change or delay would exacerbate EPA's failure to regulate these discharges. Administering State agencies indicated concern over the manageability of the September 26 rule, specifically the adequacy of existing resources to handle the influx of permit applications expected and the resulting contribution to permit backlogs. States commented that the diversion of their limited resources to handle storm water permitting would delay their response to more pressing and serious environmental problems.

In response to concerns voiced over the September 26 rule by administering agencies, municipalities, and industry groups, EPA published proposed changes to the storm water regulations on March 7, 1985, at 50 CFR 9362. (For a more detailed discussion of the background of the Agency's storm water regulations, *see* 49 FR 37998 (September 26, 1984) and 50 FR 9362 (March 7, 1985)).

II. March 7, 1985 Proposed Rulemaking

The March 7, 1985 proposal left the substantive coverage of the September 26, 1984 final rule intact, but proposed several changes in application requirements and EPA's control strategy. The March 7 notice proposed some changes in the application requirements for Group I dischargers. It was proposed that the current requirement that Group I discharges submit Form 2C (sampling and analysis data of effluent) be eliminated. In lieu thereof, Group I dischargers would submit Form 1 and the narrative currently required of Group II, with two additions. Group I applicants would also submit any available existing quantitative data, and would identify (no sampling required) pollutants listed in the rule (oil and grease, total organic carbon (TOC), chemical oxygen demand (COD), and any pollutant listed in Appendix D of 40 CFR Part 122) that the applicant knows or has reason to believe are present in its storm water discharge. The Agency specifically requested comments on whether the pollutants listed in proposed 40 CFR 122.21(f)(9)(iii) would be appropriate for generally assessing storm water discharge quality and thus ascertaining its impact on the quality of the receiving waters.

In proposing to suspend Form 2C the Agency was depending in part on commitments from industries and trade associations that they would submit representative quantitative sampling

and analysis data during 1985. In December 1984 and February 1985, representatives of several industries and trade associations met with the EPA Assistant Administrator for Water to discuss their concerns with the September 26 final rule. On both occasions, a number of industry groups indicated a willingness to supply EPA with representative quantitative data on their memberships' storm water discharges.

To follow up on these assurances, the Agency held a meeting on March 7, 1985, during the comment period, in order to clarify the details of this data-gathering initiative. This meeting was attended by representatives of several dozen industry trade associations, a few individual companies and environmental groups. At this meeting, EPA set forth the criteria and minimum standards for the group data submissions. EPA requested that trade associations make a formal commitment to provide representative data, and submit this data to EPA by September 1, 1985. It was envisioned that such data would supplement the existing data on storm water discharges available to the Agency (e.g., the Nationwide Urban Runoff Program (NURP) study), and could form the basis for establishing permitting priorities and permit conditions and limitations. EPA held a second meeting on March 22 to further refine and explain the data-gathering process.

Ultimately, 29 trade associations and individual industries submitted commitment letters to EPA indicating their willingness to conduct representative quantitative sampling and analysis in order to assist the Agency in developing a sound data base on storm water discharges. However, for reasons discussed below, EPA has determined that it is necessary to reopen the comment period for further public input on its rulemaking. In light of today's reopening of the comment period, EPA views the trade associations' commitments as suspended. EPA appreciates the efforts of those associations that have initiated programs for the collection of representative data and expects that the results from those programs will prove valuable in submitting group applications and in making permitting decisions.

The March 7 proposal also requested comments on whether, in the event that the Form 2C requirement was retained, the regulations should include discretionary authority for the Director of the Office of Water Enforcement and Permits to waive the quantitative data submission requirement for a class or category of Group I storm water point sources. Such a provision would require submission of representative quantitative data that accurately characterizes the storm water discharges of that class or category.

Finally, it was proposed that the definition of "urbanized area" in the storm water regulations be amended to reflect the most current criteria established by the Bureau of Census, rather than the 1970 designation.

Because these provisions are the subject of ongoing litigation in the D.C. Circuit Court of Appeals, EPA requested from the Court a partial remand of the record in order to proceed with this rulemaking. The partial remand was granted on March 26, 1985.

III. Reaction to the March 7 Proposal

Industries, trade associations, EPA Regional Offices, states, cities, Federal agencies, and environmental groups submitted one hundred and thirty-two comments on the March 7 proposal. With two exceptions, all the commenters supported EPA's proposal as an appropriate means to developing a manageable and environmentally sound storm water program. The two environmental groups submitting comments criticized the proposal on a number of grounds. They favored, at a minimum, withdrawal of the proposal and retention of the existing requirements. Many of the commenters also discussed the substantive coverage of the September 26 rules.

Based on an evaluation of the comments received on the March 7 proposal, an assessment of the commitments received from trade associations, and re-examination of the issues, the Agency in today's notice is providing additional information on its proposed administrative strategy and reopening the comment period. The Agency is reopening the comment period to ensure that all affected parties have an opportunity to comment on the details of the group application approach and other issues outlined in today's notice. As was the case with the March 7 proposal, today's notice does not affect the status of existing storm water dischargers with effective NPDES permits. As provided in 122.21(c)(2), these dischargers are not obligated to submit an application for an NPDES permit.

IV. Today's Notice

A. Group Application Requirements

Today's notice requests comments on a rule based on a group application as an alternative to the approaches in the September 26 rule and the March 7 proposal. Such a rule would be in essence a codification of the representative data submission concept outlined in the March 7 proposal and discussed at the two March 1985 public meetings. In addition to eliminating the need for all storm water point sources to submit Form 2C information, it would also eliminate the need for submission of individual Form 1's by applicants covered by a group application. However, EPA is considering modifying the approach discussed in the March proposal by treating the group submission of representative data as a formal NPDES application similar to the traditional individual applications. The regulatory provisions governing permit application and issuance would thus apply.

As mentioned above, EPA received 29 commitment letters indicating a willingness to voluntarily submit representative storm water data. The Agency is concerned that such letters may not provide a sufficient basis for suspending the Form 2C requirement for all Group I storm water point sources for a number of reasons. First, it may be inappropriate to substitute voluntary commitments to submit data form may be burdensome and time-consuming. Moreover, data submissions from the 29 trade associations may not justify eliminating the regulatory data submission requirement for those Group I dischargers who did not participate in the commitment process. Despite these drawbacks, EPA regards the submisssion of representative data through group application process as crucial to the success of its storm water program. Codification of these representative data submissions into a group application rule as discussed in today's notice should reduce the confusion revealed in the commitment letters regarding incomplete coverage of the categories or subcategories. Imprecise delineation among the memberships of trade associations, and uncertainties as to the appropriate storm water data to be submitted. The revised approach described below would build on the efforts expended to date by both the Agency and the cooperating trade associations. The benefits of today's storm water permitting approach (i.e., the group application option) are manageability and the submission of quantitative data upon which to base permit issuance priorities and establish permit term and conditions.

As major elements of the strategy outlined below, all storm water point sources would have to submit either an individual application or be covered by

an approved storm water group application. The group application, therefore, would be an optional alternative to the submission of the full NPDES application by all Group I sources. The group application would contain representative data submitted by a representative entity such as a trade association for a subcategory of industrial dischargers and would satisfy the regulatory application requirements of any discharger falling within the particular subcategory. Neither Form 1 nor Form 2C would be required of every discharger covered by the group application. The group application approach comports with the Agency's expectation to issue general permits to storm water point sources in most instances.

This group application procedure would apply only to facilities in States that are not approved to administer the NPDES program. Facilities within approved States must follow the States' regulations and submit individual permit applications where required. Approved States would be free to amend their regulations to adopt the group application procedure for all storm water dischargers or as an alternative to individual storm water applications in some cases. Should EPA promulgate a final rule codifying the group application alternative, NPDES States may defer the permit application deadline for storm water point sources to allow time for EPA's evaluation of the group applications and for general permit development. States could establish permit issuance priorities to take into consideration this data gathering and model permit development. Such actions will probably require regulatory changes in many States. NPDES States would then need to issue general or individual permits, as appropriate, for each subcategory promptly after EPA has provided model terms and conditions for that subcategory's storm water general permit. In any case where a State chooses to follow this procedure, it should be careful to preserve its authority to require individual permits when the NPDES program director determines that a general permit is inappropriate for a specific discharger. While EPA implements the group application process, NPDES States not already approved to issue general permits should consider actively pursuing a modification of their programs to provide general permit issuance authority. The ability to issue general permits is an effective, and perhaps the only practical, means of permitting some of these sources.

EPA is considering accepting group applications primarily on the basis of industrial subcategories (as defined by 40 CFR Subchapter N) rather than industrial categories. The Agency believes submission by subcategory would improve the quality of the data received, allow for more effective analysis, and provide a clearer basis for general permit terms and conditions. This should also help eliminate the problem of "blurring of categories" due to the overlapping nature of some trade associations' memberships. However, submissions by category may be acceptable where they meet the criteria for representativeness.

EPA is considering requiring those associations electing to use the group application approach to submit Part 1 of a group application to the USEPA Office of Water Enforcement and Permits no later than 90 days from the publication date of the final rule. The Agency's preferred position is that this 90-day date serves as a mandatory cutoff, such that failure to submit Part 1 within 90 days would preclude the group application option for those sources within the subcategory.

Part 1 would contain a commitment to submit quantitative data from facilities within the subcategory in accordance with the regulatory criteria described below, and a full description of the groups' data collection plans, including a description of the facilities covered by the application and an identification of the facilities submitting data. EPA is considering requiring the group applicant to select the facilities that would submit data so that data submissions from such facilities would be representative of the subcategory according to the suggested factors. The submission would contain, in proportion to the distribution within the subcategory, the following: a range of operations, size and geographic location; facilities with and without treatment of storm water ("treatment" also includes best management practices designed to reduce pollutant loadings); and data from facilities which send process water to a POTW and those that discharge storm water directly to surface waters. The Agency is also considering requiring that the group application contain data submissions from 10 percent of the industrial subcategory, with a minimum of 10 facilities. Facilities with historical data on their storm water discharges would submit such data if they meet these criteria.

The Part 1's would be reviewed for acceptability based on the representative criteria outlined above, and in accordance with 40 CFR 122.21(e) [completeness of NPDES permit applications]. As with a completeness decision on any application, the judgment whether to accept Part 1 would rest with the permitting authority. For purposes of review of the storm water group applications, the EPA Office of Water Enforcement and Permits would be the permitting authority for dischargers located in States not approved to administer the NPDES permit program. A notice would be published in the **Federal Register** announcing the acceptance of Part 1's for particular subcategories. **Federal Register** publication of acceptance appears to be the most efficient means of notifying all the dischargers within the subcategory of the opportunity for coverage under the group application. If a submission is deficient, the Agency could reject it or request that corrections be made in an expeditious manner prior to a final decision on acceptability.

Any discharger falling within a subcategory for which a Part 1 has been accepted would have the option of being covered under the group application or submitting Form 1 and Form 2C for its facility. If the discharger opted for group coverage, no individual application (neither Form 1 nor Form 2C) would be needed. (However, a Notice of Intent to be covered under any storm water general permit would have to be submitted by any facility within the subcategory desiring coverage at the time the general permit is proposed, in order to be covered by its terms. This Notice of Intent would serve the same purpose as EPA's Application Form 1 in terms of notifying the Agency of existing discharges and would provide the same basic information.)

Any Group I discharger whose storm water discharges do not fall within a subcategory for which a Part 1 has been accepted (or those desiring *not* to be covered by a group application) would submit an individual NPDES application (Form 1 and Form 2C—sampling data) for their storm water discharges. The deadline for submittal of individual Group I applications would be the same as for Part 2 of the group application.

Part 2 of the group application would consist of representative quantitative data from facilities within the subcategory. Each facility chosen for sampling under the group application would test for:

—Any pollutant limited in an effluent guideline for its subcategory;
—Any pollutant listed in the facility's NPDES permit for its process wastewater;
—Oil and grease, TOC, COD, pH, BOD; and

—Any information on the discharge required under 40 CFR 122.21(g)(7)(iii).

Testing for these pollutants would also be required by those storm water dischargers submitting individual applications.

Group applicants actually submitting data representative of their subcategories would submit information for each of their storm water outfalls. The Agency believes that, since the facility participating in the group application by submitting quantitative information on its storm water discharges is representing an entire subcategory, it would be appropriate to request information on all outfalls in order to determine accurately the characteristics of the discharges of that subcategory.

Each facility from which representative data are submitted under Part 2 of the group application would fill out NPDES application Form 1, and submit quantitative sampling data for each of its storm water outfalls on Form 2C. For ease of reporting, this quantitative information would be reported on Form 2C although the entire sampling and analysis requirements of Form 2C would not be applicable.

These forms would be compiled by the entity representing the group applicants, which would attach a narrative certifying that the submission is representative in accordance with the criteria set forth in the regulation. This narrative would be signed by an association officer or comparable position responsible for policy- or decision-making functions and to whom authority to sign documents on behalf of the group applicants has been delegated or assigned in accordance with the procedures of the association or other entity. As mentioned above, Form 1's and the actual data submitted on Form 2C would be signed by the individual facilities in accordance with the general signatory requirements found in 40 CFR 122.22, as amended in 49 FR 38047 (September 26, 1984). These signatory requirements are a means of formalizing commitments and identifying responsible parties.

Group applications would be submitted to the Permits Division, Office of Water Enforcement and Permits, USEPA. Individual applications would be submitted to the permitting authority as with any other NPDES application. Once the group applications are reviewed, EPA would use the information to establish permit issuance priorities and draft permit terms and conditions. The information will also determine the pollutant loads of storm water discharges to assist States and EPA regional offices identify subcategories for which individual permits are more appropriate. NPDES-approved States and EPA regional offices would continue to be the permitting authority for storm water point sources.

Since the group submission would be an NPDES permit application, it would be handled through normal permit processes and would be subject to the regulatory provisions applicable to permit issuance. Incomplete or otherwise inadequate submissions would be handled in the same manner as any other permit application. The permitting authority would have the right to require submission of Form 1 and Form 2C from any individual dischargers it designates.

B. Municipal Storm Water Sewers

Today's notice is also intended to clarify any confusion surrounding the current regulations with regard to the characterization of municipal storm water sewers as Group I or Group II. Data available to the Agency from the NURP study indicate that in many instances BOD loadings from urban storm water sewers were estimated as comparable to that from secondary treatment facilities, while TSS loadings were estimated to be a factor of ten times higher than loadings from secondary treatment plants. The NURP study found significant instances of high levels of heavy metals (especially copper, lead and zinc) in urban runoff. Freshwater water quality standards (chronic) were exceeded for lead (94% of all samples), copper (82%), zinc (77%) and cadmium (48%). Because of the potential significance that discharges from municipal storm water sewers can have for water quality, and because these systems are likely to have storm water inflow from industrial facilities, it is appropriate for these systems to be treated as Group I discharges. The current regulations are somewhat ambiguous on this point; thus today's notice clarifies that municipal storm water sewers in urbanized areas fall within the Group I classification. This is consistent with the way these sources have been dealt with by the Agency and by dischargers.

C. Dischargers Into Municipal Storm Water Sewers

While it is clear under the existing regulations that municipal storm water sewers located in urbanized areas must submit permit applictions, there has been some confusion as to the responsibility for obtaining a permit when parties other than the municipality discharge into a municipal storm water sewer. This regulation only addresses discharges from separate storm sewers and not municipal combined sewer systems. Under the September 26, 1984 final rule, all dischargers into a storm water conveyance system must be covered either by an individual permit or a permit issued to the municipality. This "either/or" approach in the September 26 rule allows a municipality to decline to assume responsibility for the non-municipal dischargers into its storm water sewer system. In that situation, all of the individual dischargers into the municipal system would be responsible to file permit applications for their discharges.

Although the pipes and outfalls that make up a municipal storm water system are owned by the city, they are not a "publicly-owned treatment work" ("POTW") under federal regulations. Therefore, they are, for purposes of the Clean Water Act, a non-POTW point source, analogous to a privately-owned treatment work. In such group situations, the Agency can require permits from any, some, or all of the contributors to the system (*see* 40 CFR 122.44(m)).

Under this approach, EPA would treat discharges to a municipal storm water system in the same manner as the Agency handles discharges into non-POTWs. The municipality would be responsible for obtaining a permit that would cover all the storm water point source discharges into the system. The municipality would be required to identify those Group I discharges into the storm water sewer but would not be required to identify Group II contributors. Thus, the non-municipal dischargers into the system, though they are point sources, would not be required to obtain individual permits. However, consistent with 40 CFR 122.44(m), the permitting authority would retain the option to designate certain contributors to the municipal system as co-permittees or require individual applications and permits from contributors to the municipal storm water system in certain cases. The Agency feels this is the most practical means of covering the thousands of discharges into municipal systems. As the municipality is already required to obtain permits for its outfalls, this "single permit" approach would further relieve the paperwork burden on both dischargers and permitting authorities. It is also likely to be the more environmentally effective approach, as it will increase the ability to issue quality permits covering these sources in an efficient manner. Finally, it may allow permit writers to consider the

cumulative effects of storm water discharges.

EPA is also considering relocating all storm water provisions including application requirements into one section, 40 CFR 122.26, for clarity and convenience.

V. Request for Comments: Issues

In the interest of clarity and convenience, this section summarizes the issues on which the Agency is requesting comments. The Agency is soliciting comments on all issues raised by the concept of storm water group applications and the proposed treatment of municipal storm water sewers located in urbanized areas. The Agency hopes that this delineation of the specific issues involved in EPA's proposed storm water control program will elicit useful and comprehensive comments.

A. Group Application Requirements

The Agency is soliciting comments on the appropriateness of the group application concept for Group I discharges and is requesting comments on what the specific factors that would comprise a "representative" submission should be (e.g., 10 percent of the subcategory, size, age, location, receiving water type and quality). The Agency's preferred approach is to require that the submission cover a subcategory, and comments are requested on whether subcategories are an appropriate basis for group applications. Commenters should also address the question of whether all or a portion of a facility's outfalls should be sampled. It is the Agency's preference that all storm water outfalls at an individual facility submitting representative data in accordance with group application procedures be sampled. The Agency is soliciting comments on the appropriateness of the pollutants to be sampled by storm water permit applicants.

Comments are also requested on the possibility of a waiver from testing of the pollutants listed for group applicants. 40 CFR 122.21(g)(7)(i)(B) provides authority to the Director to waive reporting requirements for individual point sources for certain pollutants if the applicant demonstrates that the information is unnecessary for permit issuance. The Agency is soliciting comments on whether a similar waiver would be appropriate for storm water point sources for all pollutants. Commenters should consider whether such a waiver should be available to subcategories of strom water point sources for which a group application is submitted. Commenters should discuss what data should be submitted in support of a waiver request.

In addition, comments are requested on the signatory requirements associated with the group application concept described above. Are these signatory requirements sufficient to assign liability and ensure the responsible collection of adequate representative data? Finally, the Agency is requesting comments on the suitability of eliminating the requirement that those entities covered by a group application submit an individual Form 1, but rather submit a Notice of Intent to be covered at the time of proposal of the general permit covering the particular subcategory.

Today's notice suggests an application deadline of ninety days from date of publication of a final rule for Part 1 of the group application. Comments are requested on whether 90 days is adequate time for preparation of Part 1 of the group application. Commenters should also address the question of whether the Part 1 deadline should serve as a mandatory cutoff, such that failure to submit Part 1 within 90 days would preclude the group application option for sources within that subcategory.

The Agency also seeks comments, especially from NPDES States, on use of the group application process by NPDES States. Commenters should also address the recommended postponement of the application deadline and the suspension of application requirements in situations where Part 1 of a group application has been accepted.

B. Municipal Storm Water Sewers

Comments are requested on the concept of amending existing regulations to clarify that municipal storm water sewers fall within the definition of Group I. This inclusion would comport with the data available to EPA from the NURP study. Any other data on the characteristics of storm water discharges from municipal systems are solicited.

C. Dischargers Into Municipal Storm Water Sewers

Comments are solicited on the suitability of the Agency's plans to rely primarily on the issuance of permits to municipalities for their storm water sewers, while relieving all dischargers into the system of the reponsibility of having to obtain individual permits, unless the permitting authority designates such dischargers as copermittees or requires individual permits.

List of Subjects in 40 CFR Part 122

Administrative practice and procedure, Air pollution control, Hazardous materials, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Confidential business information.

Dated: August 1, 1985.

Henry L. Longest II,

Acting Assistant Administrator for Water.

[FR Doc. 85-19101 Filed 8-9-85; 8:45 am]

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S.J. Res. 168/Pub. L. 99-82

Designating August 13, 1985, as "National Neighborhood Crime Watch Day". (Aug. 7, 1985; 99 Stat. 189) Price: $1.00

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4	12.00	Jan. 1, 1985
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