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Monday
March 31, 1986

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

Selected Subjects

CONTINUED INSIDE

Selected Subjects

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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.

DALLAS, TX

WHEN: April 23; at 1:30 pm.

WHERE: Room 7A23,
Earl Cabell Federal Building,
1100 Commerce Street, Dallas, TX.

RESERVATIONS: local numbers:
Dallas 214-767-8585
Ft. Worth 817-334-3624
Austin 512-472-5494
Houston 713-229-2552
San Antonio 512-224-4471,
for reservations

Contents

Federal Register

Vol. 51, No. 61

Monday, March 31, 1986

Separate Parts in This Issue

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

CFR PARTS AFFECTED IN THIS ISSUE

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

7 CFR
Proposed Rules:
982 ... 10866
999 ... 10866

9 CFR
205 ... 10795
381 ... 10800

12 CFR
303 ... 10800
309 ... 10800
329 ... 10804
526 ... 10810
531 ... 10810
532 ... 10810
545 ... 10810
555 ... 10810
561 ... 10810
563 ... 10810
564 ... 10810
571 ... 10810
Proposed Rules:
622 ... 10866
623 ... 10866

14 CFR
39 (4 documents) ... 10820, 10821, 10823, 10824
71 ... 10824
Proposed Rules:
39 (3 documents) ... 10876, 10878
71 (3 documents) ... 10881–10882
75 ... 10882

16 CFR
Proposed Rules:
425 ... 10883
455 ... 10884

19 CFR
6 ... 11004
18 ... 10825

24 CFR
200 ... 10825

26 CFR
1 ... 10826

29 CFR
2644 ... 10826

30 CFR
950 ... 10827
Proposed Rules:
917 ... 10886

33 CFR
100 ... 10833
165 (2 documents) ... 10834, 10835
Proposed Rules:
100 (2 documents) ... 10887, 10888

34 CFR
614 ... 10836
682 ... 10988

40 CFR
52 ... 10837
Proposed Rules:
418 ... 10889

46 CFR
10 ... 10837
Proposed Rules:
159 ... 10890
160 ... 10890

47 CFR
22 ... 10838
69 ... 10839

49 CFR
1051 ... 10842

50 CFR
17 (3 documents) ... 10842, 10851, 10857
285 ... 10865
Proposed Rules:
611 ... 10890
630 ... 10890

Rules and Regulations

Federal Register
Vol. 51, No. 61
Monday, March 31, 1986

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

9 CFR Part 205

Animals and Animal Products, Clear Title, Protection for Purchasers of Farm Products

AGENCY: Packers and Stockyards Administration, USDA.

ACTION: Interim final regulations.

SUMMARY: The agency prescribes regulations to aid States in the implementation and management of a "central filing system" for an "effective financing statement" concerning protection for purchasers of farm products as defined in section 1324 of Pub. L. 99–198. That Act requires these regulations to be prescribed within 90 days after enactment thereof. Requests to modify these regulations will be considered. It is planned that published notice of proposed rulemaking and opportunity to comment would precede any modification.

EFFECTIVE DATE: March 24, 1986.

ADDRESS: Requests to modify, if any, may be mailed to the Office of the Administrator, Packers and Stockyards Administration, Room 3039 South Building, USDA, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT:

James L. Smith, Deputy Administrator, Packers and Stockyards Administration, 3039A South Bldg., USDA, Washington, DC 20250, 202/447–7063.
John J. Casey, Packers and Stockyards Division, Office of the General Counsel, 2446 South Bldg., USDA, Washington, DC 20250–1400, 202/447–7357.

SUPPLEMENTARY INFORMATION: Section 1324 of the Food Security Act of 1985, Pub. L. 99–198 (hereinafter "the Section"), is headed "Protection For Purchasers of Farm Products." Subsections (e) and (g) provide that certain persons may be made subject to a security interest in a farm product created by the seller under certain circumstances including the existence of a statewide "central filing system" (hereinafter "system") as defined, for an "effective financing statement" (hereinafter "EFS") as defined. Subsection (c)(2) requires such a system to obtain certification from the Secretary of Agriculture, and requires the Secretary to certify such a system if it complies with the requirements of the Section. Subsection (i) provides: "The Secretary of Agriculture shall prescribe regulations not later than 90 days after the date of enactment of this Act to aid States in the implementation and management of a central filing system."

The Secretary's responsibilities under the Section were delegated to the Assistant Secretary for Marketing and Inspection Services, and to the Administrator of the Packers and Stockyards Administration (P&SA). P&SA was directed to prepare and issue regulations, carry out the Secretary's responsibilities, and certify such systems thereunder. This was done by memorandum signed by Secretary of Agriculture John R. Block on February 13, 1986.

These regulations set forth requirements for certification of such systems, and interpretive opinions as to the Section. This document is believed and intended to be in full compliance with section 1324(i).

It is planned to give any request for certification of a central filing system and attachments an initial review upon receipt. If the material is complete and so organized that it can be verified on brief review that the system complies with the Section, certification will be issued forthwith. Requests requiring more time to review will be scheduled for such review in the order in which they are received. Thus an advantage is obtaining quick certification will go to those who take the time to prepare their material carefully.

After certification of a system, if information is received that such system is not operating in compliance with the Section, it is planned to notify the system operator and point out the provisions of § 205.214, below.

Requests to modify these regulations will be considered. They also may be modified on Department initiative. It is planned that any modification would be preceded by published notice of proposed rulemaking and opportunity to comment.

The Secretary's authority and responsibility under the Section is limited to certification, and "to prescribe regulations * * * to aid States in the implementation and management," of "central filing systems" as defined. The Secretary's authority does not extend to other matters under the Section. The Section does not give the Secretary any authority or responsibility relating to such matters as direct notification by secured parties, sales of and payment for products, standards for making check payable, and procedures for personal liability protection. The Section does not contain any provision for the Secretary to operate a continuing program to regulate, inspect or supervise such systems or to revoke certification after it is granted, nor does the Section contain any provision for any requirement of compliance, penalty for noncompliance, or enforcement machinery for the regulations.

Executive Order

Regulatory impact analyses are not required for these regulations because it has been determined that they are not "major" rules as defined by section 1(b) of E.O. 12291. They will not have an annual effect on the economy of $100 million or more, and they will not result in major increases in costs or prices for consumers, individual industries, government agencies or geographic regions. They will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

It has been determined that these regulations will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act of 1980

(44 U.S.C. 250)

There are no additional paperwork requirements included in these regulations that were not previously provided for in Pub. L. 99–198. The only reporting requirements in the regulations are for information from a State that is necessary for certification of a central filing system. There are no paperwork

requirements placed on industry by these regulations.

List of Subjects in 9 CFR Part 205

Agriculture, Central filing system, Definitions, Certifications, Interpretive opinions.

A new Part 205 is hereby added to 9 CFR, to read as set forth below.

Done at Washington, DC, March 24, 1986.

B.H. Jones,

Administrator, Packers and Stockyards Administration.

PART 205—CLEAR TITLE—PROTECTION FOR PURCHASERS OF FARM PRODUCTS

Definitions

Sec.

Regulations

Interpretive Opinions

Authority: Sec. 1324(i), Pub. L. 99-198; 99 Stat. 1535, 7 U.S.C. 1631; Secretary's Memorandum dated February 13, 1986.

§ 205.1 Definitions.

Terms defined in Section 1324 of the Food Security Act of 1985, Pub. L. 99-198, 99 Stat. 1535, 7 U.S.C. 1631, shall mean the same in this Part as therein. In addition, except as otherwise specified, as used in this Part:

(a) "The Secretary" means the Secretary of Agriculture of the United States;

(b) "The Section" means section 1324 of the above-cited Act, and "subsection" means a subsection of that Section;

(c) "System" means "central filing system" as defined in subsection (c)(2);

(d) "EFS" means "effective financing statement" as defined in subsection (c)(4);

(e) "System operator" means Secretary of State or other person designated by a State to operate a system;

(f) "Registrant" means any buyer of farm products, commission merchant, or selling agent, as referred to in the Section, registered with a system under subsection (c)(2)(D);

(g) "Master list" means the accumulation of data in paper, electronic, or other form, described in subsection (c)(2)(C);

(h) "Portion" means portion of the master list distributed to registrants under subsection (c)(2)(E);

(i) "UCC" or "Uniform Commercial Code" means the Uniform Commercial Code prepared under the joint sponsorship of the American Law Institute and the National Conference of Commissioners on Uniform State Laws, and in effect in most States of the United States at the time of enactment of Pub. L. 99-198.

Regulations

§ 205.101 Certification—request and processing.

(a) To obtain certification of a system, a written request for certification must be filed together with such documents as show that the system complies with the Section. If such material is voluminous, a summary, table of contents, and index must accompany it as necessary to facilitate review.

(b) The request must:

(1) Include an introductory explanation of how the system will operate;

(2) Identify the information which will be required to be supplied on an EFS;

(3) Identify where an EFS, amendment thereto, or continuation thereof, will be filed and, if elsewhere than with the system operator, explain how and in what form the system operator will receive information needed to compile and update the master list;

(4) Explain the method for recording the date and hour of filing of an EFS, amendment thereto, or continuation thereof;

(5) Explain how the master list will be compiled, including the method and form of storage and arrangement of information, explain the method and form of retrieval of information from the master list, the method and form of distribution of portions of the master list to registrants as required by subsection (c)(2)(E), and the method and form of furnishing of information orally with written confirmation as required by subsection (c)(2)(F) (details of computer hardware and software need not be furnished but the results it will produce must be explained);

(6) Explain how the list of registrants will be compiled, including identification of where and how they will register, what information they must supply in connection with registration, and the method and form of storage and retrieval of such information (details of computer hardware and software need not be furnished but the results it will produce must be explained);

(7) Show how frequently portions of the master list will be distributed regularly to registrants;

(8) Show the farm products according to which the master list will be organized;

(9) Show how the system will interpret the term "crop year" and how it will classify as to crop year and EFS not showing crop year;

(10) Show what fee will be charged and explain how the costs of the system will be covered if not by such fee and the general revenue of the State; and

(11) Include copies of:

(i) All State legislation or other legal authority under which the system is created and operated, and the system operator is designated;

(ii) All regulations, rules and requirements issued under such legislation or other legal authority and governing operation of the system, designation of the system operator, and use of the system by members of the public; and

(iii) All printed forms required to be used in connection with the system.

(c) Any such request and attachments must be filed in triplicate (one copy for public inspection, a second copy for use in P&SA, and a third copy for use in the Office of the General Counsel, USDA). All three copies must be received in the headquarters of the Packers and Stockyards Administration, USDA, Washington, DC 20250.

(d) A refusal to certify such a system, if any, will be explained in writing. Reconsideration of such a refusal must be requested in writing with specification or errors believed to have been made.

§ 205.102 Name of debtor (or other person subjecting a farm product to a security interest) on EFS and master list—format.

On an EFS, and on a master list, the name of the debtor (or other person subjecting a farm product to a security interest) must appear as follows:

(a) In the case of a natural person the surname (last name or family name) must appear first;

(b) In the case of a corporation or other entity not a natural person:

(1) The name must appear beginning with the first word not an article, except as provided hereinafter;

(2) If the name includes the given name (first name) or initials, and the surname (last name or family name), of a natural person, that person's surname must appear first.

§ 205.103 EFS—minimum information.

(a) The minimum information necessary on an EFS is as follows:

(1) Crop year *unless* every crop of the farm product in question, for the duration of the EFS, is to be subject to the particular security interest;

(2) Farm product name (see § 205.106);

(3) Each county or parish in the same State where the farm product is located at the time the EFS is executed, and each other county or parish, in the same or any other State, where the same product at the same time is foreseen to be located in the future;

(4) Debtor (or other person subjecting the farm product to the security interest) name and address (see § 205.102);

(5) Same person's social security number or, if other than a natural person, IRS taxpayer identification number;

(6) Further details of the farm product subject to the security interest *if needed* to distinguish it from other such product owned by the same person but not subject to the particular security interest (see § 205.207); and

(7) Secured party name and address.

(b) A requirement of additional information on an EFS is discretionary with the State.

§ 205.104 Registration of buyer, commission merchant, or selling agent—minimum information.

(a) The minimum information necessary on a registration of a buyer, commission merchant, or selling agent is as follows:

(1) Buyer, commission merchant, or selling agent name and address;

(2) Farm product or products (see § 205.106) in which registrant is interested; and

(3) If registrant is interested only in such product or products in a certain county or parish, or certain counties or parishes, in the same State or in any other State, the name of each such county or parish.

(b) A registrant, if not registered for any specified county or parish, or counties or parishes, must be deemed to have registered for all counties and parishes shown on the master list.

(c) A requirement of additional information on a registration form is discretionary with the State.

§ 205.105 Portion of master list—format.

(a) The portion of the master list distributed regularly to registrants must be in two sections.

(1) Each section must contain a heading for each crop year, and contain for each crop year a sub-heading for each product for which the registrant has registered, and contain for each such product a sub-sub-heading for each county or parish, in the same or any other State, for which the registrant has registered.

(2) For each such county or parish, each section must contain the name, address, and social security number, or, if other than a natural person, IRS taxpayer identification number, of each debtor (or other person subjecting such a product to a security interest).

(3) For each such person, each section must contain further details of the farm product subject to the security interest if supplied on the EFS (see §§ 205.103 and 205.207).

(4) One of the sections must have these names in alphabetical order by the word appearing first in the name (see § 205.102). The other section must have them in numerical order by social security number, or, if other than a natural person, IRS taxpayer identification number.

(5) For each such person each section must show the secured party name and address.

(b) Subsection (c)(2)(E) requires the portion to be distributed in "written or printed form." Distribution in machine-readable form is discretionary with the State but it must be in addition to the "written or printed form."

(c) After distribution of a portion of a master list, there can be supplementary distribution of a portion showing only changes from the previous one. However, if this is done, cumulative supplements must be distributed often enough that readers can find all the information given to them for any one crop year in no more than three distributions.

§ 205.106 Farm product list.

The farm products, according to which the master list must be organized as required by subsection (c)(2), and which must be identified on an EFS as required by (c)(4)(D)(iv), are as follows:

rice, rye, wheat, other food grains (system must specify by name)

barley, corn, hay, oats, sorghum grain, other feed crops (system must specify by name)

cotton

tobacco

flaxseed, peanuts, soybeans, sunflower seeds, other oil crops (system must specify by name)

dry beans, dry peas, potatoes, sweet potatoes, taro, other vegetables (system must specify by name)

artichokes, asparagus, beans lima, beans snap, beets, Brussels sprouts, broccoli, cabbage, carrots, cauliflower, celery, corn sweet, cucumbers, eggplant, escarole, garlic, lettuce, onions, peas green, peppers, spinach, tomatoes, other truck crops (system must specify by name)

melons (system must specify by name)

cattle & calves, goats, horses, hogs, mules, sheep & lambs, other livestock (system must specify by name)

milk, other dairy products, produced on farms (system must specify by name)

other farm products (system must specify by name)

grapefruit, lemons, limes, oranges, tangelos, tangerines, other citrus fruits (system must specify by name)

apples, apricots, avocados, bananas, cherries, coffee, dates, figs, grapes (and raisins), nectarines, olives, papayas, peaches, pears, persimmons, pineapples, plums (and prunes), pomegranates, other noncitrus fruits (system must specify by name)

berries (system must specify by name)

tree nuts (system must specify by name)

bees wax, honey, maple syrup, sugar beets, sugar cane, other sugar crops (system must specify by name)

grass, legumes, other seed crops (system must specify by name)

hops, mint, popcorn, other miscellaneous crops (system must specify by name)

greenhouse and nursery products, produced on farms (system must specify by name)

mushrooms, trees, other forest products (system must specify by name)

chickens, ducks, eggs, geese, turkeys, other poultry or poultry products (system must specify by name)

wool, mohair, other miscellaneous livestock products, produced on farms (system must specify by name)

Miscellaneous categories are not permitted.

§ 205.107 Crop year.

(a) The crop year, according to which subsection (c)(2)(C)(ii)(IV) requires the master list to be arranged "within each such product," must be:

(1) for a crop grown in soil, the calendar year in which it is harvested or to be harvested;

(2) for animals, the calendar year in which they are born or acquired;

(3) for poultry or eggs, the calendar year in which they are sold or to be sold.

(b) An EFS or notice thereof which does not show crop year (the Section does not require it to do so) must be regarded as applicable to the crop or product in question for every year for which subsection (c)(4)(F) makes the EFS effective.

Interpretive Opinions

§ 205.201 System operator.

The system operator need not be the Secretary of State of a State, but can be any official, agency, or employee of the State, or private individual, firm, or association designated by the State pursuant to its laws. Note that the provision in subsection (c)(2) for system refers to operation by the Secretary of State of a State, but the definition in (c)(11) of "Secretary of State" includes "designee of the State."

§ 205.202 "Effective financing statement" or EFS.

(a) An EFS under subsection (c)(4) need not be the same as a financing statement or security agreement under the Uniform Commercial Code (or equivalent document under future successor State law), but can be an entirely separate document meeting the definition in (c)(4). Note that (c)(4) contains a comprehensive definition of the term which does not include any requirement that the EFS be the instrument by which a security interest is created or perfected. Note also the House Committee Report on Pub. L. 99–198, No. 99–271, Part 1, September 13, 1985, at page 110: "[T]he bill would not preempt basic state-law rules on the creation, perfection, or priority of security interests."

(b) An EFS must be a paper document since subsections (c)(4)(B) and (C) require it to be signed.

(c) Countermeasures against mishandling after filing, such as a requirement that a copy be date-stamped and returned to the secured party, are discretionary with the State.

§ 205.203 Place of filing EFS.

The place of filing an EFS is wherever State law requires, which need not be with the system operator so long as the system operator receives the information about it needed for the master list, including the information required in subsection (c)(4)(D). Note that the requirements in subsection (c)(4) for an EFS include the requirement that it be "filed with the Secretary of State," but the definition in (c)(11) of "Secretary of State" includes "designee of the State," and the requirements in (c)(2) for a system refer in (A) to filing with the system operator of "effective financing statements *or notice of such financing statements.*" (emphasis added)

§ 205.204 Filing "notice" of EFS.

(a) If an EFS is filed somewhere other than with the system operator, and if notice of it is filed with the system operator, such notice could be electronic filing, telephoned information, or any other form of notice which gives the system operator the information needed for the master list. Note that the Section does not contain any requirement for such notice except the one in subsection (c)(4)(B) that an EFS must be filed somewhere pursuant to State law as discussed above.

(b) Countermeasures against falsifications, errors or omissions in such notices or in the handling of them by the system operator, such as requirements that the notices be on paper and signed, with copies date-stamped and returned to the persons filing them, however advisable they might be from other standpoints, are discretionary with the State and not required by the Section.

§ 205.205 Fees.

The Section provides at subsection (c)(4)(H) for a fee for filing an EFS. The fee can be set in any manner provided by the law of the State in which such EFS is filed. The basis for this is that (c)(4)(H) provides for the fee to be set by the "Secretary of State" but (c)(11) defines the latter term to include "designee of the State."

§ 205.206 Farm products.

(a) The farm products, according to which the master list must be organized as required by subsection (c)(2), and which must be identified on an EFS as required by (c)(4)(D)(iv), must be specific commodities, species of livestock, and specific products of crops or livestock. Note the definition of the term "farm product" at subsection (c)(5), and the Conference Report on Pub. L. 99–198, No. 99–447, December 17, 1985, at page 486.

(b) A State may establish a system for specified products and not for all. A State establishing a system for specified products and not for all will be deemed to be "a State that has established a central filing system" as to the specified products, and will be deemed not to be such a State as to other products.

§ 205.207 "Amount" and "reasonable description of the property."

(a) The "amount" of farm products and "reasonable description of the property including county or parish," on an EFS and on the master list under subsection (c)(4)(D)(iv) and (2)(C)(iii), need not be shown on every EFS and master list entry.

(b) Any EFS and master list entry will identify a product. If they do not show an amount, this means that all of such product owned by the person in question is subject to the security interest in question.

(c) Any EFS and master list entry will identify each county or parish where the product is or is expected to be located. If they do not show any further identification of the location of the product, this means that all such product in each such county or parish, owned by such person, is subject to the security interest.

(d) The need to supply additional information arises only where some of that product owned by that person is subject to the security interest and some is not.

(e) The additional information about amount and property must be sufficient to enable a reader of the information to identify what product owned by that person is subject, as distinguished from what of the same product owned by the same person is not subject. The precision needed, in the description of the amount and location, would vary from case to case.

(f) The basis for this is the purpose of the entire exercise, to make information available as necessary to enable an identification of what product is subject to a security interest as distinguished from what is not.

§ 205.208 Distribution of portions of master list—registration.

(a) The provisions in the Section regarding registration of "buyers of farm products, commission merchants, and selling agents," "regular" distribution of "portions" of the master list, furnishing of "oral confirmation * * * on request," and the effect of all this, that is, subsections (c)(2)(D), (E) and (F), (e)(2) and (3), and (g)(2)(C) and (D), must be read together.

(b) The Section does not require such persons to register. Not registering with a particular system operator has the effect, under subsections (e)(2) and (g)(2)(C), of making such persons,

whether they are inside or outside the State covered by that system, subject to security interests shown on that system's master list whether or not such persons know about them, so that such persons for their own protection will need to query the system operator about any seller "engaged in farming operations," of a farm product produced in the State covered by that system, with whom they deal.

(c) The effect of registration by such persons with a particular system is to get them on the list for regular distribution of portions of that system's master list, the portions to be determined by the registration. They are subject only to security interests shown on the portions which they receive, and are not subject to such interests as are shown on the master list but not shown on portions which they receive. Also, if a particular security interest is shown on the master list, but has been placed on it since the last regular distribution of portions of that list to registrants, registrants would not be subject to the security interest. These conclusions are based on the provisions in subsections (e)(3)(A) and (g)(2)(D)(i) that such persons are subject to a security interest only if they receive "written notice * * * that specifies both the seller and the farm product."

(d) A question arises whether persons can register to receive only portions of the list for products in which they do not deal, and thus not be subject to security interests in products in which they deal because they are registrants but do not receive written notice of them. For example, can cattle dealers register to receive portions of the master list only for oranges, and thus take cattle free and clear of security interests shown on the master list, but as to which they do not receive written notice because they have not registered to receive the portion for cattle? Registrants will be deemed to be registered only *as to those portions* of the master list for which they register, and will be deemed to have failed to register *as to those portions* for which they do not register.

(e) The frequency of regular distribution of portions of the master list to registrants must be a consideration in review for certification since distribution must be timely to serve its purpose. While subsection (c)(2)(E) (providing that distribution be made regularly as prescribed by the State") gives each State discretion to choose the interval between distributions, whatever interval a State chooses will inevitably make possible some transactions in which security interests are shown on the master list but registrants are not subject to them.

(f) Buyers, commission merchants, and selling agents are not liable for effors or other inaccuracies of notices generated by the system. See Dec. 18, 1985 Cong. Rec., House, pg. H12523.

§ 205.209 Amendment or continuation of EFS.

(a) The "material change," required by subsection (c)(4)(E) to be reflected in an amendment to an EFS and master list entry, is whatever change would render the master list entry no longer informative as to what is subject to the security interest in question. That will vary from case to case. The basis for this is the purpose for which the information is supplied, that is, to make information available, to a buyer, commission merchant, or selling agent who proposes to enter into a transaction in a product, whether it is subject to a security interest. The requirement to amend arises when the information already made available no longer serves the purpose and other information is needed in order to do so.

(b) Where an owner of a product makes a change, such as planting a different crop or purchasing different animals from what was represented, harvesting a crop, or moving animals, without informing the secured party, so that the master list entry is rendered not informative, but the EFS and master list are not amended through no fault of the secured party, a question arises concerning protection for the secured party, which the Section leaves for the courts to resolve on a case-by-case basis.

(c) The amendment must be a paper document, signed by both the person who subjects the farm product to the security interest and the secured party, and filed wherever State law provides. Note the requirement of subsection (c)(4)(E) that it be "similarly signed and filed," following the provisions about signing and filing of the EFS.

(d) A continuation of an EFS is subject to the same requirement as an amendment.

§ 205.210 Effect of EFS outside State in which filed.

(a) A question arises whether, if an EFS is filed in one State, a notice of it can be filed in another State and shown on the master list for the second State. There is nothing in the Section to prevent this, but it would serve no purpose.

(b) The Section provides only for filing an EFS, covering a given product, in the system for the State in which it is produced. Upon such filing in such system, subsections (e)(2) and (g)(2)(C) make buyers, commission merchants and selling agents *not registered* with that system subject to the security interest in that product whether or not they know about it, *even if they are outside that State.* Subsections (e)(3) and (g)(2)(D) make persons *registered* with that system subject if they receive written notice of it *even if they are outside that State.* All of these provisions apply only where an EFS is filed in the system for the State in which the product is produced. They do not apply to a filing in another system.

(c) What constitutes "receipt" of notice is determined by the law of the State in which the intended recipient of notice resides. This is based on subsection (f) which follows provisions for notice to buyers, and (g)(3) which follows provisions for notice to commission merchants and selling agents. Each of those provisions uses the word "buyer" but it means "intended recipient of notice."

§ 205.211 Applicability of court decisions under the UCC.

(a) Court decisions under the Uniform Commercial Code (UCC), about the scope of the "farm products" exception in section 9-307(1) thereof, and interpreting the terms therein, particularly "person engaged in farming operations" which is not defined in the Section, are applicable to an extent in interpreting the Section. The basis of this is the legislative intent of the Section to pre-empt State laws reflecting that "farm products" exception, as shown in the House Committee Report on Pub. L. 99-198, No. 99-271, Part 1, September 13, 1985, at pages 108 *et seq.*

(b) That UCC Section 9-307(1) reads as follows:

> (1) A buyer in ordinary course of business (subsection (9) of Section 1-201) *other than a person buying farm products from a person engaged in farming operations* takes free of a security interest created by his seller even though the security interest is perfected and even though the buyer knows of its existence. (emphasis added)

§ 205.212 "Buyer in ordinary course of business" and "security interest."

The terms "buyer in ordinary course of business" and "security interest" are defined in subsection (c)(1) and (7). There are differences between those definitions and the UCC definitions of the same terms. In interpreting those differences, the following would be pertinent:

(a) The legislative intent discussed above in § 205.211, to pre-empt State laws reflecting the "farm products" exception; and

(b) The legislative intent shown in subsections (a) and (b) that certain persons take free and clear of certain interests of a "secured lender" "when the seller fails to repay the lender," unless such persons have information about such interests made available to them as provided in the Section.

§ 205.213 Obligations subject—"person indebted"—"debtor."

(a) A debt need not exist at the time of filing of an EFS. The basis for this is that subsection (c)(4) does not require the EFS, and (c)(2)(C) does not require the master list, to show any amount of debt.

(b) The section does not provide for the transaction in which one person subjects a product to a security interest for another's debt. However the terms "person indebted" and "debtor" in the Section refers to the person who owns a product and subjects it to a security interest, whether or not that person owes a debt to the secured party. The basis for this is the purpose for which the information is supplied. Any buyer of a farm product, commission merchant, or selling agent querying a master list or system operator about a prospective seller of a farm product is interested in whether that seller has subjected that product to a security interest, not in whether the debt is owed by that seller or by another.

(c) Security interests existing prior to establishment of a system can be filed in such a system and reflected in the master list if documents are in existence or are created which meet the requirements of subsection (c)(4) besides filing, if such documents are filed wherever State law requires, and if the system operator receives the information about them needed for the master list.

§ 205.214 Litigation as to whether a system is operating in compliance with the section.

(a) The requirements for a system in subsection (c) are written as the definition of the term "central filing system," so that failure of a system to meet any such requirement, either at the time of its establishment or later, will mean that it is not a "central filing system" as defined.

(b) The issue whether a system, after certification, is operating in compliance, thus whether it is a "central filing system" as defined, could be litigated and ruled on in a case involving only private parties, such as a lender and a buyer of a farm product. The only immediate effect of a finding in such a case, that a system is not a "central filing system" as defined, would be that the rights of the secured party in the case would be as if the State had no system. However, others would be in doubt as to whether they could safely rely on the same system.

[FR Doc. 86-6844 Filed 3-28-86; 8:45 am]
BILLING CODE 3410-02-M

Food Safety and Inspection Service

9 CFR Part 381

[Docket No. 85-035E]

Streamlined Inspection System for Broilers and Cornish Game Hens

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Interim rule with request for comments, extension of comment period.

SUMMARY: On January 29, 1986, the Food Safety and Inspection Service (FSIS) published an interim rule to amend the Federal poultry products inspection regulations to establish a method of post-mortem inspection for broilers and cornish game hens known as the "Streamlined Inspection System". FSIS has decided to extend the comment period for this interim rule to coincide with the extension already granted on the proposed rule to establish facility and equipment requirements for establishments operating under the Streamlined Inspection System.

DATE: Comments must be received on or before April 14, 1986.

ADDRESS: Written comments to: U.S. Department of Agriculture, Food Safety and Inspection Service, Policy Office, ATTN: Hearing Clerk, Room 3803, South Agriculture Building, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Dr. Douglas L. Berndt, Director, Slaughter Inspection Standards and Procedures Division, Meat and Poultry Inspection Technical Service, FSIS, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-3219.

SUPPLEMENTARY INFORMATION: On January 29, 1986, FSIS published in the **Federal Register** (51 FR 3569) an interim rule with request for comments to amend the Federal poultry products inspection regulations to establish a method of post-mortem inspection known as the Streamlined Inspection System (SIS). The new system is to be implemented in establishments previously operating under Modified Traditional Inspection. SIS incorporates new post-mortem inspection procedures requiring one or two inspectors and a Finished Product Standards (FPS) program for evaluating the Wholesomeness and acceptability of finished product. Establishments are responsible for performing the necessary trim of designated defects on passed carcasses and for operating the FPS program. The new system will allow increased efficiency in the use of FSIS resources and those of the poultry industry, while still providing consumers with wholesome and unadulterated products.

Interested persons were given until March 31, 1986, to submit comments on this interim rule before it is made final. FSIS has decided to extend the comment period to coincide with the extension already granted on the proposed rule establishing facility and equipment requirements for establishments operating under the SIS for broilers and cornish game hens (51 FR 7582). To determine what changes to the new system will be necessary, FSIS is interested in receiving additional information and is therefore extending the comment period to April 14, 1986.

Done at Washington, DC on: March 26, 1986.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 86-7067 Filed 3-28-86; 8:45 am]
BILLING CODE 3410-DM-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 303 and 309

Rules for Publication and Disclosure of Change in Bank Control Notices

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation ("FDIC") is adopting a final rule which revises its policy of confidentiality for notices filed with the FDIC under the Change in Bank Control Act of 1978 ("CBCA" or "Act"), 12 U.S.C. 1817(j). The amended regulations (1) require a person who has filed a notice of proposed acquisition of control ("notice") with the FDIC to publish an announcement of the notice's acceptance in a newspaper, and (2) make certain information regarding CBCA notices accepted by the FDIC available to the public upon request. The FDIC's present policy, which is not set forth formally through a regulation or a policy statement, has generally been that the FDIC will neither confirm nor deny the receipt of a notice filed under

the CBCA involving a particular institution or filed by or on behalf of a particular acquiring party. The revised policy requiring newspaper publication and authorizing public disclosure is necessary to increase the amount of timely and useful information available to the public and to increase the FDIC's sources of information in connection with its statutory review of acquisitions and changes in control, thereby enhancing the FDIC's ability to carry out the purposes of the CBCA, namely, to prevent dishonest or unqualified persons from acquiring control of federally insured banks.

EFFECTIVE DATE: This action will be effective April 30, 1986.

FOR FURTHER INFORMATION CONTACT: James R. Dudine, Chief, Special Activities Section, Division of Bank Supervision [202–898–6750], Room 5100, 550 17th Street, NW., Washington, DC 20429, or Alan J. Kaplan, Counsel, Legal Division [202–898–3734], 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: The FDIC is revising its policy of confidentiality for notices filed with FDIC under the Change in Bank Control Act. On October 10, 1985, the FDIC issued for public comment proposed regulations pertaining to the Change in Bank Control Act (50 FR 41361). As proposed, the amendments (1) would have required a person who has filed a notice of proposed acquisition of control with the FDIC to publish an announcement of the notice's acceptance in a newspaper, and (2) would have made certain information regarding CBCA notices accepted by the FDIC available to the public upon request.

The proposed rulemaking solicited comment on the proposal and response to two questions:

(1) To what extent would newspaper publication of the filing of a notice, including identification of the bank and the proposed acquirer, be useful in eliciting information from the community as to whether a proposed change of control should be disapproved?

(2) To what extent would the interest of a person filing a notice be prejudiced by the early disclosure of its existence?

The FDIC received twenty comment letters on the proposed regulations, with five in favor and fifteen against. Virtually all comments pertained to the requirement that prospective acquirers publish a newspaper announcement of the notice's acceptance. Most of the commentators objected to the stated rationale for the newspaper publication requirement. Those who were not in favor of newspaper publication did not think that the benefits gained from informing the public of proposed changes in control outweighed the risks of interfering with market factors. They believed such disclosure was an FDIC policy that penalized well-run banks at the expense of poorly managed banks, increasing acquisition costs for all. Other commentators pointed out the discrimination confronting State nonmember banks because the Federal Reserve Board imposes no disclosure requirement on acquirers of State member banks. Finally, other commentators thought newspaper disclosure would greatly hinder the sale of small bank stock.

In contrast, those comments supporting newspaper publication noted the limited nature of that disclosure. Accordingly, those commentators viewed the disclosure consequent from newspaper publication as not having a materially negative impact on a proposed acquirer. Two commentators noted that the public's opportunity for comment, which follows from the publication of CBCA notices, is particularly apropos given the impact on a community of a change in control.

The only comment received by the FDIC in the nature of a proposal suggested an exemption from the newspaper publication requirement for small State nonmember banks below a certain asset size. However, as congressional case studies of bank failures illustrate (*See* H.R. Rep. No. 1137, 98th Cong. 2nd Sess. 36–42 (1984)), small banks are more often harmed by changes in control than are large banks.

Although the majority of comments opposed disclosure, those comments were authored, in many instances, by shareholders of small rural Midwest banks who feared that disclosure would interfere with the marketability of their bank shares. The FDIC does not find such representations convincing. Hence, the FDIC declines to find that the benefits gained from informing the public of proposed changes in bank control are outweighed by the risk of interfering with market factors.

The only comments received from State bank regulators (Arkansas and New Jersey) supported and welcomed the newspaper publication requirement. Comments received from the two State regulators and from the U.S. League of Savings Institutions felt disclosure would facilitate meaningful input on the part of the public and elicit useful information.

A comment received from Bank One Corporation, an Ohio multi-bank holding company, thought that bank acquisitions under the Change in Bank Control Act should be subject to the same review and comment by the public that bank and bank holding company acquisitions are. Bank One noted that, as a holding company, its bank acquisitions have been subject to prior regulatory approval under either the Bank Holding Company Act or the Bank Merger Act, and that such acquisitions are subject to public notice and the public's opportunity for comment.

Based upon careful review of the comments, as well as experience gained in administering the CBCA, the FDIC has decided to adopt the proposed regulations with a number of minor modifications that are explained below.

An acquirer will have up to ten, rather than three, days from confirmation of the FDIC's acceptance of the notice to publish the newspaper announcement of the proposed bank acquisition. For banks located in communities where there is no daily or weekly newspaper, the acquirer would have ten days to publish the newspaper announcement in either a county-wide newspaper in the county in which the institution's home office is located or, if there is not a county-wide newspaper, in a state-wide newspaper. Ten days, rather than three, has been adopted to track a similar time-frame that the Office of the Comptroller of the Currency ("OCC") is considering adopting in its revised policy pertaining to the disclosure of CBCA notices.

The newspaper publication would invite comment by the public, for a twenty-day period, on the proposed acquisition of control. Although the FDIC could consider comments received after the twenty-day period, it need not do so. Moreover, with regard to the public comment period, the final regulation amends the proposal by providing that, for good cause, the FDIC may waive the publication requirement, waive or shorten the public comment period, or act on the notice prior to the expiration of the public comment period. The FDIC anticipates invoking these waiver provisions when it must act promptly upon a notice in order to prevent the probable failure of the bank which is the subject of the proposed acquisition.

The final regulation contains two minor changes from the proposed regulation with respect to a notice filed in contemplation of a public tender offer subject to the Securities Exchange Act of 1934 (15 U.S.C. 78m and 78n) and the FDIC's regulations governing tender offers (12 CFR 335.501–335.530). In the proposed regulation, the FDIC, through inadvertence, stated in the preamble but not in the rule itself, that an acquirer

may delay newspaper publication until the earliest of the following events: commencement of a tender offer under the FDIC's rule 335.502 (12 CFR 335.502), other public announcement of the tender offer, or the expiration of 30 days following acceptance of the notice by the FDIC. Although no comments were received concerning this inconsistency, the FDIC intended that the regulation read as the preamble did. The FDIC is correcting the final regulation to be consistent with the preamble.

The second change pertains to the lengthening of the confidentiality period from thirty up to thirty-four days in the case of notices filed in contemplation of a public tender offer. The proposed regulation provided that, in such cases, an acquiring person could delay newspaper publication for up to thirty days after the notice is accepted by the FDIC and that the FDIC could accord confidential treatment to such a notice for up to thirty days after the FDIC's acceptance of the notice. The FDIC received no comments from the public concerning the thirty-day period originally set forth in the proposed regulation. However, because the OCC is considering revising its disclosure policy on CBCA notices to provide that a notice filed in contemplation of a public tender offer may be kept confidential for up to thirty-four days, the FDIC, in the interest of uniform Federal banking regulation, is extending the period of confidentiality to thirty-four days. Thus, for notices filed in contemplation of public tender offers subject to the Securities Exchange Act of 1934 (15 U.S.C. 78m and 78n) and the FDIC's tender offer regulations (12 CFR 335.501–335.530), the FDIC would make no public disclosure for up to thirty-four days after the notice is accepted by the FDIC, and an acquiring person could, in some instances, delay the newspaper announcement for the same thirty-four day period. Specifically, an acquirer, under these circumstances, may delay newspaper publication until not later than the earliest of the following events: commencement of a tender offer under the FDIC's rule 335.502 (12 CFR 335.502), other public announcement of the tender offer, or the expiration of thirty-four days following acceptance of the notice of the FDIC.

A final change concerns the FDIC's disclosure of its own actions disapproving or not disapproving proposed acquisitions of control. The proposed regulation provided that, if the FDIC had issued a letter of intent not to disapprove or had issued a notice disapproving a proposed acquisition, such letter or notice would be released to the public. Additionally, the proposed regulation provided that where a notice had been filed but had later been withdrawn by the acquiring person, the appropriate FDIC regional office would disclose both the fact of and date of withdrawal. The final regulation does not include these provisions, nor does it expressly address the question of disclosure of actions taken by the FDIC on notices filed under the CBCA or orders evidencing these actions. Instead, the FDIC intends to address this subject under its existing procedures for making final agency orders available to the public. That is, if an order evidencing an FDIC action on a proposed acquisition of control constitutes a final agency order, disclosure of that order will be made in accordance with § 309.4(b)(1) of the FDIC's regulations (12 CFR 309.4(b)(1)). Until an action becomes final, however (as, for example, where a proposed acquirer whose acquisition has been disapproved is contesting that determination in a nonpublic administrative hearing under 12 U.S.C. 1817(j)(4) and the FDIC's implementing regulations, or where the period for requesting a hearing has not yet expired), the FDIC may choose to invoke applicable provisions of the Freedom of Information Act to withhold the order and information concerning it from the public.

It is the FDIC's view that the aforementioned modifications do not require public comment prior to adoption. The significant changes in the CBCA disclosure policy are the newspaper announcement and the availability-upon-request of basic information concerning CBCA notices. These changes were embodied in the proposed rule that was subject to public comment. The modifications have no substantive effect on the basic thrust of the FDIC's revised policy concerning notices filed under the CBCA.

The following discussion summarizes the content of the final regulations.

Newspaper Announcement

Section 303.4(b) requires an acquirer, within ten days after receiving confirmation of the FDIC's, acceptance of the notice,[1] to publish an announcement in the business section of a newspaper having general circulation in the community in which the bank's home office is located. For banks located in communities where there is no daily or weekly community newspaper, the acquirer would publish the newspaper announcement in either a county-wide newspaper in the county in which a bank's head office is located or, if there in no county-wide newspaper, in a state-wide newspaper. For a notice filed in contemplation of a public tender offer subject to the requirements of the Securities Exchange Act of 1934 (15 U.S.C. 78m and 78n) and the FDIC's tender offer regulations (12 CFR 335.501–.530), an acquirer may delay newspaper publication until not later than the earliest of the following events: commencement of a tender offer under the FDIC's rule 335.502 (12 CFR 335.502), other public announcement of the tender offer, or the expiration of thirty-four days following acceptance of the notice by the FDIC.

The newspaper publication would contain the name of the prospective acquirer, the name of the bank whose stock is sought to be acquired, and the date of acceptance of the acquirer's change in control notice. The newspaper publication also would inform the public of the procedures and deadlines for commenting upon the filing. After publication, copies of the newspaper announcement and the publisher's affidavit of publication would be filed promptly with the regional director of the FDIC region in which the bank in which stock is being acquired is located.

In order to ensure that the FDIC's review process is not unduly delayed, comment by the public on the acquisition should be received within twenty days of the newspaper publication in order to be considered as part of the record of the notice of acquisition of control. The FDIC may consider comments received after the twenty-day period, but is not required to do so. The public's opportunity for comment, however, will not preclude the FDIC from acting on the notice before the comment period has expired, if good cause exists for earlier action, nor will it preclude the FDIC from waiving or shortening the public comment period or waiving the publication requirement in individual cases, if circumstances warrant.

Public Disclosure of CBCA Notices

Following acceptance of a notice filed pursuant to the Change in Bank Control Act (other than a notice filed in contemplation of a public tender offer), the appropriate FDIC regional office will make available to the public, upon request, the following information:

(1) The name of the bank to be acquired;
(2) The date the notice was accepted;
(3) The identity of the proposed acquirer(s);

[1] The mere filing of a CBCA notice does not automatically constitute "acceptance." Rather, a notice is considered accepted when the appropriate regional ofice of the FDIC determines that the notice contains all the information required by 12 U.S.C. 1817(j)(6).

(4) The number of shares to be acquired; and

(5) The number of outstanding shares of stock in the bank.

Following the consummation of a change in control, the following information would also be released on request:

(6) The date shares were acquired;

(7) The names of the sellers (or transferers); and

(8) The total number of shares owned by the purchasers (or acquirers).

The exception to availability-upon-request of basic information concerning CBCA notices would involve a notice under the Act that is filed in contemplation of a public tender offer subject to the requirements of the Securities Exchange Act of 1934 (15 U.S.C. 78m and 78n) and the FDIC's regulations governing tender offers (12 CFR 335.501–335.530). Such notices may be given confidential treatment for up to thirty-four days after the notice is accepted if: (i) The filing party requests such confidential treatment and represents that a public announcement of the tender offer and the filing of appropriate forms with the FDIC will occur within thirty-four days from the acceptance of the notice; and (ii) the Division of Bank Supervision of the FDIC determines, in its discretion, that it is in the public interest to grant such confidential treatment. Requests for confidential treatment under other circumstances may be granted by the FDIC, in its discretion, when they are consistent with the purposes of the CBCA.

Disclosure by newspaper publication does not, in the FDIC's view, constitute the commencement of a public tender offer under the FDIC's rule 335.502 (12 CFR 335.502). Under rule 335.502, a tender offer is deemed to commence, *inter alia*, when there has been public announcement of the following information: public disclosure of the identities of the bidder and target, the amount of securities sought, and the price to be paid. The public disclosure required by the newspaper announcement does not require public disclosure of the price to be paid for the target's stock.

The regulation also makes clear that nothing in the regulation affects any obligation which the person filing the notice may have to comply with the federal securities laws or any other laws.

Regulatory Flexibility Act

This rule does not require any action by State nonmember banks that they do not now perform pursuant to current regulations. In accordance with the Regulatory Flexibility Act (5 U.S.C. 601–12), the FDIC certifies that this rule will not have a significant economic impact on a substantial number of small banks, and an Initial Regulatory Flexibility Analysis was not prepared.

Paperwork Reduction Act

The newspaper publication of the filing of a notice, including identification of the prospective acquirer, the target bank, and the date of filing, is not "information" within the meaning of the regulations that implement the Paperwork Reduction Act. As such, the Paperwork Reduction Act does not apply to this rule.

List of Subjects

12 CFR Part 303

Banks, banking, Administrative practice and procedure, Authority delegations, Bank deposit insurance, State non-member banks, Change in bank control.

12 CFR Part 309

Authority delegations; Disclosure requirements; Freedom of Information; Privacy.

Accordingly, the FDIC hereby amends 12 CFR Parts 303 and 309 as set forth below.

PART 303—APPLICATIONS, REQUESTS, SUBMITTALS, DELEGATIONS OF AUTHORITY, AND NOTICES OF ACQUISITION OF CONTROL

1. The authority citation for Part 303 continues to read as follows:

Authority: Sec. 2(5), 2(6), 2(7)(j), 2(8), 2(9 "Seventh" and "Tenth"), 2(18), 2(19), Pub. L. No. 797, 64 Stat. 876, 881, 891, 893 as amended by Pub. L. No. 86–463, 74 Stat. 129; sec. 2, Pub. L. No. 87–827, 76 Stat. 953; Pub. L. No. 88–593, 78 Stat. 940; Pub. L. No. 89–79, 79 Stat. 244; sec. 1, Pub. L. No. 89–356, 80 Stat. 7; sec. 12(c), Pub. L. No. 89–485, 80 Stat. 242; sec. 3, Pub. L. No. 89–597, 80 Stat. 824; title II, secs. 201, 205, Pub. L. No. 89–695, 80 Stat. 1055; sec. 2(b), Pub. L. No. 90–505, 82 Stat. 856; secs. 6(c) (7), (12), (13), Pub. L. No. 95–369, 92 Stat. 616–620; title III, secs. 306, 309 and title VI, sec. 602, Pub. L. No. 95–630, 92 Stat. 3677, 3683 (12 U.S.C. 1815, 1816, 1817(j), 1818, 1819 "Seventh" and "Tenth", 1828, 1829); title I, sec. 108, Pub. L. No. 90–321, 82 Stat. 150 as amended by title IV, sec. 403, Pub. L. No. 93–495, 88 Stat. 1517 and title VI, sec. 608, Pub. L. No. 96–221, 94 Stat. 171 (15 U.S.C. 1607).

2. Section 303.4(b) is revised to read as follows:

§ 303.4 Change in bank control.

* * * * *

(b) *Notices.* (1) Notice of a proposed acquisition of control should be filed with the regional director of the FDIC region in which the bank in which stock is being acquired is located. The FDIC will not accept a notice unless the information provided is responsive to every item specified in paragraph 6 of the Change in Bank Control Act of 1978 (12 U.S.C. 1817(j)(6)) and every item prescribed in the appropriate FDIC forms. With respect to personal financial statements required by paragraph 6(b) of the Change in Bank Control Act of 1978, an acquiring person may include a current statement of assets and liabilities, as of a date not more than ninety days prior to the date the notice is filed, a brief income summary, and a statement of material changes since the date of the statement. The regional director, the Director of the Division of Bank Supervision, or the Board of Directors may require additional information with respect to personal financial statements.

(2)(i) Exept as otherwise provided in paragraph (b)(2) (ii) or (iii) of this section within ten days after receiving confirmation that the appropriate FDIC regional office has accepted the notice, the acquiring person(s) shall publish an announcement of such acceptance in the business section of a newspaper having general circulation in the community in which the home office of the bank whose stock is sought to be acquired is located. Promptly thereafter, the acquiring person(s) shall send a copy of the newspaper announcement and the publisher's affidavit of publication to the regional director of the FDIC region in which the subject bank is located. The newspaper announcement shall contain the name(s) of the proposed acquirer(s), the name of the bank whose stock is sought to be acquired, and the date of acceptance by the FDIC of the notice of acquisition of control. The announcement shall also state that any person wishing to comment on the proposed change in control may do so by submitting written comments to the regional director of the FDIC at (give address of the regional office) within twenty days following the required newspaper publication or, if the FDIC has shortened the public comment period pursuant to § 303.4(b)(3), within such shorter period.

(ii) In a community in which there is no daily or weekly community newspaper, the acquiring person(s) may satisfy the publication requirement contained in paragraph (b)(2)(i) of this section by publishing the required newspaper announcement in either a county-wide newspaper (in the county in which the bank's home office is

located) or, if there is no county-wide newspaper, in a state-wide newspaper.

(iii) In the case of a notice filed in contemplation of a public tender offer subject to the requirements of the Securities Exchange Act of 1934 (15 U.S.C. 78m and 78n) and the FDIC's regulations governing tender offers (12 CFR 335.501–335.530), the acquiring person(s) shall publish the required newspaper announcement not later than the earliest of (A) the commencement of the tender offer under section § 335.502 of the FDIC's regulations (12 CFR 335.502), (B) other public annoucement of the tender offer, or (C) thirty-four days after the FDIC's acceptance of the notice of acquisition of control.

(3) In acting upon a proposed change in control, the FDIC shall consider all public comments received within twenty days following the required newspaper publication. At the FDIC's option, comments received after this twenty-day period may, but need not, be considered. In circumstances necessitating prompt action, the FDIC may, for good cause shown, (i) waive the publication requirement of § 303.4(b)(2), (ii) waive or shorten the public comment period, or (iii) act on a proposed change in control prior to the expiration of the public comment period.

(4) A notice of acquisition of control that is filed in contemplation of a public tender offer subject to sections 13(d) or 14(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m and 78n) and the FDIC's regulations governing tender offers (12 CFR 335.501–335.530) may be given confidential treatment for up to thirty-four days after the notice is accepted if (i) the filing party requests confidential treatment under this rule and represents that a public announcement of the tender offer and the filing of appropriate forms with the FDIC will occur within thirty-four days from the acceptance of the notice, and (ii) the FDIC determines, in its discretion, that it is in the public interest to grant confidential treatment. In its discretion, the FDIC may grant confidential treatment under other circumstances when consistent with the purposes of the Change in Bank Control Act of 1978.

(5) Nothing in this regulation shall affect any obligation which the acquiring person(s) may have to comply with the Federal securities laws or any other laws.

PART 309—DISCLOSURE OF INFORMATION

3. The authority citation for Part 309 continues to read as follows:

Authority: Sec. 2[9 "Seventh" and "Tenth"], Pub. L. No. 797, 64 Stat. 881 as amended by title III, sec. 309, Pub. L. No. 95–630, 92 Stat. 3677 (12 U.S.C. 1819 "Seventh" and "Tenth"); 5 U.S.C. 552.

4. In § 309.4, paragraph (c) is amended by removing paragraph (2) and redesignating paragraph (3) as (2), and paragraph (d) is revised as follows:

§ 309.4 Publicly available information.

* * * * *

(d) At the regional office of the FDIC for the region in which the applicant or subject bank is located (A list of FDIC's regional offices is available from the Corporate Communications Office, Federal Deposit Insurance Corporation, 550–17th Street, NW., Washington, DC 20429, (202) 898–6996.):

(1) In the FDIC's discretion, non-confidential portions of application files as provided in 12 CFR 303.6(g), including applications for deposit insurance, to establish branches, to relocate offices and to merge.

(2)(i) After acceptance by the FDIC of a notice filed pursuant to the Change in Bank Control Act of 1978 (12 U.S.C. 1817(j)) (other than a notice filed in contemplation of a public tender offer subject to the Securities Exchange Act of 1934 (15 U.S.C. 78m and 78n) and the FDIC's tender offer regulations (12 CFR 335.501–335.530), the appropriate FDIC regional office will make available, on request, the following information: the name of the bank whose stock is to be acquired; the date the notice was accepted; the identity of the acquiring person(s); the number of shares to be acquired; and the number of outstanding shares of stock in the bank. (The mere filing of a notice does not automatically constitute "acceptance" by the FDIC. A notice is "accepted" when the regional office determines that the notice contains all the information required by 12 U.S.C. 1817(j)(6).)

(ii) In the case of a notice filed in contemplation of a public tender offer that is subject to the Securities Exchange Act of 1934 (15 U.S.C. 78m and 78n) and the FDIC's tender offer regulations (12 CFR 335.501–335.530), when public disclosure is determined under subsection 303.4(b)(4) of the FDIC's regulations (12 CFR 303.4(b)(4)) to be appropriate, the appropriate FDIC regional office will make available, on request, the information described in subsection 309.4(d)(2)(i).

(iii) After a transaction subject to the Change in Bank Control Act of 1978 has been consummated, the appropriate FDIC regional office will make available, on request, the following information, in addition to the information described in § 309.4(d)(2)(i): the date the shares were acquired; the names of the sellers (or transferers); and the total number of shares owned by the purchasers (or acquirers).

By order of the Board of Directors this 24th day of March 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86–6961 Filed 3–28–86; 8:45 am]

BILLING CODE 6714–01–M

12 CFR Part 329

Interest on Deposits

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Final rule.

SUMMARY: The FDIC has revised Part 329 of its regulations, 12 CFR Part 329 ("Interest on Deposits"), in response to changes in the Federal Deposit Insurance Act ("FDI Act"), 12 U.S.C. 1811–1831d. The FDI Act requires the FDIC to forbid the payment of interest on "demand deposits." The Final Rule defines "demand deposits" to mean any deposit that does not have a reserved-notice period or maturity of at least seven days, and also any other deposit from which the depositor may make more than six third-party transfers per month (of which only three may be by check or debit card); but the latter kind of deposit is not a "demand deposit" if the depositor is eligible to hold a NOW account. The Final Rule essentially preserves the *status quo*, and maintains substantial parity with Regulation Q, 12 CFR Part 217, as recently amended by the Board of Governors of the Federal Reserve System ("FRB").

EFFECTIVE DATE: April 1, 1986.

FOR FURTHER INFORMATION CONTACT: Jules Bernard, Senior Attorney, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC, 20429, 202–898–3731.

SUPPLEMENTARY INFORMATION: Prior to 1980, the FDIC regulated the rates that FDIC-insured banks that do not belong to the Federal Reserve System ("nonmember banks") could pay on time and savings deposits. The FDIC set forth those regulations in Part 329. *See* 12 U.S.C. 1828(g); 12 CFR 329.6 & 329.7.

The FDIC also set forth two other kinds or rules in Part 329. As the FDI Act required, the FDIC by regulation forbade nonmember banks to pay interest on demand deposits. In addition, the FDIC established standards for advertising interest on time and savings deposits.

See 12 U.S.C. 1828(g); 12 CFR 329.2 & 329.8.

In 1980 Congress transferred the FDIC's authority to regulate interest rates on time and savings deposits (but not the other two kinds of authority) to the Depository Institutions Deregulation Committee (DIDC). *See* 12 U.S.C. 3502. The DIDC issued its own rules. *See* 12 CFR Part 1204. The DIDC's rules superseded those of the FDIC wherever they conflicted.

The DIDC and all its rules expire on April 1, 1986. The FDI Act (and the FDIC's regulatory authority) will also change in material ways on that date. The FDIC will still be obliged to forbid nonmember banks to pay interest on demand deposits, however, and will continue to have authority to regulate nonmember banks' advertising practices.[1] The FDIC is adopting the Final Rule in response to these changes.

Ordinarily the FDIC publishes a rule in final form 30 days before the rule's effective date. *See* "Development and Review of FDIC Rules and Regulations," 1 *FED. DEPOSIT INS. CORP.* 5057, 5058 (May 21, 1979); *see also* 5 U.S.C. 553(d). In this case, however the FDIC has determined that it is necessary to make the Final Rule effective on shorter notice. The statutory basis for Part 329 will be altered as of April 1, 1986, and the changes that the Final Rule makes to Part 329 are necessary to conform Part 329 to the FDI Act as amended. The FDIC therefore considers that there is good cause to make the Final Rule effective on that date. *See* 5 U.S.C. 553(d)(3). Moreover, for the most part, the Final Rule preserves the substance of existing regulations; where the Final Rule has made changes, the changes generally relieve restrictions to which nonmember banks were subject under DIDC regulations. The FDIC considers that this circumstance likewise provides sufficient grounds for making the Final Rule effective on less than thrity days' notice. *Id.* § 553(d)(1).

The Final Rule

I. Defining "Demand Deposit"

A. The FDIC's Proposal

The FDIC proposed two rules, presented in the alternative. The first one (the "Revision") defined the term "demand deposit" to include:

—Any deposit that has an original maturity or notice period of less than seven days, or regarding which the nonmember bank reserves less than seven days' notice of an intended withdrawal, and

—Any deposit that otherwise resembles a Money Market Deposit Account (MMDA) as currently defined by the DIDC, 12 CFR 1204.122, but that allows the depositor to exceed the number of third-party transfers or preauthorized payments that are allowed for MMDAs under the DIDC's current rules:[2] provided, that a deposit of this kind does not qualify as a "demand deposit" if the depositor is eligible to hold a NOW account.[3]

The FRB had previously published proposed changes to its own rules governing the payment of interest on deposits ("proposed Regulation Q"), and had asked for comment on them. 51 FR 31 (1986). Proposed Regulation Q in substance defined "demand deposit" in the same way as the Revision did. The FDIC proposed the Revision in order to leave open the possibility of the two agencies adopting a common rule.

The FDIC's other proposal (the "Alternative Rule") was more liberal. It specified that the term "demand deposit" referred only to deposits that were, as a matter of legal right, payable on demand. It placed no limitations on nondemand deposits. Accordingly, it implicitly allowed all depositors—including corporations—to write an unlimited number of checks on nondemand deposits, to the full extent permitted by law.[4]

After the FDIC issued its proposed rule, the Federal Home Loan Bank Board ("FHLBB") proposed to revise its own regulations on the same subject. The FHLBB's proposal was similar to the Alternative Rule. It defined "demand deposit" to include only deposits that were payable on demand as a matter of legal right, and did not limit third-party transfers from nondemand accounts.

B. Comments

The FDIC received 55 comments on the proposal. Thirty-five comments favored the Revision; twenty favored the Alternative Rule.

The comments favoring the Revision did so primarily for the following reasons:

1. A large majority of those favoring the Revision said the Alternative Rule would raise banks' cost of funds significantly (21 comments); two others disagreed. In addition, several comments said that the Alternative Rule could raise banks' costs by increasing assessment costs, entailing higher reserve requirements, or imposing burdensome changeover costs (8 comments).

2. About one-third said the Revision was desirable because it maintained parity between banks belonging to the Federal Reserve System and nonmember banks (13 comments). Another comment said that parity was desirable, but that the FRB should follow the Alternative Rule. Yet another comment said the FDIC should adopt the Alternative Rule notwithstanding the FRB, and that the FRB would be forced to adopt a similar rule to correct competitive imbalances. Finally, one comment declared that parity between the FRB's rules and those of the FDIC was not required.

3. A large group said the Alternative Rule might well impair the solvency of some banks (12 comments). One other comment, submitted by a banking research organization, suggested that the adverse effects on solvency for the banking industry generally would not be especially severe; but the adverse impact on small banks could be greater than prior studies (which are based on data gathered several years ago) have concluded.

4. A smaller group said the Alternative Rule would disrupt industry practices (9 comments). The comment submitted by the banking research organization suggested that the disruptive effects would probably be less severe for most banks, but more severe for smaller banks, than prior studies have concluded.

5. Another set of comments said the Alternative Rule would work to the disadvantage of bank customers (consumers and others), because banks would have to impose higher fees and/or charge higher loan rates to cover added costs (9 comments). On the other hand, one comment endorsed the Alternative Rule precisely because it would eliminate the subsidy that depositors are forced to give to borrowers.

6. Some comments said the Alternative Rule was confusing in one way or another—e.g., because of

[1] The FRB has proposed to revise Regulation Q's advertising rules. *See* 51 FR 1379 (1986). The FDIC is not now altering the advertising rules set forth in Part 329, except by eliminating obsolete provisions. The FDIC will address issues related to advertising at a later date.

[2] The limit is "six transfers per month or statement cycle (or similar period) of at least four weeks . . . and no more than three of the six such transfers may be by check, draft or similar order. . . ." 12 CFR 1204.122.

[3] Only natural persons, nonprofit organizations, and public units may hold NOW accounts. *See* 12 U.S.C. 1832(a)(2).

[4] The FDIC took no position on the question whether banks could lawfully offer checkable interest-bearing accounts to depositors other than natural persons, nonprofit organizations, and public units. *See* 12 U.S.C. 1832(a) (enabling banks to offer NOW accounts to these depositors, but not forbidding banks to offer such deposits to anyone). For discussion purposes, the FDIC assumed that checkable nondemand business accounts were lawful.

differences between the Alternative Rule's definitions and those used in the FRB's Regulation D, 12 CFR Part 217 (7 comments). On the other hand, two comments said the Alternative Rule would reduce confusion.

7. Several comments said that the Alternative Rule would make substantial changes in the regulatory and competitive environment for banking, and that no such changes should be made without a longer discussion period and/or a phase-in period (6 comments).

8. A small number of comments said that the Alternative Rule was suspect as being unlawful, or at least inconsistent with Congressional intent (4 comments). One comment asserted the opposite.

9. A few comments said the Alternative Rule would increase the volatility of bank deposits (3 comments). An equal number disagreed, saying that the Alternative Rule would enable banks to retain funds that are now being swept from smaller banks into larger money-center banks or being transferred into money-market funds.

The comments favoring the Alternative Rule did so primarily for the following reasons:

1. The great majority said the Alternative Rule would enable banks to serve their depository customers better by providing simpler and more flexible services (14 comments). Eight comments said the Alternative Rule would let banks provide depository services more efficiently.

2. About one-third said the Alternative Rule would eliminate cumbersome and intrusive regulations (7 comments).

3. A small number indicated that the Alternative Rule would reduce discrimination against small businesses and other small bank customers; another comment disagreed (3 comments).

c. The Rule as Adopted

The Final Rule adopts the Revision's definition of "demand deposit," with certain changes.

The Final Rule simplifies the definition in minor ways. The Final Rule does not refer to the reserved-notice requirement when speaking of nondemand accounts that are subject to transfers, but merely speaks of "all other" deposits. The Final Rule also refers, without further elaboration, to depositors identified in 12 U.S.C. 1832(a)(2).

The Final Rule explicitly refers to debit-card transfers. It applies the special three-transfer limit to any transfer "authorized to be made by check, draft, debit card or similar order" from a nondemand deposit. In this regard, the Final Rule conforms to Regulations Q.

On the other hand, the Final Rule provides (in an interpretive rule) that certain withdrawals and transfers from nondemand deposits do not count toward the six-transfer limit. They include transfers made to the nonmember bank for the purpose of repaying loans and associated expenses at the nonmember bank (as originator or servicer); transfers made to another account of the same depositor at the nonmember bank when the transfers are made by mail, messenger, automated teller machine or in person; and withdrawals made by mail, messenger, automated teller machine, in person, or by telephone (via check mailed to the depositor). This exception does not apply, however, to transfers that are made to the nonmember bank for the purpose of repaying loans that are made by the nonmember bank to the depositor's demand account for the purpose of covering overdrafts. The Final Rule conforms to Regulation Q.[5]

The Revision implied that, if the nonmember bank "permitted" the depositor to exceed the transfer limits, the deposit would automatically be classified as a "demand deposit." Any such automatic change in a deposit's status could cause confusion, however, particularly in collateral areas such as computing "demand deposits" for assessment purposes. Accordingly, the Final Rule provides that a nondemand deposit is deemed to be a "demand deposit" only if the deposit contract authorizes the depositor to exceed the six-transfer limit.

Nevertheless, if a nonmember bank regularly and consistently allows a depositor to exceed the tranfer limits on a nondemand deposit, or if the nonmember bank lacks any mechanism to detect violations of the limit, the FDIC will take action against the nonmember bank pursuant to the FDIC's cease-and desist procedures. In a given case, the FDIC may require the nonmember bank to refrain from paying interest on the deposit prospectively.[6]

D. Discussion.

The Final Rule has three main benefits:

—It maintains parity with the FRB's Regulation Q. Accordingly, it avoids creating competitive or regulatory imbalances between member and nonmember banks. A large group of comments asserted that this was a desirable goal; the FDIC agrees.

—It preserves the essential features of the current definition of "demand deposit." Accordingly, it avoids disrupting existing banking practices. Many comments asserted that this was a desirable result; the FDIC concurs.

—Although the Final Rule does not follow the exact language of Regulation D (as Regulation Q does, by means of cross-references), the Final Rule follows the same line of demarcation that Regulation D draws between transactions balances and less-volatile funds. In this regard, the Final Rule helps to minimize confusion, as several comments have requested.

Conversely, the Final Rule avoids two significant pitfalls. First, based on the comments the FDIC has received, the FDIC believes that any proposal to liberalize the rules governing third-party transfers from interest-bearing accounts should be analyzed further in light of the potential for inflicting substantial, if temporary, costs on smaller banks.

Second, the Supreme Court's recent decision *Board of Govenors of the Fed. Res. System* v. *Dimension Financial Corp.*, 58 U.S.L.W 4101 (Jan. 22, 1986), suggests that the Alternative Rule could have the unintended side effect of weakening the Bank Holding Company Act (BHCA), 12 U.S.C. 1841–48 *et al.* The BHCA defines a "bank" as an institution that "accepts deposits that the depositor has a legal right to withdraw on demand." *Id.* § 1841(c). The decision in *Dimension* indicates that this definition would not include institutions that accept only nondemand deposits, even though (as in the case of NOW accounts) the deposits are subject to third-party transfers. If corporations could shift transactions balances from demand deposits to nondemand accounts, some banks might no longer accept any "demand deposits" in an effort to avoid the application of the BHCA. In that event, the FRB's authority

[5] The FRB says that, if a depositor has a line of credit to cover overdrafts from a checking account, and if the depostior transfers funds from a nondemand account ro repay the bank for loans of this kind, the payments to the bank do not count toward the six-transfer limit on the nondemand account—unless the depositor use this technique as a recurring practice. The Final Rule takes a different approach: all such payments count toward the six-transfer limit. This difference is only a superficial matter of form, however. See footnote 6.

[6] The FRB takes a somewhat different approach. If a depositor exceeds the transfer limits on a nondemand deposit as a regular matter of practice, the FRB will require the bank to take corrective action. If the bank fails to do so, the FRB may reclassify the deposit as a "demand deposit." Although the Final Rule does not provide for reclassification of the deposit, as a practical matter, the Final Rule and Regulation Q are not materially different.

to exercise control over the companies that own these banks could be affected.

II. Electronic NOW Accounts

A. The FDIC's Proposal

The Revision made special provision for an interest-bearing account that was "subject to withdrawals by telephonic or data transmission order or instruction and which consists of funds the entire beneficial interest of which is held by a party eligible to hold a NOW account." The FRB likewise provided for an account of this kind ("electronic NOW accounts"). The FDIC imposed a seven-day reserved-notice requirement on electronic NOW accounts, in order to place them on substantially the same footing as ordinary NOW accounts. The FRB did not impose that requirement.

B. Comments

Two comments addressed this matter. One said that electronic NOW accounts and ordinary NOW accounts should be subject to the same notice requirements, but said that the length of the notice period, by itself, was not important. The other said that the most important thing was to maintain parity with Regulation Q—and since Regulation Q imposed the reserved-notice period on ordinary NOWs but not on electronic NOWs, the Final Rule should do so too.

C. The Rule as Adopted

The Final Rule makes no distinction between electronic NOW accounts and ordinary NOW accounts. Natural persons, nonprofit organizations, and public units may transfer funds from nondemand accounts by either technique.

D. Discussion

By putting all accounts held by natural persons, nonprofit organizations, and public units on essentially the same footing, the Final Rule maintains a clear line of demarcation between demand deposits and nondemand deposits—even when the nondemand deposits are subject to unliminted third-party transfers.

III. Early-Withdrawal Penalties

A. The FDIC's Proposal

After March 31, 1986, the FDI Act will not require the FDIC to impose a penalty for premature withdrawals from time deposits. Both the Revision and the Alternative Rule eliminated that requirement. The Revision and the Alternative Rule also eliminated the so-called "one percent differential:" *i.e.*, the rule that banks must charge at least one percent more for any loan secured by a time deposit that the bank itself has issued to the depositor than the bank pays the depositor as interest on that time deposit.

The FDIC suggested that across-the-board rules of this kind did not appear to be needed for the limited purpose of enforcing the prohibition against paying interest on demand deposits, and that it would be more appropriate to address possible violations of the prohibition on a case-by-case basis. Neither the FRB nor the FHLBB have proposed to retain the penalties or the differential.

B. Comments

Two comments favored keeping mandatory early-withdrawal penalties; one comment favored eliminating them. The latter comment said, however, that if a bank imposed such a penalty voluntarily on a particular class of deposit, the bank should be required to impose the penalty on all such deposits uniformly. In addition, one comment advocated retaining the one-percent differential; one comment called for dispensing with it.

C. The Rule as Adopted

The Final Rule omits the mandatory early-withdrawal penalties and the one-percent differential. Nonmember banks may still impose early-withdrawal penalties for their own purposes, however. When they do, the Final Rule requires them to include a clear and conspicuous statement that they will impose a "substantial penalty" for early withdrawals.

D. Discussion

The Final Rule is limited in its focus to enforcing the prohibition against paying interest on demand deposits. Neither early-withdrawal penalties nor the one-percent differential appear to have any significant role to play in that limited context.

Both the FRB and the FHLBB, in their proposed rules, indicated an interest in retaining early withdrawal penalties in order to assist depository institutions in matching the maturities of assets and liabilities for purposes of safety and soundness of the institutions. The FRB received a number of comments that supported this concept. The FRB, in its proposed Regulation Q, indicated that it would consult with the other federal depository institution regulatory agencies concerning the appropriate structure and use of penalties for this purpose. The FRB has raised the issue with FDIC, the Comptroller of the Currency, and the FHLBB.

The FDIC intends to study the economic and legal issues relating to imposing early withdrawal penalties for safety and soundness purposes in cooperation with the other federal depository institution regulatory agencies. In the interim, the FDIC continues to believe that such penalties serve a useful purpose in maintaining the stability of a nonmember bank's liabilities, and nonmember banks are encouraged to consider including them in their time deposit contracts.

IV. Premiums

A. The FDIC's Proposal

The DIDC's regulations specify that, in certain circumstances, payments made to depositors will be regarded as "premiums," and not as "a payment of interest." 12 CFR 1204.109. The DIDC limits the "premium" exception to payments or gifts having a value of $10 or less for deposits of less than $5,000, and $20 or less for deposits of $5,000 or more.

In both the Revision and the Alternative Rule, the FDIC proposed to withdraw its policy statement entitled "Premiums Not Considered Payment of Interest or Dividends," 1 *FED. DEPOSIT INS. CORP.* 5023 (March 24, 1970). The FDIC observed that premiums are primarily used to attract consumer deposits, and consumers may hold all their deposits—including their checking balances—in the form of interest-bearing accounts. Accordingly, in the FDIC's view, there was little reason to retain the "premium" concept (or the policy statement).

B. Comments

Two comments addressed this matter. One favored retaining the premium rule, at least in principle; the other favored eliminating it.

C. The Rule as Adopted

The Final Rule preserves the "premium" concept in an interpretive rule. Like the DIDC's current rule, the Final Rule specifies that a payment qualifies as a "premium" only if the nonmember bank gives it to the depositor for opening, adding to, or renewing the deposit.

The Final Rule is somewhat more liberal than the current DIDC regulation. The Final Rule does not impose any special certification procedures; nonmember banks merely have to retain adequate information for examiners to assure themselves that the nonmember bank is complying with the FDIC's rules.

D. Discussion

The premium rule enables nonmember banks to retain the option of campaigning for consumer demand deposits. The FDIC considers that no

harm would be done by preserving the "premium" concept.

V. Grace Period for Renewing or Withdrawing Time Deposits

A. The FDIC's Proposal

Part 329 now provides that, if a depositor has a maturing time deposit, the depositor has 10 days after maturity to reinvest the funds in a new time deposit, and the nonmember bank may pay interest on the deposit computed from the maturity date of the original deposit. The FDIC had proposed to do away with this rule, on the ground that it is not needed once interest-rate ceilings have been lifted. Nonmember banks can pay whatever interest they like on time deposits: they do not have to choose any particular method of computation.

In addition, the 10-day grace period has been interpreted to give depositors 10 days to withdraw funds without penalty from time deposits that roll over automatically. The FDIC did not believe that this aspect of the rule provided any special reason to retain it, because during this period the nonmember bank merely had discretion to waive the penalty; Part 329 did not compel the nonmember bank to do so.

B. Comments

One comment addressed this matter. It favored retaining the grace period.

C. The Rule as Adopted

The FDIC preserves the 10-day grace period in an interpretative rule.

D. Discussion

Eliminating the grace period could cause confusion in the industry. The FDIC considers that no harm would be done by retaining the grace period.

VI. Grace Period for Paying Interest After Maturity on Time Deposit

A. The FDIC's Proposal

The DIDC's rules currently say that, once a time deposit has matured, the bank may continue to pay interest on the deposit for up to seven days. 12 CFR 1204.102. The FDIC's proposal would have eliminated this 7-day grace period, on the ground that it was not necessary to retain it.

B. Comments

No comments addressed this matter.

C. The Rule as Adopted

The Final Rule preserves the grace period in an interpretive rule. The Final Rule expands the grace period from seven days to ten days.

D. Discussion

Absent a grace period, the payment of interest on matured time deposits could be regarded as the payment of interest on demand deposits. By retaining the grace period, the Final Rule avoids disruption of current industry practice.

It is needlessly complicated to have one grace period for some purposes and another one for others. Accordingly, the Final Rule prescribes a uniform grace period for all purposes.

VII. Conforming the Language of Part 329 to That of Regulation Q

The Final Rule redefines the term "interest." The change reflects the long-standing interpretation of this term by the FDIC and by the FRB. The change does not alter the substance of the definition.

VIII. Obsolete Provisions and Interpretations

The Final Rule omits the definitions of "savings deposit" and "time deposit," the rules for computing and paying interest on such accounts (apart from the premium and grace-period rules), and the rules for withdrawing funds from them. The Final Rule also omits the special advertising rules for accounts that once had a separate regulatory status, but which no longer do so.

The FDIC will withdraw two policy statements: "Premiums Not Considered Payment of Interest or Dividends," 1 *FED. DEPOSIT INS. CORP.* 5023 (March 24, 1970), and "Withdrawal of Savings Deposits by Telephone," *id.* 5037 (April 10, 1975). The Final Rule makes it unnecessary to retain these policy statements.

Finally, the FDIC will withdraw four interpretations of Part 329 that are set forth in opinions issued by the FDIC's General Counsel. Opinion No. 2, "Computation of Interest on Time and Savings Deposits," *id.* 5522 (Feb. 10, 1978) allows nonmember banks to divide the year into four equal quarters of 91¼ days each for the purpose of computing interest on nondemand deposits. Opinion No. 3 "Interest Rate Differential on Loans Secured by Time Deposits," *id.* 5523 (Feb. 16, 1978), speaks of the mandatory differential between the rate a nonmember bank charges on a loan secured by a deposit and the rate paid on the underlying deposit. Opinion No. 4, "Advertising of 6-Month Variable Rate (Money Market) Time Deposits," *id.* 5524 (undated) prescribes special rules for advertising six-month time deposits. Opinion No. 5, "Computation of Interest on Time and Savings Deposits During Leap Years," *id.* 5526 (Nov. 20, 1979), prescribes methods for computing interest during leap years. These opinions will all be obsolete after March 31, 1986.

Other Matters

Regulatory Flexibility Act Statement

The Final Rule merely simplifies Part 329 and relaxes regulatory constraints. Accordingly, the Final Rule will not have a signficant economic impact on a substantial number of small entities. The provisions of the Regulatory Flexibility Act relating to a regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable.

Paperwork Reduction Act Statement

The Final Rule does not affect the recordkeeping or reporting requirements imposed on nonmember banks, or affect any nonmember bank's competitive status. A cost/benefit analysis (including a small-bank impact statement) is not required.

Regulation Review Program

The FDIC has established a program for reviewing each regulation at least once every five years in order to determine whether to retain, revise, or terminate it. The FDIC has established certain factors that must be taken into consideration in making that determination. *See* "Development and Review of FDIC Rules and Regulations," 1 *FED. DEPOSIT INS. CORP.* 5057 (1979). The FDIC selected Part 329 for review under the FDIC's Regulation Review Program. *See* 50 FR 14247 (1985). The factors identified in "Development and Review of FDIC Rules and Regulations" were all taken into consideration in the development of the Final Rule.

List of Subjects in 12 CFR Part 329

Advertising, Banks, Banking, Interest rates.

In consideration of the foregoing, the FDIC hereby revises Part 329 of title 12 of the Code of Federal Regulations to read as follows:

PART 329—INTEREST ON DEPOSITS

Sec.

Authority: Secs. 9 and 18, Pub. L. No. 797, 64 Stat. 881, 891 (12 U.S.C. 1819 and 1828);

secs. 302(b) and 303, Pub. L. No. 96–221, 94 Stat. 146 (12 U.S.C. 1828(g) and 1832(a)).

§ 329.0 Scope.

This part applies to any deposit which is payable by a bank within the States of the United States or the District of Columbia, or which is directly or indirectly accessible by check, draft, or order payable within the States of the United States or the District of Columbia, which check, draft or order is drawn on an account maintained at a bank office located within the States of the United States or the District of Columbia. An "international banking facility time deposit," as defined by the Board of Governors of the Federal Reserve System in § 204.8(a)(2) of this title, is not a "deposit" within the meaning of this part.

§ 329.1 Definitions.

(a) The term "bank" includes:

(1) Any State bank, as defined in section 3(a) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(a), the deposits in which are insured by the Corporation, and which is not a member of the Federal Reserve System;

(2) Any State branch of a foreign bank, the deposit obligations in which branch are insured by the Corporation; and

(3) Any noninsured bank in a State if the total amount of time and savings deposits held in all such banks in the State, plus the total amount of deposits, shares, and withdrawable accounts held in all building and loan, savings and loan, and homestead associations (including cooperative banks) in the State which are not members of a Federal home loan bank, is more than 20 per centum of the total amount of such deposits, shares, and withdrawable accounts held in all banks and building and loan, savings and loan, and homestead associations (including cooperative banks) in the State.[1]

(b) The term "demand deposit" includes:

(1) any deposit that has a maturity or required-notice period of less than seven days;

(2) any deposit regarding which the bank does not reserve the right to require at least seven days' written notice prior to withdrawal or transfer of any funds from the account; or

(3) any other deposit from which, under the terms of the deposit contract, the depositor is authorized to make, during any month or statement cycle of at least four weeks, more than six transfers by means of a preauthorized or automatic transfer or telephonic (including data transmission) agreement, order or instruction, which transfers are made to another account of the depositor at the same bank, to the bank itself, or to a third party: *provided,* that any deposit specified in this paragraph (3) will be deemed to be a "demand deposit" if more than three of the six authorized transfers are authorized to be made by check, draft, debit card or similar order made by the depositor; *and provided further,* that no deposit specified in this paragraph (3) will be deemed to be a "demand deposit" if the entire beneficial interest of the deposit is held by a depositor identified in paragraph (2) of section 2(a) of Pub. L. 93–100 (12 U.S.C. 1832(a)(2)).[2]

(c) The term "interest" means any payment to or for the account of any depositor as compensation for the use of funds constituting a deposit. A bank's absorption of expenses incident to providing a normal banking function or its forbearance from charging a fee in connection with such a service is not considered a payment of interest.

§ 329.2 Payment of interest.

No bank shall, directly or indirectly, by any device whatsoever, pay interest on any demand deposit.

§ 329.3 Advertising.

Every advertisement soliciting deposits by or on behalf of a bank shall be governed by the following rules:

(a) *Annual rate of simple interest.* Interest rates shall be stated in terms of annual rates of simple interest. In no case shall a rate be advertised which is in excess of the applicable maximum rate for the particular deposit.

(b) *Percentage yields based on 1 year.* Where a percentage yield achieved by compounding interest during 1 year is advertised, the annual rate of simple interest shall be stated with equal prominence, together with a reference to the basis of compounding.

(c) *Percentage yields based on periods in excess of 1 year.* No advertisement shall include any indication of a total percentage yield, compounded or simple, based on a period in excess of a year, or an average annual percentage yield achieved by compounding during a period in excess of a year.

(d) *Time or amount requirements.* If an advertised rate is payable only on deposits that meet time or amount requirements, such requirements shall be clearly and conspicuously stated. Where the time requirement for an advertised rate is in excess of a year, the required number of years for the rate shall be stated with equal prominence, together with an indication of any lower rate or rates that will apply if the deposit is withdrawn at an earlier maturity.

(e) *Profit.* The term "profit" shall not be used in referring to interest paid on deposits.

(f) *Accuracy of advertising.* No bank shall make any advertisement relating to the interest paid on deposits which is inaccurate or misleading or which misrepresents its deposit contracts.

(g) *Solicitation of deposits for banks.* Any person or organization which solicits deposits for a bank shall be bound by the rules contained in this section with respect to any advertisement relating to such deposits. No such person or organization shall advertise a percentage yield on any deposit it solicits for a bank which is not authorized to be paid and advertised by such bank.

(h) *Withdrawal penalties.* Any advertisement relating to the interest paid on any deposit regarding which the bank imposes a penalty for withdrawal prior to the deposit's maturity shall include a clear and conspicuous statement that in the event the depositor is allowed to withdraw all or part of his deposit before maturity, a "substantial penalty" will be imposed.

§ 329.101 Transfers not included within the six transfers allowed for nondemand deposits pursuant to § 329.1(b)(3).

This interpretive rule describes certain transfers that are not included as any of the six transfers allowed pursuant to § 329.1(b)(3).

(a) Transfers from a deposit described in § 329.1(b)(3) that are made to the bank are not deemed to be included within the six transfers permitted for a nondemand deposit by that paragraph (3) when the transfers are made for the purpose of repaying loans and

[1] The following State satisfies this criterion: Massachusetts.

[2] Paragraph (1) of section 2(a) of Pub. L. 93–100 authorizes banks to let certain depositors make withdrawals from interest-bearing deposits by negotiable or transferable instruments for the purpose of making transfers to third parties—*i.e.*, to hold deposits commonly called "NOW accounts." 12 U.S.C. 1832(a)(1).

Paragraph (2) of section 2(a) of Pub. L. 93–100 provides: "Paragraph (1) shall apply only with respect to deposits or accounts which consist solely of funds in which the entire beneficial interest is held by one or more individuals or by an organization which is operated primarily for religious, philanthropic, charitable, educational or other similar purposes and which is not operated for profit, and with respect to deposits of public funds by an officer, employee, or agent of the United States, any State, county, municipality, or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, any territory or possession of the United States, or any political subdivision thereof." 12 U.S.C. 1832(a)(2).

associated expenses at the bank (as originator or servicer). This exemption does not apply to transfers to the bank that are made for the purpose of repaying loans that are made by the bank to the depositor's demand account for the purpose of covering overdrafts.

(b) Transfers from a deposit described in § 329.1(b)(3) that are made to another account of the same depositor at the bank are not deemed to be included within the six transfers permitted for a nondemand deposit by that paragraph (3) when the transfers are made by mail, messenger, automated teller machine or in person.

(c) Withdrawals from a deposit described in § 329.1(b)(3) are not deemed to be included within the six transfers permitted for a nondemand deposit by that paragraph (3) when the withdrawals are made by mail, messenger, telephone (via check mailed to the depositor), automated teller machine, or in person.

§ 329.102 Deposits described in § 329.1(b)(3).

This interpretive rule explains the second proviso of § 329.1(b)(3).

(a) No deposit described in § 329.1(b)(3) that is held by an organization that is not organized for profit and that is described in paragraphs 501(c) (3) through (13) and (19) and section 528 of the Internal Revenue Code of 1954 (26 U.S.C. 501(c) (3)–(13) & (19), & 528) is deemed to be a demand deposit. Actual Internal Revenue Service documentation of the organization's tax-exempt status is not required; it is merely an aid in making the determination.

(b) No deposit described in § 329.1(b)(3) that is held by a depositor identified in section 2(a)(2) of Pub. L. 93–100 (12 U.S.C. 1832(a)(2))—whether the deposit is used for business purposes or otherwise—is deemed to be a demand deposit.

(c) No deposit described in § 329.1(b)(3) that represents funds held in a fiduciary capacity (whether the fiduciary is a natural person or otherwise) is deemed to be a demand deposit if all the beneficiaries of the account are natural persons.

§ 329.103 Premiums.

This interpretive rule describes certain payments that are not deemed to be "interest" as defined in § 329.1(c).

(a) Premiums, whether in the form of merchandise, credit, or cash, given by a bank to the holder of a deposit will not be regarded as "interest" as defined in § 329.1(c) if:

(1) The premium is given to the depositor only at the time of the opening of a new account or an addition to, or renewal of, an existing account;

(2) No more than two premiums per deposit are given in any twelve-month interval; and (3) the value of the premium (in the case of merchandise, the total cost to the bank, including shipping, warehousing, packaging, and handling costs) does not exceed $10 for a deposit of less than $5,000 or $20 for a deposit of $5,000 or more.

(b) The costs of premiums may not be averaged.

(c) A bank may not solicit funds for deposit on the basis that the bank will divide the funds into several accounts for the purpose of enabling the bank to pay the depositor more than two premiums within a twelve-month interval on the solicited funds.

(d) The bank must retain sufficient information for examiners to determine that the requirements of this section have been satisfied.

§ 329.104 Ten-day grace period.

This interpretive rule provides for 10-day grace periods during which interest may be paid on a deposit without violating § 329.2.

(a) During the ten calendar days following the maturity of a time deposit, the bank may continue to pay interest on the matured deposit at the contract rate of the deposit, or at any lesser rate, if the deposit contract provides for such post-maturity interest. The payment of such post-maturity interest will not be regarded as the payment of interest on a demand deposit.

(b) If a time deposit is renewed within ten calendar days after maturity, the renewed deposit may be dated back to the maturity date of the matured deposit and may draw interest from that date. The payment of such additional interest will not be regarded as the payment of interest on a demand deposit.

(c) If a time or savings deposit is renewed within ten days after expiration of the period of notice given with respect to its repayment, the renewed deposit may draw interest from the date such notice period expired. The payment of such additional interest will not be regarded as the payment of interest on a demand deposit.

By order of the Board of Directors this 24 day of March, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86–6963 Filed 3–28–86; 8:45 am]

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FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 526, 531, 532, 545, 555, 561, 563, 564, and 571

[No. 86–287]

Deposit, Share, and Withdrawable Accounts

Dated: March 24, 1986.

AGENCY: Federal Home Loan Bank Board .

ACTION: Final rule with request for comments.

SUMMARY: The Federal Home Loan Bank Board ("Board") is amending its regulations governing deposit accounts of Federal associations and state-chartered institutions, the deposits of which are insured by the Federal Savings and Loan Insurance Corporation ("insured institutions"). The Board is taking this action because the expiration on March 31, 1986, of the Depository Institutions Deregulation Committee ("DIDC") and regulations adopted by it mandate: (1) Updating and clarification of various Board regulations by deleting outdated provisions, references and citations; (2) specifically authorizing Money Market Deposit Accounts ("MMDAs") and Negotiable Order of Withdrawal ("NOW") accounts; and (3) clarifying the prohibition of the payment of interest on demand accounts. The final rule is designed to maintain substantial parity with equivalent regulations issued by the Board of Governors of the Federal Reserve System ("FRB"). The Board is also soliciting further comments regarding imposition of mandatory early withdrawal penalties.

DATES: The rule becomes effective on April 1, 1986. Comments relating to early withdrawal penalties must be received on or before May 30, 1986.

ADDRESS: Send comments to Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552.

FOR FURTHER INFORMATION CONTACT: Wendy Samuel, Deputy Director, (202) 377–6445; Jerome Edelstein, Attorney, (202) 377–7057; Stuart Feldstein, Attorney, (202) 377–6466; or Carol Rosa, Paralegal Specialist, (202) 377–6464, Regulations and Legislation Division, Office of the General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: As of March 31, 1986, the DIDC and its regulations expire, as well as the Board's authority, under Section 5B of

the Federal Home Loan Bank Act (12 U.S.C. 1425b), to regulate payment of interest, including the authority to prescribe different limitations for different classes of accounts of Federal Home Loan Bank System members. *See* 12 U.S.C. 3506(b) (7), (8), (9); 3508; 3509.

On February 25, 1986, the Board published for comment in the **Federal Register** (51 FR 6545) a notice of proposed rulemaking which sought comment on various substantive changes to the Board's regulations in response to these events. The proposed revisions related to authorization of, and limitations on, NOW accounts and MMDA accounts, early withdrawal penalties, premiums and finders' fees. The proposed rulemaking also included numerous technical changes, including the deletion of outdated provisions related to interest rate ceilings, cross-references and authority citations, and the relocation of certain regulations necessitated by the expiration of the DIDC regulations and provisions of section 5B of the Federal Home Loan Bank Act which authorized the Board to regulate payment of interest and related matters by the Federal Home Loan Bank System members.

Summary of Comments

The Board received twenty-six (26) comments in response to the proposed regulation, including nine filed on March 18, 1986, after the close of the official comment period. Eleven (11) were from Federal associations, seven (7) were from state-chartered insured institutions, two (2) were from thrift trade groups, two (2) were from law firms, and one each came from a national bank, a dealer in certificates of deposit, and a combination of citizens' special interest groups. Another came from a company the business of which was unidentified.

Support for the Board's proposals varied from issue to issue. After reviewing all comments, as described more fully below, the Board is adopting the proposed regulation in final form with certain significant modifications. As adopted, the regulations are in general conformity with those adopted by the FRB, FRB Docket Nos. R–0565, R–0566 (March 17, 1986) and those adopted by the FDIC on March 24, 1986, entitled "Interest on Deposits."

A. NOW Accounts and MMDAs

1. NOW Accounts

In its notice of proposed rulemaking, the Board proposed to modify the substance of the current DIDC regulations applicable to NOW accounts: That is, accounts available to individuals, governmental entities and nonprofit corporations pursuant to 12 U.S.C. 1832, upon which interest is paid and from which depositors may make payments to third parties by negotiable or transferable instruments.

Current DIDC regulations require that institutions offering NOW accounts must reserve the right to require at least seven days' notice prior to withdrawal or transfer of any funds and that, if imposed by an institution, the notice period must be applied equally to all depositors holding NOW accounts at the institution. *See* 12 CFR 1204.108(b) (effective Jan. 1, 1986).

The FDIC, in its first alternative proposal, and the FRB had proposed to retain the seven day reservation of notice requirement, but not the provision that any required notice apply equally to all NOW accountholders. *See* 51 FR 27, 29 (Jan. 2, 1986) and 51 FR 4376, 4380 (Feb. 4, 1986). For this reason and because, by statute, Federal associations are required to impose a fourteen day notice of withdrawal requirement on savings accounts, absent Board regulation or charter provision otherwise, the Board proposed to retain the seven day reservation of notice requirement. The Board, however, proposed not to retain the requirement that any required notice apply equally to all NOW accountholders at the institution.

In its final regulation, the FRB took the position that banks must reserve the right to require at least seven days' notice of withdrawal on NOW accounts. *See* FRB Docket Nos. R–0565, R–0566 (March 17, 1986). The FRB did not impose the requirement that any required notice must apply equally to all NOW accountholders.

The Board received ten comments on the issue of notice requirements for NOW accounts (and a similar requirement applicable to MMDA accounts). Six commenters supported the Board's proposal; three sought retention of the seven day requirement along with the requirement that any required notice apply equally to all NOW accountholders. These commenters opined that this would protect against selective application and discriminatory practices. Another commenter suggested that all notice requirements be abandoned.

The Board declines to follow these suggestions, and is adopting in final form the proposed provision. The Board believes that market forces will prevent institutions from selectively applying notice requirements and that various laws related to civil rights enforcement provide further assurance against discrimination against protected classes of people. The Board will, however, monitor the occurrance of discriminatory or selective imposition of notice requirements. The Board also believes that eliminating all notice requirements is inappropriate because such requirements are significant in distinguishing between savings and demand accounts.

For the reasons stated and to preserve uniformity with NOW accounts offered by commercial banks, and to assure the classification of such accounts as savings accounts, the Board is retaining the requirement that insured institutions reserve the right to require at least seven days' notice of withdrawal from such accounts. The Board is deleting the requirement that any required notice must apply equally to all NOW accountholders. Moreover, the Board is adopting a definition of "demand deposits" in revised § 563.6 to provide that NOW accounts subject to a seven day reservation of notice of withdrawal requirement are not considered to be demand deposits upon which paying interest is prohibited.

2. MMDAs

In its notice of proposed rulemaking, the Board proposed not to retain the substance of the current DIDC regulations pertaining to MMDAs except to preserve the requirement that the institution must reserve the right to require at least seven days' notice of withdrawal or transfer of any funds in the account.

Current DIDC regulations also: (1) Limit the number of transactions on such accounts; (2) require notice of all depositors if notice is required; (3) provide methods of enforcing the limitations on transactions, including restrictions on the rate of interest or other charges imposed on overdraft credit arrangements on accounts to which withdrawals from an MMDA can be paid; (4) restrict maturities and guaranteed interest rates; and (5) provide methods of calculating the average daily balance.

The Board specifically sought comment on whether the substance of the current DIDC requirement limiting certain transactions on MMDAs to six per month should be retained. As the Board explained in proposing unlimited transaction privileges on such accounts, it was concerned that the inconsistent positions proposed by the FRB and the FDIC, *see* 51 FR 27, 30 (Jan. 2, 1986) (FRB proposal); 51 FR 4376, 4381 (Feb. 4, 1986) (FDIC proposal), could result in inconsistent treatment of banks and insured institutions if either or both of the bank regulatory agencies had

adopted a final regulation providing for unlimited transaction interest-bearing accounts for all depositors, including those ineligible to hold unlimited transaction interest-bearing accounts under 12 U.S.C. 1832, such as for-profit corporations.

In its final regulation governing reserve requirements and interest on demand accounts, the FRB retained the substance of DIDC regulations limiting transaction privileges on such accounts. *See* FRB Docket No. R–0565 (March 17, 1986). Thus, MMDAs authorizing the depositor to exceed the transaction limitations are treated as transaction accounts for reserve purposes if the depositor is eligible under 12 U.S.C 1832 to hold a NOW account, and treated as demand accounts for reserve and Regulation Q purposes if the depositor is not eligible under 12 U.S.C. 1832 to hold a NOW account. Consequently, reserve requirements on such demand accounts are increased and, if the depositor is ineligible to hold a NOW account, no interest may be paid on the account.

The Board received fourteen comments on this aspect of the proposal.

Seven of the commenters—six thrift institutions and a national bank—opposed the extension of interest-bearing MMDA accounts with unlimited transaction privileges to corporations. One commenter proposed retaining the limit of six preauthorized or third party transactions, but applying the limit to all such transactions without a specific limit applicable to third party checks and drafts. An eighth commenter, a law firm which did not disclose whom it was representing, opposed unlimited transaction privileges on MMDAs offered by insured institutions if banks could not offer such accounts. That commenter stressed the importance of adopting uniform regulations by the FRB, the FDIC and the Board. Three of the commenters cited cost as a reason for opposing such accounts.

Support for the proposal came from six commenters—three thrifts, two thrift trade groups, and a dealer in commercial paper and certificates of deposit. A thrift trade group, advocating unlimited transaction, expressed the view that MMDAs held by depositors ineligible to hold NOW accounts could not be deemed to be demand accounts. One of these commenters opined that retaining limits on interest-bearing corporate transaction accounts was no longer necessary to protect commercial banks. Another asserted that the limits were an unfair restriction on one class of depositors.

After evaluating the comments and taking into consideration the action of the FRB in finalizing its proposal and retaining transaction limitations on MMDA accounts, the Board has decided to retain the limitation of six preauthorized or third party transactions per month on MMDAs. This conforms with the final regulations published by the FRB, thus preserving uniform treatment in this regard between Federal Reserve System members and insured institutions.

The Board further notes that concern has been expressed that extending full transaction privileges to interest-bearing savings accounts held by for-profit corporations in insured banks would create the opportunity for banks wishing to escape the reach of the Bank Holding Company Act (12 U.S.C 1841 *et. seq.*) to do so by combining commercial lending activities with the offering of unlimited transaction, interest-bearing MMDAs to all depositors with reservation of notice of withdrawal requirements. *Cf. Board of Governors of the Federal Reserve System v. Dimension Financial Corp.*, 54 U.S.L.W. 4101 (U.S., Jan. 12, 1986) (No. 84–1274) (holding invalid FRB regulations defining accounts with reservation of prior notice requirements as accounts which the depositor has a legal right to withdraw on demand). As has been observed, such action could further undermine the statutory limitations on activities of bank holding companies and their affiliates, and limitations on interstate ownership of banks by bank holding companies, by affording so-called "nonbank" banks far greater operating flexibility.

The Board agrees that such a marked change, with far-reaching implications, of the statutory scheme of bank regulation established by Congress should not come about through adoption of regulations undertaken in the narrow context of determining the continuing availability of certain types of deposit accounts following the expiration of the DIDC regulations on March 31, 1986. Rather, Congress should address the question through a comprehensive review of the goals promoted and limitations imposed by the Bank Holding Company Act.

Consequently, the Board is adopting a final regulation which limits transactions on MMDAs available to all depositors. The limits established correspond with those limitations currently in effect and those adopted by the FRB. In accordance with regulations adopted by the FRB, the regulation specifically subjects transfers by debit card (that is, a card which by the use a of special code at an automated teller machine, point of sale terminal, or similar machine is used to make transfers to the account of a third party) to the three per month limitation applicable to checks or drafts. Use of a debit card at an automatic teller machine to make a withdrawal from an account or a transfer to another account of the same depositor would not be subject to the limitations.

The Board further notes that insured institutions can offer unlimited transaction interest-bearing accounts to individuals, nonprofit entities, and governmental units as NOW accounts pursuant to 12 U.S.C. 1832, although subject to transaction account reserve requirements under Regulation D. However, the Board also advises insured institutions that interest-bearing accounts, with transaction privileges exceeding the limits imposed on MMDAs, held by those ineligible to hold accounts under 12 U.S.C. 1832 would be considered to be demand accounts under 12 CFR 563.6. They would thus violate the prohibition on payment of interest on demand accounts contained in 12 U.S.C. 1464 (b)(1)(B), applicable to Federal associations, and 12 CFR 561.11a, 563.6 applicable to all insured institutions. Moreover, such accounts offered by Federal associations also could violate 12 U.S.C. 1464(b)(1)(A), (B), which limits the circumstances under which Federal associations may offer demand accounts. Such accounts may only be offered to others if a business, corporate, commercial, or agricultural loan relationship exists or for the sole purpose of effectuating payments by a nonbusiness customer to a commercial, corporate, business or agricultural entity.

The Board, in its notice of proposed rulemaking, also proposed not to retain the other regulations governing MMDA accounts which were contained in the DIDC regulations. The Board had proposed not to retain provisions limiting maturities and guaranteed interest rates as not in accordance with the deregulation of interest rates intended by Congress after March 31, 1986. Likewise, the Board proposed to delete the provision regarding calculation of the average daily balance because the proposal included no minimum balance requirement on such accounts. In fact, such limitation expired on January 1, 1986. The Board received one comment on these proposals. This commenter supported the Board's proposal not to retain the prohibition on guaranteeing interest rates on MMDAs for more than one month. The Board has determined to delete these requirements as proposed.

The Board also proposed to delete the substance of DIDC provisions relating to assuring the maintenance of transaction limitations on MMDAs. This paralleled

the regulations proposed by the FRB and the FDIC. Because the primary significance of such provisions was to assure that an MMDA would not become subject to increased Regulation D reserve requirements if the transaction limitations were exceeded, the Board did not believe that retention of the provisions would be appropriate absent their inclusion in Regulation D. However, the FRB included this monitoring provision in its final regulation revising Regulation D. Consequently, the Board has decided to retain the provision in its final regulation.

The Board also advises insured institutions that through adherence to monitoring requirements, they will avoid the risk of having classified as impermissible demand accounts those MMDAs held by depositors ineligible to hold NOW accounts under 12 U.S.C. 1832. *See* 12 U.S.C. 1464(b)(1) (A), (B); 12 CFR 561.11a, 563.6.

In addition, the Board has added to its final definition of MMDAs a provision stating that institutions need not impose transaction limitations on certain payments directly to the depositor or to another account of the depositor. This provision is similar to the current DIDC provision, 12 CFR 1204.122(e), and conforms with the newly adopted FRB regulation. *See* FRB Docket No. R–0565 (March 17, 1986). The Board's final rule, in accordance with the newly adopted FRB definition of demand deposit, also provides that transfers from an MMDA for the purpose of repaying loans from the insured institution in which the deposit is held generally do not count towards the transaction limitations. This exception does not apply, however, to transfers for the purpose of repaying loans that are made by the institution to the depositor's demand account for the purpose of covering overdrafts.

The Board also proposed eliminating the requirement that any seven day notice of withdrawal, if required of one MMDA holder must be required of all MMDA holders. Comments on this notice provision applicable to MMDAs are the same as those discussed in connection with NOW accounts. As with NOW accounts, the Board is retaining the seven day reservation of notice requirement, but not the requirement that any required notice must apply equally to all MMDA holders. This also conforms with the final regulations of the FRB and thus will promote uniform treatment of the institutions regulated by the Board and the FRB.

B. Early Withdrawal Penalties

As the Board stated in its proposal, when the authority of the DIDC to impose rate ceilings expires, the requirement for mandatory early withdrawal penalties for time deposits also will expire. The proposal noted, however, that the Board could continue to impose such penalties under its authority to regulate Federal associations pursuant to the Home Owners' Loan Act (12 U.S.C. 1461 *et seq.*) and to assure safety and soundness for state-chartered insured institutions pursuant to the National Housing Act (12 U.S.C. 1728 *et seq.*). If retained, early withdrawal penalties would be expected to facilitate maturity matching of liabilities and assets, and thus to contribute to safety and soundness. On the other hand, the proposal observed that a decision not to impose mandatory early withdrawal penalties would be consistent with the approach proposed by the FRB, giving thrifts an equal chance to compete with commercial banks for deposits, and would be in the spirit of the deposit rate deregulation mandated by Congress in 1980.

On March 17, 1986, the FRB adopted a final regulation that eliminated early withdrawal penalties except for limited purposes of defining reserve requirements under Regulation D. This regulation, which applies to insured institutions as well as banks, distinguishes a demand deposit from a time deposit for purposes of reserve requirements imposed by the FRB under Regulation D. Under the FRB regulation, a time deposit with a minimum maturity of seven days or more from which withdrawals are permitted within the first six days will be considered as a time deposit only if it is subject to a minimum early withdrawal penalty of seven days' interest on the amount withdrawn. Furthermore, a nonpersonal time deposit with a maturity of one and one half years or more upon which early withdrawals are permitted after six days but within one and one half years of the date of deposit, must be subject to a minimum penalty of one months' simple interest to avoid the three percent reserve requirement on nonpersonal time deposits with maturities of under 18 months.

The Board received twenty comments on the issue of early withdrawal penalties. These comments generally favored retaining a mandatory penalty, although seven opposed it. Four of the commenters who favored retention stated that they nonetheless believed early withdrawal penalties should be deleted for thrifts if they were deleted for banks. The commenters who favored retention of mandatory penalties stated that the usefulness of the penalty to an institution more than outweighs the disadvantages of competing with banks that do not impose such a penalty. Those who supported deleting mandatory penalties wished to remain competitive with banks. Several commenters took no position on whether mandatory penalties should be retained, but had suggestions to assure consistent application and for additional exceptions if penalties are made voluntary.

Comment letters also addressed the issues of advertising, exceptions, and reporting requirements. Of nine commenters who addressed the issue of mandatory advertising of a penalty if one is imposed, all but two favored retention of the requirement. The dissidents stated that disclosure beyond what is in the contract is unnecessary and cited cost as a reason to delete the advertising requirement. Nine comment letters addressed the question of whether the current provisions prohibiting imposition of early withdrawal penalties in the case of death or incompetence of the accountholder should be retained. One of these believed that this prohibition is unnecessary because institutions as a matter of course would waive the penalty in such situations; two commenters favored an additional exception for holders of individual retirement accounts ("IRAs") and Keogh accounts who attain the age of 59½; and two suggested an exception for disability or other extreme personal hardship of the accountholder. With regard to reporting requirements, several commenters noted the practical difficulty of distinguishing between demand accounts and time deposits with no penalties for early withdrawal.

The Board has tentatively determined to join the FRB, and permit the lapse of requirements for generally-applicable early withdrawal penalties. This approach gives insured institutions the flexibility to compete with banks for deposits, unfettered by specific requirements for penalties related to rate control. However, the Board believes that early withdrawal penalties are useful in maintaining the stability of deposit liabilities, and strongly encourages institutions to include them in all classes of certificates of deposit, consistent with a sound business plan to monitor and control interest-rate risk.

Penalties contained in existing account contracts need not be affected. Institutions will continue to have the authority to enforce early withdrawal

penalty clauses in existing account certificates although such penalties may now, at the institution's discretion and subject to applicable law, be waived. The Board is imposing no specific requirement that if an institution grants a waiver of early withdrawal penalties, it must grant a waiver to all depositors. However, the Board notes that institutions may not grant waivers in a way that establishes a pattern and practice of discrimination against a protected group, that favors insiders in violation of the conflict of interest regulations (12 CFR 561.28–31, 563.41–45), or that constitutes an unsafe or unsound practice.

As under prior regulations, if a certificate includes penalty provisions, waiver is mandated in the case of the accountholder's death or an adjudication of his or her incompetence. Although this provision diverges from the approach of the FRB, which chose not to continue this requirement, the Board believes that this approach protects consumers and their families from significant hardship with little detriment to insured institutions. Particularly if, as one commenter noted, insured institutions are likely to waive penalties in these situations whether or not required to do so, this should have little adverse impact on the industry. The Board believes that there is also merit to waiving penalties in the case of IRAs or Keogh accounts when the accountholder reaches the age at which he or she may begin making withdrawals without tax penalty and in various hardship cases, but that it is unnecessary to require such a waiver. In fact, pursuant to the current DIDC regulations, such a waiver is discretionary, not mandatory. *See* 12 CFR 1204.107 (1985). Insured institutions are encouraged to consider including such additional exceptions in their account contracts, or implementing policies of waiving permitted penalties in such situations.

The Board has also determined to retain the requirement that advertising contain a statement that penalties will be imposed if the insured institution has chosen to include such a provision in its account contracts. Because penalties are no longer mandatory, the presence or absence of penalties may contribute to a depositor's decision as to where to place his or her funds, and the Board believes that disclosing this element facilitates comparison shopping. This is consistent with the approach of the FRB, which retained disclosure requirements for penalties.

In addition, the Board will be advising insured institutions that in reporting information on the maturity (or first repricing) of term deposits to it on Section H of the quarterly Financial Report, they should report a certificate as having a maturity or first repricing period longer than six months only if it provides for both a nominal longer remaining term to maturity *and* for an early withdrawal penalty as large as or larger then that required by expiring DIDC regulation § 1204.103 (specifically, one month's interest at the nominal interest rate being paid on the deposit, if the account has an original maturity of 32 days to one year, or three months' interest on the amount withdrawn for certificates having an original maturity longer than one year). The Board is requiring reporting in this manner because it considers it important that both its staff and institutions' management accurately evaluate the *effective* term structure of an institution's deposit liabilities.

Finally, because there are strong arguments both for and against retention of early withdrawal penalties, the Board will study the impact of this regulation on safety and soundness together with the FRB and the FDIC. In conjunction with this, the Board is extending the comment period on this issue for sixty days from the date of this publication in the **Federal Register**. Comments should address the need for mandating early withdrawal penalties whether or not banks are required to impose them, what the penalties should be to be effective, whether the regulation should provide for mandatory exceptions, and what, if any, advertising or disclosure requirements are appropriate.

C. Demand Accounts

1. Definition

In its notice of proposed rulemaking, the Board noted that the expiration of interest rate ceilings on deposits did not change the statutory and regulatory prohibitions on payment of interest on demand deposits. *See* 12 U.S.C. 1464(b)(1)(A), (B); 12 CFR 561.11a, 563.6. The Board proposed to adopt a definition of demand deposits to exclude NOW accounts and MMDAs (except if held by a depositor ineligible to hold a NOW account and when transaction limitations are exceeded) if the institution has reserved the right to require at least seven days' notice of withdrawal or transfer of funds.

Comments related to these proposals have been discussed in connection with the discussion of MMDAs and NOW accounts. For the reasons therein discussed, the Board has decided to adopt a final regulation excluding such MMDAs and NOW accounts from treatment as demand deposits.

2. Grace Periods

Under the current DIDC regulations, an insured institution may provide in a time deposit contract that if the deposit or any portion thereof is withdrawn not more than seven days after a maturity date, interest will continue to be paid. 12 CFR 1204.102. The Board notes that the FRB adopted a final rule substantially similar to the current DIDC rules with the exception that the grace period is expanded from seven to ten days. The FRB also adopted a final rule permitting interest payments on a time deposit for up to ten days following maturity, provided the deposit is renewed within the ten-day interval.

Although the Board solicited comments regarding the definition of demand account and the codification of the prohibitions against paying interest on demand deposits, it received no comments specifically addressing retention of grace periods. To clarify existing law and maintain uniformity with the regulations of the FRB, the Board is adopting a final regulation substantially similar to the current DIDC regulation and the final rules adopted by the FRB. The regulation preserves the concept of a grace period during which an institution may pay interest following maturity, but increases the length of the grace period from seven days to ten days in order to maintain uniformity with the FRB. In addition, the Board is adding a provision to the final rule which permits the payment of interest between a maturity date and the date of renewal of a deposit, provided that the deposit is renewed within ten days of maturity.

3. Premiums and Finders' Fees

Under current DIDC regulations, premiums and finders' fees are characterized as interest payments, with certain exceptions, to prevent the circumvention of interest rate ceilings. With the expiration of DIDC authority, such regulations are relevant only with respect to demand deposit accounts upon which the payment of interest is prohibited. *See* 12 U.S.C. 371a, 1464(b)(1)(B), 1828(g). In the absence of regulatory clarification, *de minimis* exceptions would no longer exist and such payments could be viewed as impermissible payments of interest on demand deposits. See 12 CFR 561.11a, 563.6; *cf.* 12 U.S.C. 371a.

The proposal requested comments concerning the advisability of retaining the substance of current DIDC regulations governing the treatment of

premiums and finders' fees as payments of interest. Of the eleven comments which addressed these issues, ten supported the retention of the premium rule in its present form or with modifications. One comment suggested deleting the rule because insured institutions are limited in their ability to offer demand deposit accounts. One commenter noted that significantly revising the present premium rule would require substantial re-education of the thrift industry. Six of the comments addressed the issue of finders' fees. All expressed support for the retention of the current rules. One commenter suggested that an insured institution should be required to maintain a positive net worth in order to distribute premiums and finders' fees.

The Board notes that the FRB stated in the preamble to its final regulation that member banks may continue to rely on existing interpretations concerning premiums, although no formal regulation has been issued. *See* FRB Docket No. R–0566 (March 17, 1986). The final regulation of the FRB does not address finder's fees. However, the FRR staff has stated that member institutions may continue to rely upon current finders' fee regulations.

Based on its evaluation of the comments and the actions of the FRB, the Board is adopting a final regulation which provides, with limited exceptions, for the characterization of premium payments as interest. The rule is substantially similar to current § 1204.109. Limitations on the value, timing, and number of premiums remain unchanged. However, the final regulation deletes as unduly burdensome requirements concerning the certification of the premium program by an executive officer of the depository institution. As adopted, the final rule requires only that the insured institution retain sufficient information for examiners to make a determination that the institution is in compliance with the regulation. Failure to maintain such information would be deemed a violation of the regulation.

With respect to finders' fees, the Board is adopting a final regulation which combines, and is substantially similar to, present §§ 1204.110 and 1204.202. The final regulation differs only with regard to minor word changes and structural alterations. As adopted, the regulation provides that finders' fees are interest payments except when provided either in the form of bonuses paid to employees for an account drive when such bonuses are tied to the total amount of deposits, or when paid to bona fide deposit brokers.

The Board believes that preservation of these rules affords institutions adequate flexibility in competing for demand deposits. The Board also notes that retaining the substance of the DIDC provisions will avoid uncertainty and confusion, thus aiding institutions in efficiently restructuring operations in the overall context of the deregulation which becomes final March 31.

The Board also notes that in accordance with the final regulations adopted by the FRB (Docket No. R–0566 (March 17, 1986)), it is providing in its regulations that an insured institution's absorption of expenses incident to providing a normal banking function or its forbearance from charging a fee in connection with such a service is not considered a payment of interest.

D. Technical Changes

As explained, the Board is deleting provisions, cross-references and authority citations rendered obsolete by the expiration of the DIDC and its regualtions and Board's deposit account regualtory authority under the Federal Home Loan Bank Act.

The Board included these changes in its proposed regulations. Because the changes are technical in nature, are required by the changes in the statutory and regulatory scheme, and are largely self-explanatory, few comments were received relating to these changes.

One commenter sought the elimination of restrictions limiting demand accounts in Federal associations to depositors with a loan relationship with the association. This restriction is imposed by statute and, consequently, the Board cannot remove it.

Another commenter suggested amending the advertising regulations in Part 526 of the Board's regulations to provide that the annual rate of simple interest must be stated with equal or greater prominence than any compounded rate of interest. As the Board noted in the preamble to its proposed regulation, 51 FR 6545 (Feb. 25, 1986), no substantive changes in advertising requirements are contemplated at this time. The Board, however, will consider substantive revisions at a future date.

The Board notes that it is deleting a provision of the advertising regulations relating to disclosure of early withdrawal penalties at the time a depositor establishes a certificate account. This provision is unnecessary in light of the requirements of § 563.3–1(d)(5) requiring disclosure of the same information.

The Board also is making a technical change to its advertising regulations to clarify their applicability to federal savings banks the deposits of which are insured by the FDIC.

With regard to technical changes to §§ 532.1, 545.79, and 555.8, concerning gold and the sale of merchandise by Federal associations, the Board notes that on December 17, 1985, the President signed into law the "Gold Bullion Coin Act of 1985," Pub. L. 99–185, authorizing the Treasury, beginning on October 1, 1986, to mint and sell to the public gold coins, the proceeds of which will be applied to the reduction of the national debt. The Board intends in the near future to review its regulations applicable to insured institutions and other entities in order to determine whether their amendment would assist the achievement of this important public purpose.

Effective Date

Pursuant to 12 CFR 508.14, the Board finds, for the reasons explained below, that the 30-day delay of the effective date is unnecessary. The final regulation heren adopted is made effective April 1, 1986. Adoption effective as of that date is necessary to coincide with the expiration of the DIDC and its regulations on March 31, 1986. Any further delay would create confusion and uncertainty with regard to the ability of Federal associations and state-chartered insured institutions to continue to offer MMDAs and NOW accounts, as had been authorized by the expiring DIDC regulations, and their authority to offer premiums and finders' fees on non-interest-bearing demand accounts. Delay would also result in preserving in the Board's regulations numerous provisions, cross-references and authority citations, rendered obsolete by the statutory and regulatory provisions expiring March 31, 1986. This would cause confusion and uncertainty regarding their significance. Moreover, provisions relating to premiums, finders' fees, grace periods, and the definition of demand deposit relieve restrictions which otherwise would be imposed.

Final Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, 5 U.S.C. 604, the Board is providing the following regulatory flexibility analysis:

1. *Need for and objectives of the rule.* These elements are discussed above in **"SUPPLEMENTARY INFORMATION."**

2. *Issues raised by comments and agency assessment and response.* These elements are discussed above in **"SUPPLEMENTARY INFORMATION."**

3. *Significant alternatives minimizing small-entity impact and agency*

response. There are no alternative approaches that would achieve the Board's goals of maintaining uniformity with regulations governing commercial banks and minimizing disruption resulting from the expiration of DIDC authorities which would have less impact on affected entities, including small institutions. The rule will have neither a disproportionate nor adverse impact on small institutions. The Board rejected the alternatives discussed above in **"SUPPLEMENTARY INFORMATION"** for the reasons given therein.

List of Subjects in 12 CFR Parts 526, 531, 532, 545, 555, 561, 563, 564, and 571

Federal Home Loan Banks, Accounting, Bank deposit insurance, Consumer protection, Credit, Electronic funds transfers, Investments, Manufactured homes, Mortgages, Reporting and recordkeeping requirements, Savings and loan associations.

Accordingly, the Board hereby amends Parts 526, 531, and 532, Subchapter B; Parts 545 and 555, Subchapter C; and Parts 561, 563, 564, and 571, Subchapter D, Chapter V, Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

1. Part 526 is revised to read as follows:

PART 526—ADVERTISING OF ACCOUNTS

Sec.
526.1 Definitions.
526.2 Advertising interest or dividends on savings accounts.

Authority: Sec. 4, 80 Stat. 824, as amended (12 U.S.C. 1425b); sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 401, 402, 403, 407, 48 Stat. 1255, 1256, 1257, 1260, as amended (12 U.S.C 1725, 1726, 1730); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071.

§ 526.1 Definitions.

(a) *Member.* A member as defined in § 521.7 of this subchapter, other than a state-chartered savings bank whose accounts are insured by the Federal Deposit Insurance Corporation or an institution whose home office is located on Guam.

(b) *Certificate account.* A savings account evidenced by a certificate which must be held for a fixed or minimum term.

(c) *Savings account.* Any withdrawable account except a demand account as defined in section 563.6 of this subchapter, a tax and loan account, a note account, a United States Treasury general account, or a United States Treasury time deposit-open account.

(d) *Tax and loan account.* An account, the balance of which is subject to the right of immediate withdrawal, established for receipt of payments of Federal taxes and certain United States obligations. Such accounts are not savings accounts or savings deposits.

(e) *Note account.* A note, subject to the right of immediate call, evidencing funds held by depositories electing the note option under applicable United States Treasury Department regulations. Note accounts are not savings accounts or savings deposits.

(f) *United States Treasury general account.* An account maintained in the name of the United States Treasury the balance of which is subject to the right of immediate withdrawal, except in the case of the closure of the member, and in which a zero balance may be maintained. Such accounts are not savings accounts or savings deposits.

(g) *United States Treasury time deposit-open account.* A non-interest-bearing account maintained in the name of the United States Treasury which may not be withdrawn prior to the expiration of 30 days' written notice from the United States Treasury, or such other period of notice as the Treasury may require. Such accounts are not savings accounts or savings deposits.

§ 526.2 Advertising interest or dividends on savings accounts.

The following rules apply to advertisements, announcements, or solicitations made by a member, or any person or organization soliciting savings accounts on a member's behalf, relating to interest or dividends paid on a member's savings accounts:

(a) *Annual rate of simple interest.* Interest or dividend rates shall be stated in terms of annual rates of simple interest or dividends.

(b) *Percentage yield based on 1 year.* If a percentage yield achieved by compounding interest or dividends during one year is stated, the annual rate of simple interest shall be stated with equal prominence, with reference to the basis of compounding. A percentage yield based on the effect of grace periods shall not be stated.

(c) *Percentage yield based on more than 1 year.* A total percentage yield, compounded or simple, based on more than 1 year, or an average annual percentage yield achieved by compounding during more than 1 year, shall not be indicated.

(d) *Time or amount requirements.* If a stated rate is payable only on savings accounts that meet time or amount requirements, such requirements shall be clearly and conspicuously stated. If the time requirement for a stated rate exceeds 1 year, the required number of years shall be stated with equal prominence, with an indication of any lower rate(s) applicable if the savings account is withdrawn earlier.

(e) *Penalty for early withdrawals.* A member shall include a clear and conspicuous notice stating whether the institution will or may impose a penalty for withdrawal from an account before maturity. Such notice may state, "A substantial penalty will (or may) be imposed for early withdrawal."

(f) *Profit.* Interest or dividends paid on a savings account shall not be called "profit."

(g) *Accuracy of advertising.* No representation shall be inaccurate or misleading.

(h) *Gold.* Any statement that any portion of interest or dividends is payable in gold (including gold coin), gold-related instruments or securities, or an amount of money determined in any manner related to gold is prohibited.

PART 531—STATEMENTS OF POLICY

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

Authority: Sec. 4, 80 Stat. 824, as amended (12 U.S.C. 1425b); sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–1948 Comp., p. 1071, unless otherwise noted.

3. Remove § 531.10; redesignate § 531.11 as § 531.10; and amend the redesignated § 531.10 by removing the authority citation reference located at the end of the section.

PART 532—BOARD RULINGS

4. The authority citation for Part 532 is revised to read as follows:

Authority: Sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071.

§ 532.1 [Amended]

5. Amend § 532.1 by inserting a comma after the phrase "principal of" in the last sentence thereof and by adding "or interest or dividends earned on," following the newly inserted comma.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 545—OPERATIONS

6. The authority citation for Part 545 is revised to read as follows:

Authority: Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); Reorg. Plan No. 3 of 1947, 3 CFR, 1943–1948 Comp., p. 1071, unless otherwise noted.

7. Amend § 545.11 by revising paragraph (a) to read as follows:

§ 545.11 Insured accounts.

(a) Pursuant to 12 U.S.C. 1464(b)(1)(A), (B), a Federal association may issue insured accounts as defined in § 561.3 of this chapter as demand deposit accounts or savings accounts for indefinite or fixed terms ("certificate accounts") in the form of shares or deposits. An association may establish classes of accounts and specify terms and conditions for such classes of accounts. Amounts deposited in insured accounts may be in cash or property in which the association is authorized to invest. The authority of an association to issue insured accounts pursuant to this part is subject to any applicable provision of Part 563 of this chapter.

* * * * *

8. Revise § 545.12 to read as follows:

§ 545.12 Demand deposit accounts.

(a) Pursuant to 12 U.S.C. 1464(b)(1)(A), (B), a Federal association may only accept demand deposit accounts from itself and from:

(1) Persons or organizations that have a business, corporate, commercial, or agricultural loan relationship with the association; or

(2) A commercial, corporate, business or agricultural entity for the sole purpose of effectuating payments to the account by a nonbusiness customer.

(b) For purposes of paragraph (a):

(1) A "business, corporate, commercial or agricultural loan" shall include any loan other than a home loan on property occupied or to be occupied by the borrower, a loan to a natural person for personal, family, or household use, or a participation interest in such loans; and

(2) A "loan relationship" is established if there is a line of credit, any outstanding loan (including a finance lease), or a previous loan and a reasonable expectation of the renewal of a lending relationship based on the usual and customary activities and needs of the borrower.

(c) A Federal association shall not pay interest on a demand deposit; however, premiums and finders' fees offered in accordance with § 561.11a (b)–(f) of this chapter of this title are not payments of interest, and the absorption of expenses or forbearance from charging a fee as set forth in paragraph (g) of § 561.11a is not a payment of interest.

(d) For purposes of this section, demand deposits include only those accounts which are payable on demand within the meaning of § 563.6 of this chapter.

9. Amend § 545.14 by revising paragraph (a) to read as follows:

§ 545.14 Determination and distribution of earnings.

(a) *Rates of return.* An association may issue savings accounts earning interest at different rates of return, which may be fixed at the time the account is issued or may vary on any basis specified at the time the deposit is accepted, subject to § 563.3–10 of this chapter.

* * * * *

10. Amend § 545.16 by revising paragraph (c) to read as follows:

§ 545.16 Public deposits, depositaries, and fiscal agents.

* * * * *

(c) *Depositaries and fiscal agents.* Subject to regulation of the United States Treasury Department, an association may serve as a depositary for Federal taxes, as a Treasury tax and loan depositary, or as a depositary of public money and fiscal agent of the Government or any other instrumentality thereof when designated for that purpose by such instrumentality and approved by the Board, and may satisfy any requirement in connection therewith, including maintaining accounts described in § 526.1 (d), (e), (f), and (g) of this chapter; pledging collateral; and performing the services outlined in 31 CFR 202.3(b) (1981) or any section that supersedes or amends § 202.3(b).

11. Amend § 545.21 by revising paragraph (a)(1) to read as follows:

§ 545.21 Give-aways.

(a) *Definitions.* (1) "Give-away" means any thing of value, or service performed in any part outside an association's premises, given without adequate payment, but not including: (i) Providing safety deposit facilities at reduced rental to members of the association, (ii) repaying to members of any part of amounts paid by them for safety deposit facilities located outside the association's facilities, or (iii) providing any service or thing of value as payment of interest.

* * * * *

12. Revise § 545.79 to read as follows:

§ 545.79 Gold transactions.

No Federal association shall engage in any transaction or activity, including the payment of interest or dividends, involving gold (including gold coins) or gold-related instruments or securities. Interest or dividends shall not be paid in an amount of money determined in any manner related to gold.

PART 555—BOARD RULINGS

13. The authority citation for Part 555 is revised to read as follows:

Authority: Sec. 5, 48 Stat. 132, as amended, 80 Stat. 383, 388; 12 U.S.C. 1464, 5 U.S.C. 552, 559, Reorg. Plan No. 3 of 1947, 3 CFR, 1943–1948 Comp., p. 1071.

14. Amend § 555.8 by revising paragraph (c) to read as follows:

§ 555.8 Savings accounts.

* * * * *

(c) *Sale of merchandise in connection with soliciting savings accounts.* A Federal association may not, as an incident to powers prescribed in its charter, sell, except in connection with a promotional campaign, merchandise other than coin banks and similar coin-savings devices.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 561—DEFINITIONS

15. The authority citation for Part 561 is revised to read as follows:

Authority: Pub. L. 95–147 of Oct. 28, 1977, Sec. 4, 82 Stat. 856, sec. 4, 80 Stat. 824, sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1425a, 1425b, and 1437); sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 202, 96 Stat. 1469; sec. 409, 94 Stat. 160; secs. 401–407, 48 Stat. 1255–1260, as amended (12 U.S.C. 1724–1730); sec. 408, 82 Stat. 5, as amended (12 U.S.C. 1730a); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–1948 Comp., p. 1071, unless otherwise noted.

16. Revise § 561.11 to read as follows:

§ 561.11 Savings accounts.

The term "savings accounts" means withdrawable or repurchasable shares, investment certificates, or deposits or other savings accounts, including money market deposit accounts and negotiable order of withdrawal accounts, held by insured members in an institution insured by the Corporation, or held by insured depositors in a Federal association the deposits of which are insured by the Federal Deposit Insurance Corporation.

17. Revise § 561.11a to read as follows:

§ 561.11a Checking accounts.

(a) The term "checking accounts" means non-interest-bearing demand deposits which are subject to check or to withdrawal or transfer on negotiable or transferable order to the insured institution and which are permitted to

be issued by statute, regulation, or otherwise.

(b) Premiums, whether in the form of merchandise, credit, or cash, given by an insured institution to the holder of a demand deposit shall not be deemed the payment of interest on a demand deposit if:

(1) The premium is given to the holder of a demand deposit only upon the opening of a new account or the addition to, or renewal of, an existing demand account;

(2) No more than two premiums per account are given within a twelve-month period; and

(3) The value of the premium, or in the case of articles of merchandise, the total cost (including shipping, warehousing, packaging, and handling costs) does not exceed $10 for deposits of less than $5000 or $20 for deposits of $5000 or more.

(c) The values or costs of the premiums may not be averaged.

(d) An insured institution may not solicit funds for deposit on the basis that the insured institution divide the funds into several accounts for the purpose of enabling the insured institution to pay the depositor more than two premiums within a twelve-month period on the solicited funds.

(e) The insured institution shall retain in its files information necessary for an examiner to determine compliance with paragraph (b), and shall make such information available to the examiner upon request.

(f) A fee paid by an insured institution to a person who introduces a depositor to the insured institution shall not be deemed a payment of interest to the depositor if the fee:

(1) Consists of bonuses in cash or merchandise to the insured institution's employees for participation in an account drive, contest or other incentive plan: *Provided,* that such bonuses are tied to the total amount of deposits solicited; or

(2) The fee is paid to a *bona fide* broker if: (i) The broker is principally engaged in the business of acting as a broker or dealer in regard to deposits, securities, or money market instruments; (ii) the relationship between the broker and insured institution is memorialized in a written agreement, a copy of which is retained by the insured institution and made available to examiners; and (iii) an officer of the broker certifies that no portion of the fee paid to the broker is directly or indirectly passed on to the depositor, and a copy of the certification is given to the insured institution to be retained on file with the agreement.

(g) An insured institution's absorption of expenses incident to providing a normal banking function or its forbearance from charging a fee in connection with such a service is not considered a payment of interest.

§ 561.11b [Amended]

18. Amend § 561.11b by removing "§ 526.1(n)" and inserting in its place "§ 526.1(d)".

§ 561.11c [Amended]

19. Amend § 561.11c by removing "§ 526.1(o)" and inserting in its place "§ 526.1(e)".

§ 561.11d [Amended]

20. Amend § 561.11d by removing "§ 526.1(p)" and inserting in its place "§ 526.1(f)".

§ 561.11e [Amended]

21. Amend § 561.11e by removing "§ 526.1(q)" and inserting in its place "§ 526.1(g)".

22. Add a new § 561.11f to read as follows:

§ 561.11f Money Market Deposit Accounts.

(a) Money Market Deposit Accounts ("MMDAs") offered by Federal associations in accordance with 12 U.S.C. 1464(b)(1) and by state-chartered insured institutions in accordance with applicable state law are savings accounts if issued subject to the following limitations:

(1) The insured institution shall reserve the right to require at least seven days' notice prior to withdrawal or transfer of any funds in the account; and

(2)(i) The depositor is authorized by the institution to make no more than six transfers per calendar month or statement cycle (or similar period) of at least four weeks by means of preauthorized, automatic, telephonic, or data transmission agreement, order, or instruction to another account of the depositor at the same insured institution, to the insured institution itself, or to a third party: *Provided,* that no more than three of the six transfers provided for in this paragraph may be by check, draft, debit card, or similar order made by the depositor and payable to third parties.

(ii)Insured institutions may permit holders of MMDAs to make unlimited transfers for the purpose of repaying loans (except overdraft loans on the depositor's demand account) and associated expenses at the same insured institution (as originator or servicer), to make unlimited transfers of funds from this account to another account of the same depositor at the same insured institution, or to make unlimited payments directly to the depositor from the account when such transfers or payments are made by mail, messenger, automated teller machine, or in person, or when such payments are made by telephone (via check mailed to the depositor).

(3) In order to ensure that no more than the number of transfers specified in paragraph (a)(2)(i) are made, an insured institution must either:

(i) Prevent transfers of funds in excess of the limitations; or

(ii) Adopt procedures to monitor those transfers on an after the fact basis and contact customers who exceed the limits on more than an occasional basis. For customers who continue to violate those limits after being contacted by the depository institution, the depository institution must either place funds in another account that the depositor is eligible to maintain or take away the account's transfer and draft capacities.

(iii) Insured institutions, at their option, may use on a consistent basis either the date on a check or the date it is paid in determining whether the transfer limitations within the specified interval are exceeded.

(b) Federal associations may offer MMDAs to any depositor, and state-chartered insured institutions may offer MMDAs to any depositor not inconsistent with applicable state law.

23. Add a new § 561.11g to read as follows:

§ 561.11g Negotiable order of withdrawal accounts.

(a) Negotiable order of withdrawable ("NOW") accounts are savings accounts authorized by 12 U.S.C. 1832 on which the insured institution reserves the right to require at least seven days' notice prior to withdrawal or transfer of any funds in the account.

(b) For purposes of 12 U.S.C. 1832:

(1) An organization shall be deemed "operated primarily for religious, philanthropic, charitable, educational, or other similar purposes and . . . not . . . for profit" if it is described in sections 501(c)(3) through (13), 501(c)(19), or 528 of the Internal Revenue Code; and

(2) The funds of a sole proprietorship or unincorporated business owned by a husband and wife shall be deemed beneficially owned by "one or more individuals."

PART 563—OPERATIONS

24. The authority citation for Part 563 is revised to read as follows:

Authority: Pub. L. 95-147 of Oct. 28, 1977, sec. 4, 82 Stat. 856, sec. 4, 80 Stat. 824, sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1425a,

1425b, and 1437); sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 202, 96 Stat. 1469; sec. 409, 94 Stat. 160; secs. 401–407, 48 Stat. 1255–1260, as amended (12 U.S.C. 1724–1730); sec. 408, 82 Stat. 5, as amended (12 U.S.C. 1730a); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071, unless otherwise noted.

§ 563.1 [Amended]

25. Amend § 563.1(a) by removing "§ 526.1" and inserting in its place "§ 561.11g".

26. Amend § 563.1(b) by removing "§ 545.14(a)(3)" and inserting in its place "§ 561.35" and by removing the authority citation located at the end of the section.

27. Revise § 563.3–1 to read as follows:

§ 563.3–1 Fixed-term accounts (certificate accounts).

(a) *General.* Subject to the requirements of this section, an insured institution may offer certificate accounts, as defined in § 526.1(b) of this chapter, in such form as the board of directors of the institution may authorize by resolution. With respect to any time deposit, an insured institution may impose a penalty for early withdrawal, subject to the limitations in paragraph (e).[1]

(b) *Payment of interest or other earnings.* An institution may pay earnings on a certificate account at a rate or anticipated rate of return determined at the time that the account is accepted. The rate or anticipated rate on a certificate account either may be fixed or may vary according to a schedule, index, or formula specified at the time that the account is accepted.

(c) *Limitations.* In issuing certificate accounts, no institution shall:

(1) Accept any fixed-term account for a term of less than seven days; or

(2) Issue any form of certificate account, unless the institution has complied with the requirements of § 563.1 of this part.

(d) *Disclosure.* Each certificate account shall include in its provisions and display in easily read type:

(1) The rate or anticipated rate of earnings to be paid; the basis, frequency, extent, and limits of any variation in the rate over the term of the account; and the dates or frequency at which earnings are distributable;

(2) The amount of the account and the date of its issuance;

(3) The minimum term (or for a savings deposit, the term) and minimum-balance requirement;

(4) Any provisions limiting the right of the holder to make additions to the account or to withdraw all or any portion of the account prior to its maturity;

(5) Any penalty or penalties for withdrawal prior to expiration of the term;

(6) Any provisions relating to redemption, call, or repurchase;

(7) Any provisions relating to a renewal when the term expires;

(8) Any provisions relating to earnings after expiration of the term or any renewal period; and

(9) Any provision converting the rate of return on the certificate account to another rate of return, whenever any minimum balance requirement established by the insured institution may cease to be met.

(e)(1) A certificate account may prohibit withdrawal of any portion of such account prior to maturity, except under such circumstances as may be set forth therein: *Provided,* that under the following circumstances no certificate may prohibit withdrawal and no early withdrawal penalty may be imposed:

(i) After the death of an account owner, if the withdrawal is requested by any other owner of the account or by the authorized representative of the decedent's estate; or

(ii) After an account owner is determined by a court or other administrative body of proper jurisdiction to be legally incompetent, if the account was issued before the date of such determination and not extended or renewed after that date.

(2) For purposes of paragraph (e)(1) of this section, an "owner" is an individual who has full legal and beneficial title to all or part of the account or beneficial title to all or part of the account and full power of disposition or alienation with respect thereto, including but not limited to power of revocation with respect to any trust, regardless of whether such owner was a trustee, of which such account comprises all or part of the trust assets.

§ 563.3–1 [Amended]

28. Amend § 563.3–1 by removing the authority citation located at the end of the section.

29. Add a new § 563.3–2 to read as follows:

§ 563.3–2 Negotiable order of withdrawal accounts authorized.

Insured institutions may offer negotiable order of withdrawal accounts as are authorized by 12 U.S.C. 1832.

§ 563.3–3 [Amended]

30. Amend § 563.3–3 by removing paragraph (d)(3) and redesignating paragraph (d)(4) as paragraph (d)(3); by removing paragraph (f) and redesignating paragraph (g) as paragraph (f); and by amending the text of redesignated paragraph (f) by removing "§ 531.11" and inserting in its place "§ 531.10".

31. Revise § 563.6 to read as follows:

§ 563.6 Payment of insured accounts on demand.

(a) Except for checking accounts, tax and loan accounts, note accounts, and United States Treasury general accounts, no insured institution shall issue any insured account, or advertise or represent that it will pay holders of its insured accounts, on demand.

(b) As used in paragraph (a), accounts which are payable on demand are:

(1) Accounts with an original maturity or required notice period of less than seven days;

(2) Accounts for which the insured institution does not reserve the right to require at least seven days' written notice prior to withdrawal or transfer of funds in the account; or

(3) Savings accounts held by depositors ineligible to hold negotiable order of withdrawal accounts under 12 U.S.C. 1832 if the insured institution authorizes the depositor to exceed the transaction limitations set forth in § 561.11f(a)(2) of this subchapter despite any maturity requirements or notice of withdrawal requirements which may be imposed or reserved.

(c) An insured institution may provide in any time deposit contract that if the deposit or any portion thereof is withdrawn not more than ten days after a maturity date, interest will continue to be paid for such period. The payment of such interest is not payment of interest on a demand deposit.

(d) An insured institution may continue to pay interest for a period between a maturity date and the date of renewal of the deposit: *Provided,* that such certificate is renewed within ten days after maturity. The payment of such interest is not payment of interest on a demand deposit.

[1] Insured institutions are advised that for purposes of Regulation D reserve requirements imposed by the Federal Reserve Board, early withdrawal penalties may be required to distinguish time deposits from demand deposits. The penalty, seven days' interest, applies only to withdrawals within the first six days after a time deposit is opened. *See* FRB Docket No. R–0565 (March 17, 1986). Early withdrawal penalties also may be required under Regulations D to distinguish nonpersonal time deposits with maturities of less than eighteen months for nonpersonal time deposits with maturities of eighteen months or more. The required penalty is one months' interest. *Id.*

this AD, accomplish one of the following:

1. Accomplish the modification described in Part I.D. of the Accomplishment

§§ 563.3-3, 563.7-2, and 563.31 [Amended]

32. Amend § 563.3-3, § 563.7-2, and § 563.31 by removing the authority citations located at the end of the sections.

PART 564—SETTLEMENT OF INSURANCE

33. The authority citation for Part 564 is revised to read as follows:

Authority: Sec. 308, Pub. L. 96-221; sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 401, 402, 403, 405, 48 Stat. 1255, 1256, 1257, 1259, as amended (12 U.S.C. 1724, 1725, 1726, 1728); Reorg. Plan. No. 3 of 1947, 12 FR 4981, 3 CFR 1943-48 Comp., p. 1071, unless otherwise noted.

§§ 564.1 and 564.2 [Amended]

34. Amend § 564.1 and § 564.2 by removing the authority citations located at the end of the sections.

PART 571—STATEMENTS OF POLICY

35. The authority citation for Part 571 is revised to read as follows:

Authority: Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730); sec. 5A, 47 Stat. 727, as amended by sec. 1, 64 Stat. 256, as amended; sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1464); sec. 409, 94 Stat. 160; Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071, unless otherwise noted.

36. Amended § 571.5 by revising paragraph (f) to read as follows:

§ 571.5 Mergers and transfers of assets and liabilities.

* * * * *

(f) *Liquidating dividends.* In acting on any application under §§ 546.2 or 563.22 of this chapter, the Board will consider relevant to the insurance risk of the Federal Savings and Loan Insurance Corporation the effect on the financial condition of a member of any payment by a disappearing nonmember institution to holders of its savings accounts in contemplation of a merger with a member but before execution of a merger commitment.

* * * * *

37. Amend § 571.5 by removing the authority citation located at the end of the section.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 86-6975 Filed 3-28-86; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-NM-03-AD; Amdt. 39-5269]

Airworthiness Directive; Boeing Model 747 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises and publishes in the **Federal Register** and makes effective to all persons, an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of Boeing Model 747 airplanes equipped with General Electric CF6 engines by individual telegrams. The AD requires inspection and, if necessary, clearing of the engine strut drain lines. The AD is prompted by reports of fire caused by accumulated fuel. The AD is being revised to clarify the modification effectivity and requirements.

DATES: Effective April 18, 1986. This AD was effective earlier to all recipients of telegraphic AD T86-01-51, issued January 9, 1986.

ADDRESSES: The service bulletins specified in this AD may be obtained upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. It 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. Kanji Patel, Propulsion Branch, ANM-140S, Seattle Aircraft Certification Office; telephone (206) 431-2973. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: On January 9, 1986, the FAA issued telegraphic AD T86-01-51 which requires inspection and, if necessary, clearing of the engine strut drain lines on Boeing Model 747 airplanes equipped with General Electric CF6 engines, in accordance with the procedures specified in Boeing Maintenance Manual (MM), Chapter 71-71-00. A repetitive inspection and clearing of the drain lines, if necessary, is also required on the affected airplanes which have not accomplished the modifications described in Boeing Service Bulletin 747-71-2146, dated November 24, 1978, and Boeing Service Bulletin 747-71-2155, Revision 3, dated September 28, 1984.

The AD was prompted by two reports of engine fires related to blocked strut drain lines. In both reported cases, fuel leakage occurred at the fuel line coupling where the line exits the front wing spar at the top of the engine strut. In one case, due to the plugged strut drain line, the fuel accumulated in the strut compartment and dripped through a condensate drain opening on to the hot engine tail section, where it ignited and flashed back into the strut cavity. In the other case, the drain line to the drain mast was plugged, preventing safe draining overboard; the accumulated fuel in the engine strut area dripped on to the hot engine tail pipe, where it ignited and burned externally. In both cases, the fires occurred on the ground and were extinguished with hand-held fire extinguishers. In both cases, minor airplane damage was reported. Additionally, several other cases of plugged engine strut drain lines have been reported. The plugged drains prevent flammable fluid leakage from draining overboard, causing a fire hazard.

The plugging of the engine strut drain lines resulted from fluid leakage becoming entrapped and standing in low areas of the lines. To eliminate this type of drain line plugging, Boeing issued Service Bulletin 747-71-2146 on November 28, 1978, which describes a modification and re-routing of the drain lines to provide a positive flow over the entire length of the line, precluding fluid entrapment and subsequent plugging.

Drain line plugging has also resulted from coking of hydraulic fluid that solidified on the inside of the drain line walls due to heat transfer from the hot engine section. To eliminate this type of plugging, Boeing issued Service Bulletin 747-71-2155 on August 22, 1980, which was last revised on September 28, 1984. This Service Bulletin describes replacement of strut drain line assemblies with new assemblies which are routed further from the engine hot section, installation of a heat shield to reduce the temperature of the bulkhead union, and, on certain airplanes, installation of a dam on the firewall to prevent fluids from contaminating the electrical connector.

Because all of the possible causes of plugging of these drain lines are unknown, a one-time inspection and clearing, if necessary, of the engine strut drain lines on all Model 747 airplanes equipped with General Electric CF6 engines is necessary to reduce the fire hazard. The FAA has determined that

reporting the results of the inspection is necessary to determine the extent of the problem. Airplanes on which modifications described in Service Bulletins 747–71–2146 and 747–71–2155, Revision 3, are not accomplished, or an equivalent type design change have not been incorporated in production, must also be repetitively inspected. The modification effectivity is in accordance with the service bulletins which have the affected airplanes identified by customer tabulated airplane block (TAB) numbers.

Service Bulletin 747–71–2155, Revision 3, dated September 28, 1984, describes three "Work Packages." Accomplishment of Work Packages I and II, pertaining to strut drain lines, will constitute terminating action for the repetitive inspection requirements of this AD. Work Package III, pertaining to replacement of the thrust reverser follow-up cable support bracket, is not required to be incorporated unless there is interference between the cable support bracket and the fluid dam.

This final rule revises the telegraphic Airworthiness Directive T86–01–51, issued on January 9, 1986, by clarifying the airplane effectivity and the requirement to accomplish Work Package III of Boeing Service Bulletin 747–71–2155, Revision 3.

The reporting requirements of this AD are approved by the Office of Management and Budget under OMB No. 2120–0056.

Since a situation existed, and still exists, that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required).

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 § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1354(a) 1421 and 1423; 40 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:

Boeing: Applies to all Model 747 series airplanes equipped with General Electric CF6 engines, certificated in any category. To prevent accumulation of flammable fluid in the engine strut, which constitutes a fire hazard, accomplish the following, unless already accomplished:

1. Within the next 72 hours time-in-service, inspect and, if necessary, clear the engine strut drains in accordance with the procedures specified in Chapter 71–71–00 of Boeing Maintenance Manual for the Boeing Model 747 airplanes equipped with General Electric CF6 engines. Repeat these inspections at intervals not to exceed 1,000 hours time-in-service. Report results of inspections to FAA, Northwest Mountain Region, Seattle Aircraft Certification Office, Propulsion Branch, ATTN: Kanji Patel, ANM–140S, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

2. The repetitive inspections required by paragraph 1., above, may be terminated upon the accomplishment of the following:

A. For Group I and II airplanes, as defined in Boeing Service Bulletin 747–71–2146, dated November 24, 1978, accomplish the replacement of the inboard and outboard pylon drain lines only, as shown in Figures 2 and 3, respectively, of that service bulletin or later FAA-approved revisions.

Note.—The portion of this service bulletin pertaining to "Strut Pylon Drain Line Engine Tube Replacement," Figure 1, has been superseded by Boeing Service Bulletin 747–71–2155, Revision 3, dated September 28, 1984.

B. For Group I airplanes, as defined in Boeing Service Bulletin 747–71–2155, Revision 3, dated September 28, 1984, accomplish replacement of the engine strut aft drain and incorporate the bracket/heat shield, in accordance with Work Package I described in that service bulletin, or later FAA-approved revisions; and install forward drain fitting, drain tube, and fluid dam in accordance with Work Package II described in that same service bulletin, or later FAA-approved revisions.

C. For Group II airplanes, as defined in Boeing Service Bulletin 747–75–2155, Revision 3, dated September 28, 1984, install forward drain fitting, drain tube, and fluid dam in accordance with Work Package II described in that service bulletin, or later FAA-approved revisions.

D. For Group III airplanes, as defined in Boeing Service Bulletin 747–75–2155, Revision 3, dated September 28, 1984, accomplish replacement of the engine strut aft drain and incorporate the bracket/heat shield, in accordance with Work Package I described in that service bulletin, or later FAA-approved revisions.

E. For Group I, II, and IV airplanes, as defined in Boeing Service Bulletin 747–75–2155, Revision 3, dated September 28, 1984, accomplish Work Package III, in accordance with that service bulletin, or later FAA-approved revisions, if the thrust reverser follow-up cable support bracket is found to interfere with the fluid dam.

3. 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.

4. 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 the inspections and, if necessary, cleaning of the engine strut drain lines.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents 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.

This amendment becomes effective April 18, 1986, as to all persons, except those persons, to whom it was made immediately effective by telegraphic AD T86–01–51, issued on January 9, 1986.

Issued in Seattle, Washington, on March 24, 1986.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 86–6945 Filed 3–28–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 85–NM–91–AD; Amdt. 39–5270]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires inspection of the forward lug of the inboard pylon upper link for cracks on certain Boeing Model 747 airplanes, and repair or replacement, as necessary. This action is prompted by recent

reports of failure of the forward lug end of the upper link. This action is necessary since this condition, if not corrected, could result in separation of an engine from the airplane.

DATES: Effective May 8, 1986.

ADDRESSES: The service bulletin specified in this AD may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124-2207. It may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Owen E. Schrader, Airframe Branch, ANM-120S; telephone (206) 431-2923. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive to require inspection for and subsequent repair of cracked structure was published in the **Federal Register** on October 21, 1985 (50 FR 42564). The comment period for the proposal closed on December 9, 1985.

Interested parties have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to all comments received.

Comments were received from the Air Transport Association (ATA) of America summarizing the comments of five airlines. Four of the airlines had no objections to the proposed rule. One of the airlines requested that the 750 landing initial inspection requirement be changed to 850 landings, that the 750 landing visual repetitive inspection be changed to 850 landings, and that the 1,500 landing ultrasonic repetitive inspection interval be changed to 1,700 landings. The commenter requested this change to make the inspection intervals coincide with its major base visits. The FAA has reassessed the technical data and concurs that this may be done without significantly impacting safety. Therefore, paragraphs A. and C. of the final rule have been changed to require initial inspection within 850 landings after the effective date of this AD, and the repetitive inspection intervals have been changed to 850 landings for visual inspections and 1,700 landings for ultrasonic inspections.

A sixth airline commented directly to the FAA. It was concerned that the proposed rule does not allow an operator, choosing to inspect at a lesser interval, to have the balance of the time remaining on the inspection interval, required by the AD, to plan and effect a repair if cracking is found. The FAA does not concur. The FAA has determined that, if an inspection reveals that cracking has occurred, a sufficient hazard exists to warrant a requirement for repairs prior to further flight. If frequent cracking is found at an interval below the interval specified in the proposed rule, it would be appropriate to amend the AD to require inspection at a lower interval.

That commenter also interpreted, from the Note accompanying paragraph D. of the proposed rule, that the requirements for inspection of the unworked lugs, currently contained within the Supplemental Structural Inspection Document (SSID), Airworthiness Directive 84-21-02, will be superseded by the proposed AD. The FAA does not concur with this interpretation. This rule will not terminate or change any of the requirements of the SSID Airworthiness Directive 84-21-02, if applicable. This rule is to detect fatigue cracking that emanates from fretting marks on the bore surface of the lug. This fretting is caused by improper interference fit. If this problem is corrected, no fatigue cracks will be expected. The SSID inspections are intended to detect fatigue cracks in this lug that are initiated, not from this known problem, but from other causes.

It should be noted that, strictly for the purpose of clarity, the Note which was inserted after paragraph D. of the proposed rule, has been moved to the end of paragraph A. of the final rule.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously mentioned.

It is estimated that 166 airplanes will be affected by this AD, that it will take approximately 12 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $79,680 for the initial inspection cycle.

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 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, Boeing Model 747 series airplanes are operated by small entities. A final evaluation prepared for this action is contained in the regulatory 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 this Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

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:

Boeing: Applies to Model 747 series airplanes, listed in Boeing Service Bulletin 747-54-2111, Revision 1, dated November 22, 1985, certificated in any category. To prevent failure of the forward lug of an inboard pylon upper link, accomplish the following, unless already accomplished:

A. Within the next 850 landings after the effective date of this AD or prior to the accumulation of 8,000 landings, whichever occurs later, perform a close visual or ultrasonic inspection of the forward lug of the inboard pylon upper link for cracks in accordance with Boeing Service Bulletin 747-54-2111, Revision 1, dated November 22, 1985, or later FAA-approved revision.

Note.—Definition of close visual (detailed) inspection method: Close intensive visual inspections of highly defined structural details or locations searching for evidence of structural irregularity. Using adequate lighting and where necessary, inspection aids such as mirrors, etc., surface cleaning and access procedures may be required to gain proximity.

B. Cracked parts must be replaced or modified prior to further flight. The part may be modified, if cracking is within rework limits, by the installation of bushings of a new design in accordance with Boeing Service Bulletin 747-54-2111, Revision 1, dated November 22, 1985, or later FAA-approved revision.

C. If no cracks are found, perform repetitive inspections, as described in paragraph A., above, at the following intervals:

1. If the immediately prior inspection was a close visual inspection, re-inspect within the next 850 landings.

2. If the immediately prior inspection was an ultrasonic inspection, re-inspect within the next 1,700 landings.

D. Installation of inboard pylon upper links that have been modified in accordance with Boeing Service Bulletin 747-54-2111, Revision 1, dated November 22, 1985, or later FAA-

approved revision, is considered to be terminating action for the requirements of this AD.

E. Compliance with this AD does not terminate the inspection requirements of the Supplemental Structural Inspection Document (SSID) Airworthiness Directive AD 84-21-02 (Amdt. 39-4936; 49 FR 44890), if applicable.

F. Upon the request of an operator, an FAA Principal Maintenance Inspector, subject to prior approval of the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, may adjust the inspection times specified in this AD to permit compliance at an established inspection period of that operator, if the request contains substantiating data to justify the change for that operator.

G. 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.

H. 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.

All persons affected by this proposal who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124-2207. These documents 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.

This amendment becomes effective May 8, 1986.

Issued in Seattle, Washington, on March 24, 1986.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-6946 Filed 3-28-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 85-NM-83-AD; Amdt. 39-5271]

Airworthiness Directives; British Aerospace Aircraft Group Model HS 748 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) that requires repetitive inspections of the wing structure at rib 134.366 and adjacent area on all British Aerospace (BAe) Model HS 748 airplanes. This action is prompted by reports of cracks and is necessary to maintain the structural integrity of the wing.

DATES: Effective May 8, 1986.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, DC 20041. It 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: Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-2909. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which requires repetitive inspections of the wing structure on all British Aerospace (BAe) Model HS 748 airplanes was published in the **Federal Register** on September 5, 1985 (50 FR 36097).

Interested parties have been afforded an opportunity to participate in the making of this amendment. No comments were received in response to 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 4 airplanes will be affected by this AD, that it will take approximately 30 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Repair parts are estimated to be nominal. Based on these figures, the total cost impact of this AD is estimated to be $4,800.

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 effect on a substantial number of small entities because of the minimal cost of compliance per airplane ($1,200). 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 § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

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:

British Aerospace Aircraft Group (BAe): Applies to all BAe Model HS 748 airplanes, certificated in any category. Compliance is required within the next 750 hours time in service after the effective date of this AD, or upon accumulating the service threshold as specified in paragraph 1.D of BAe Service Bulletin 57/75, Revision 1, dated August 1984, whichever occurs later; and thereafter at the intervals as specified in the service bulletin. To detect cracks in the wing structure, accomplish the following, unless already accomplished:

A. Inspect the wing structure at rib 134.366 and adjacent areas in accordance with BA Service Bulletin 57/75, Revision 1, dated August 1984. Repair any damage found in accordance with the requirement specified in the service bulletin.

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.

All persons affected by this directive who have not already received the appropriate service document from the manufacturer may obtain copies upon request to British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, DC 20041. This document 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.

This amendment becomes effective May 8, 1986.

Issued in Seattle, Washington, on March 24, 1986.

Wayne D. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-6936 Filed 3-28-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 85-NM-69-AD; Amdt. 39-5272]

Airworthiness Directive; Short Brothers, Ltd., Model SD3-30 SD3-60 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) that requires modifications to the elevator torque tube assembly to strengthen existing structural components on certain Short Brothers Model SD3-30 and SD3-60 airplanes. An incident has been reported in which elevator control was lost, requiring the airplane to be landed using elevator trim. Subsequent inspection revealed that four rivets had been lost from the torque shaft assembly. This condition, if uncorrected, could lead to the loss of the structural integrity of the elevator control circuit.

DATE: Effective May 8, 1986.

ADDRESSES: The service bulletin specified in this AD may be obtained upon requests to Shorts Aircrafts, 1725 Jefferson Davis Highway, Suite 510, Arlington, Virginia 22202. It 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: Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-2909. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which requires modifications to the elevator torque tube assembly to strengthen certain structural components was published in the **Federal Register** on September 5, 1985 (50 FR 36102).

Interested parties have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One comment, supporting the modification, was received from an operator who stated that its fleet had already been modified and questioned if an AD was necessary. The FAA recognizes that many operators may have voluntarily complied with manufacturer's service bulletin; however, it is necessary to issue a final rule to ensure that all airplanes of U.S. registry are modified.

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 101 airplanes will be affected by this AD, that it will take approximately 5 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Repair parts are estimated to be $150 per airplane. Based on these figures, the total cost impact of this AD is estimated to be $35,350.

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 effect on a substantial number of small entities because of the minimal cost of compliance per airplane ($350.). 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 § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. 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:

Short Brothers, Ltd.: Applies to Models SD3-30 and SD3-60 airplanes as listed in Short Brothers, Ltd. Service Bulletins SD3-27-29, dated April 1985 (for SD3-30 airplanes), and SD360-27-06, dated April 1985 (for SD3-60 airplanes), certificated in any category.

To prevent the loss of elevator control, accomplish the following within the next 90 days after the effective date of this AD, unless already accomplished:

1. Modify the elevator torque tube assembly in accordance with Short Brothers, Ltd. Service Bulletin SD3-27-29, dated April 1985 (for SD3-30 airplanes), or SD360-27-06, dated April 1985 (for AD3-60 airplanes).

2. 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.

3. 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.

All persons affected by this directive who have not already received the appropriate service document from the manufacturer may obtain copies upon request to Shorts Aircraft, 1725 Jefferson Davis Highway, Suite 510, Arlington, Virginia 22202. These documents 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.

This amendment becomes effective May 8, 1986.

Issued in Seattle, Washington, on March 23, 1986.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-6935 Filed 3-28-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 86-ANM-13]

Correction to Description of Helena, MT, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: A review of the Helena 700' transition area revealed an error in the description and subsequent charting on aeronautical charts. The extension was described as being on the Helena VORTAC 066° (T) radial instead of the 104° (T) radial. This action corrects that error.

DATES: Effective date—0901 UTC, April 30, 1986. Comments must be received on or before May 29, 1986.

ADDRESSES: Send comments on the rule to: Manager, Airspace & System Management Branch, ANM-530, Federal Aviation Administration, Docket No. 86-ANM-13, 17900 Pacific Highway South, C-68966, Seattle, WA 98168.

The official docket may be examined in the Regional Counsel's Office at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Katherine Paul, Airspace Technical Specialist, ANM-535, Federal Aviation Administration, Docket No. 86-ANM-13, 17900 Pacific Highway South, C-68966,

Seattle, WA 98168, Telephone: (206) 431–2530.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves correcting the description of the Helena, Montana, 700' transition area, and thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the 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

This amendment to Part 71 of the Federal Aviation Regulations corrects the description of the Helena, Montana, 700' transition area. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

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

Transition areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

PART 71—[AMENDED]

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

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

§ 71.181 [Amended]

2. By amending § 71.181 as follows:

Helena, Montana (Revised)

That airspace extending upward from 700 feet above the surface within a 12-mile radius of the Helena, Montana, VORTAC (lat. 46°36'25" N, long. 111°57'09" W), and within 6 miles northwest and 4 miles southeast of the Helena VORTAC 104° radial and extending from the 12-mile radius area to a point 21 miles northeast of the Helena VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 24-mile radius of the Helena VORTAC; within 6 miles south and 9 miles north of the Helena VORTAC 272° radial, extending from the 24-mile radius area to 45 miles west of the VORTAC; within 15.5 miles west and parallel to the Helena VORTAC 352° radial, extending from the 24-mile radius area to 31 miles north of the VORTAC; within 5 miles east and 9 miles west of the Helena VORTAC 023° radial, extending from the 24-mile radius area to 36 miles northeast of the VORTAC; and within 6 miles south and 9.5 miles north of the Helena VORTAC 102° radial, extending from the 24-mile radius area to 28.5 miles east of the VORTAC.

Issued in Seattle, Washington, on March 20, 1986.

David E. Jones,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 86–6947 Filed 3–28–86; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 18

[T.D. 85–191]

Liquidated Damages Claims Against Bonded Carriers

AGENCY: Customs Service, Treasury.

ACTION: Final rule; correction.

SUMMARY: In FR Doc. 85–25007, published as T.D. 85–180, in the **Federal Register** on October 21, 1985 (50 FR 42516), § 18.8(e)(1), Customs Regulations (19 CFR 18.8(e)(1)), was extensively revised to reflect the terms of the 1975 Convention on International Road Transport (TIR) Carnets.

Subsequently, § 18.8(e)(1) was further amended in FR Doc. 85–28433, published as T.D. 85–191, in the **Federal Register** on November 29, 1985 (50 FR 49037). This document made minor changes to the third sentence of § 18.8(e)(1). However, it erroneously referred to the second sentence. Accordingly, on page 49039, in the second column, in the third numbered paragraph, the word "second" should be changed to "third".

FOR FURTHER INFORMATION CONTACT: William Rosoff (202–566–2140) or Kent Parsell (202–566–5354).

Dated: March 25, 1986.

B. James Fritz,

Director, Regulations Control and Disclosure Law Division.

[FR Doc. 86–7002 Filed 3–28–86; 8:45 am]

BILLING CODE 4820–02–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 200

[Docket No. R–86–1183; FR–1655]

Revision of Minimum Property Standards (MPS) for One and Two Family Dwellings; Correction

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

ACTION: Final rule; correction.

SUMMARY: This document corrects certain amendatory language contained in a final rule appearing in the **Federal Register** of Friday, September 27, 1985 (50 FR 39586). The rule changed the basic structure of HUD's Minimum Property Standards (MPS) for one and two family dwellings.

FOR FURTHER INFORMATION CONTACT: Mark W. Holman, Manufactured Housing and Construction Standards Division, Room 9156, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755–6534. (This is not a toll-free number.)

Accordingly, the following correction is made to FR Doc. 85–22935 appearing on page 39586 in the issue of September 27, 1985:

PART 200—[CORRECTED]

On page 39600, in the middle column, the amendatory language to amendment number 5 and the heading of the Appendix are corrected to read as follows:

5. Part 200 is amended by adding Appendix B to read as follows:

Appendix B to Part 200—Standards Incorporated by Reference in the Minimum Property Standards for One and Two Family Dwellings

Dated: March 25, 1986.

Grady J. Norris,

Assistant, General Counsel for Regulations.

[FR Doc. 86-6948 Filed 3-28-86; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8065]

Income Taxes; Partner's Distributive Share

Correction

In FR Doc. 85-30781 beginning on page 53420, in the issue of Tuesday, December 31, 1985, make the following corrections:

§ 1.704-1 [Corrected]

1. On page 53423, in the second column, in § 1.704-1(b)(0), in the table, in the second column, the first, second, fourth, and fifth lines respectively should read, 1.704-1(b)(2)(iv)(*d*)(*2*), 1.704-1(b)(2)(iv)(*d*)(*3*), 1.704-1(b)(2)(iv)(*e*)(*1*), and 1.704-1(b)(2)(iv)(*e*)(*2*).

2. On page 53428, in the second column, in § 1.704-1(b)(2)(iv)(*f*)(*1*), in the first line, "section 701(g)" should read "section 7701(g)".

3. On page 53430, in the third column, in § 1.704-1(b)(2)(iv)(*m*)(*3*), in the fourth line, "section 745" should read "section 754."

4. On page 53441, in the first column, in § 1.704-1(b)(5), Example (15)(ii), in the table, the second heading should read "DK".

5. On page 53444, in the third column, in § 1.704-1(b)(5) Example (18)(xii), in the fourth line from the bottom, "year" should read "year is".

BILLING CODE 1505-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2644

Notice and Collection of Withdrawal Liability; Adoption of New Interest Rate

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's regulation on Notice and Collection of Withdrawal Liability. That regulation incorporates certain interest rates published by another federal agency. The effect of this amendment is to add to the appendix of that regulation a new interest rate to be effective from April 1, 1986, to June 30, 1986.

EFFECTIVE DATE: April 1, 1986.

FOR FURTHER INFORMATION CONTACT: John Carter Foster, Attorney, Multiemployer Regulations Group, Corporate Policy and Regulations Department (35100), Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, DC 20006; telephone 202-956-5050 (202-956-5059 for TTY and TDD).

SUPPLEMENTARY INFORMATION: On May 31, 1984, the Pension Benefit Guaranty Corporation (the "PBGC") published a final regulation on Notice and Collection of Withdrawal Liability.

That regulation, codified at 29 CFR Part 2644, deals with the rate of interest to be charged by multiemployer pension plans on withdrawal liability payments that are overdue or in default on or after July 2, 1984 (the effective date of the regulation), or to be credited by such plans on overpayments of withdrawal liability made on or after that date. The regulation allows plans to set such rates, subject to certain restrictions. Where a plan does not set such rates, § 2644.3(b) of the regulation provides that the rate to be charged or credited for any calendar quarter is the average quoted prime rate on short-term commercial loans for the fifteenth day (or next business day if the fifteenth day is not a business day) of the month preceding the beginning of the quarter, as reported by the Board of Governors of the Federal Reserve System in Statistical Release H.15 ("Selected Interest Rates").

Since the regulation incorporates interest rates published in Statistical Release H.15, that release is the authoritative source for the rates that are to be applied under the regulation. As a convenience to persons using the regulation, however, the PBGC collects the applicable rates and republishes them in an appendix to Part 2644. See 50 FR 39664 (September 30, 1985) and 50 FR 53313 (December 31, 1985). This amendment adds to this appendix the interest rate of 9 percent, which will be effective from April 1, 1986, to June 30, 1986. This rate represents a decrease of ½ percent from the rate in effect for the first quarter of 1986. This rate is based on the prime rate in effect on March 17, 1986, as reported by the Federal Reserve in Statistical Release H.15.

The appendix to 29 CFR Part 2644 does not prescribe interest rates under the regulation; the rates prescribed by the regulation are those published in Statistical Release H.15. The appendix merely collects and republishes the rates in a convenient place. Thus, the interest rates in the appendix are informational only. Accordingly, the PBGC finds that notice of and public comment on this amendment would be unnecessary and contrary to the public interest. For the above reasons, the PGBC also believes that good cause exists for making this amendment effective immediately.

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

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

List of Subjects in 29 CFR Part 2644

Employees benefit plans, Pensions.

In consideration of the foregoing, Part 2644 of Subchapter F of Chapter XXVI of Title 29, Code of Federal Regulations, is amended as follows:

PART 2644—NOTICE AND COLLECTION OF WITHDRAWAL LIABILITY

1. The authority citation for Part 2644 continues to read as follows:

Authority: Secs. 4002(b)(3) and 4219(c), Pub. L. 93-406, as amended by secs. 403(1) and 104 (respectively), Pub. L. 96-364, 94 Stat. 1208, 1302 and 1236-1238 (1980) (29 U.S.C. 1302(b)(3) and 1399(c)(6)).

Appendix A—[Amended]

2. Appendix A is amended by adding to the end of the table of interest rates therein the following new entry:

From	To	Date of quotation	Rate (percent)
04/01/86	06/30/86	03/17/86	9.00

Issued at Washington, DC, on this 25th day of March, 1986.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 86-6918 Filed 3-28-86; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 950

Amendment to the Wyoming Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Final rule.

SUMMARY: The Director, OSMRE, is announcing the approval, with certain exceptions, of proposed amendments submitted by the State of Wyoming as modifications to its permanent regulatory program (hereinafter referred to as the Wyoming program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The amendments, submitted June 10, 1985, address revisions to eight chapters of Wyoming's approved permanent program regulations. The proposed revisions address the following subject areas: submission of blasting plan, alluvial valley floors determination, performance standards, use of explosives, subsidence control plan, coal exploration, bond release procedures and designation of lands as unsuitable for mining.

After considering all comments from the public and other governmental agencies and after conducting a thorough review of the proposed amendments, the Director has determined that, with certain exceptions, the proposed modifications meet the requirements of SMCRA and the Federal regulations. He is, therefore, with certain exceptions, approving the proposed amendment as submitted on June 10, 1985. The Federal regulations at 30 CFR Part 950 codifying decisions concerning the Wyoming program are being amended to implement this action.

This final rule is being made effective retroactive to October 22, 1984, to coincide with the promulgation date of this regulation package by the Wyoming Secretary of State. Retroactive approval is necessary to ensure that there is no adverse effect on State actions taken since that date.

EFFECTIVE DATE: October 22, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Ennis, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building, 100 East "B" Street, Room 2128, Casper, Wyoming 82601-1918, Telephone: (307) 261-5824.

SUPPLEMENTARY INFORMATION:

I. Background

Information concerning the general background on the Wyoming program submission and the approval process, as well as the Secretary's findings, the disposition of comments and an explanation of the conditions of approval can be found in the November 26, 1980 **Federal Register** (45 FR 78637-78684). Subsequent actions on conditions of approval and program amendments are identified at 30 CFR 950.11 and 950.15.

II. Submission of Amendment

On June 10, 1985, the State of Wyoming submitted proposed amendments revising eight chapters of the approved permanent program regulations which are administered by the Wyoming Land Quality Division. The proposed revisions address the following areas: submission of blasting plan, alluvial valley floors, performance standards, use of explosives, subsidence control plan, coal exploration, bond release procedures and designation of lands as unsuitable for mining.

The July 22, 1985 **Federal Register** announced receipt of the proposed amendments and invited public comment (50 FR 29704). Since no one requested a public hearing, none was held. The comment period closed on August 21, 1985.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendments submitted by the State of Wyoming on June 10, 1985. The Director's review of the proposed amendments was largely confined to the actual changes and did not necessarily encompass the entire provision within which a change was proposed. The Director may require further changes in the future as a result of his ongoing review of the Wyoming program in light of Federal regulatory revisions or court decisions.

1. Chapter II—Permit Applications

Wyoming revised Chapter II, section 3.b.(3) of its regulations to correspond to similar revisions made to the Federal regulations at 30 CFR 816.61(d)(3). The revised regulation addresses information requirements that must be included as part of the applicant's blasting plan. Specifically, the proposed revision requires the applicant to submit, as part of the blasting plan, a blast design describing drill patterns, delay period, decking and procedures to be used to protect certain structures from damage. The revision also requires the applicant who intends to blast to submit a sample copy of the public notice required by the Wyoming regulations. The Director finds the revised State regulations at Chapter II, section 3.b.(3), no less effective than the revised Federal regulations at 30 CFR 816.61(d)(3).

2. Chapter III—Permits for Special Categories of Surface Coal Mining

Wyoming has revised Chapter III, section 2, of its regulations to provide for a preapplication determination by the Administrator of the Land Quality Division (LQD) as to the existence and extent of an alluvial valley floor (AVF). All applications for a surface coal mining permit must contain sufficient information to affirmatively demonstrate the presence or absence of an AVF within the permit area and those adjacent areas where the AVF may reasonably be affected by the proposed mining operation. Based upon the Administrator's preapplication determination concerning the existence and extent of the AVF, the applicant is then required to provide, as part of the complete permit application, sufficient information and data which will allow the Administrator to determine the importance of the AVF to farming and to characterize the essential hydrologic functions. The Administrator, based upon information provided in the complete application, will place certain permit requirements upon the applicant such as monitoring plans, hydrologic studies or other demonstrations that the integrity of the AVF and the agricultural use of the affected area will not be adversely impacted. The Director finds that the revised Wyoming regulations at Chapter III, section 2, are no less effective than Federal requirements at 30 CFR 785.19 and 30 CFR Part 822.

3. Chapter V—Performance Standards for Special Categories of Surface Coal Mining

a. Wyoming has revised Chapter V, concerning performance standards for special categories of surface coal mining, by adding a new Section 1, Applicability. The proposed language states that the special performance standard requirements of Chapter V, taken together with the general

performance standards of Chapter IV, apply to all surface coal mining operations. If a conflict occurs between the two Chapters, the specific standards of Chapter V shall apply. The Director finds the revisions at Chapter V, section 1, no less effective than the Federal requirements at 30 CFR Chapter VII.

b. Wyoming has revised Chapter V, section 6 of its regulations concerning auger mining. Specifically, Wyoming has revised section 6(c) concerning the need to seal auger holes. The revised Wyoming provision states that auger holes need not be sealed if the Administrator determines that: the resulting impounded water caused by sealing may create a hazard to the environment or public health; the auger holes are not discharging water, or that if discharging, the water does not contain toxic-forming or acid-forming material. The Director finds the revised language at Chapter V, section 6(c), no less effective than the Federal requirements at 30 CFR 819.15(c).

c. Wyoming has revised Chapter V by adding a new section, section 6(c) which concerns reclamation standards applicable to auger mining operations that are conducted in previously mined areas that are not reclaimed to permanent program standards. The revised regulation states that for auger operations conducted in previously mined areas not reclaimed in accordance with backfilling and grading performance standards of Chapter IV, section 3(a), the operator shall reclaim in accordance with the standards of Chapter V, section 7. The revised backfilling and grading performance standards of the remining regulations of Chapter V, section 7, specifically exempt the operator from the backfilling and grading requirements of Chapter IV, section 3(a)(iv), which requires a demonstration by the operator that the backfill was designed by a registered professional engineer and has a minimum static safety factor for the stability of the fill of 1.3. The Wyoming rule does require that backfilled areas be graded to a slope which is stable, compatible with approve post mining land use and provides drainage. The backfilling requirements for auger operations in previously affected areas are adequate except as discussed below. The Director finds that Wyoming's deletion of the certification requirement and the minimum static safety factor requirement in its revised regulations is less effective than the Federal requirements of 30 CFR 819.19(b)(1). Therefore, the Director is requiring that Wyoming further amend its program to require the operator of an auger mining operation in a previously disturbed area to demonstate to the regulatory authority that the backfill as designed by a registered professional engineer has a minimum static safety factor of 1.3 for the stability of the backfill as required by 30 CFR 819.19(b)(i).

d. Wyoming has revised Chapter V, section 7(a)(ii) of its regulations concerning highwall elimination in previously affected areas. Specifically, the proposed regulation, revised to correspond to revisions made to the Federal regulations at 30 CFR 816.106 and 817.106, states that the requirement to backfill the highwall with all reasonably available spoil does not apply to remining operations that will not cause an adverse physical impact to preexisting highwalls. As part of a court settlement in the case *In re: Permanent Surface Mining Regulation Litigation II*, Civil Action No. 79–1144 (D.D.C), OSMRE agreed to suspend certain regulations. The January 3, 1985 **Federal Register** (50 FR 257), announced the suspension of 30 CFR 816.106(b) and 817.106(b) and the definition of "adverse physical impact" at 30 CFR 701.5, insofar as they fail to require all persons conducting surface coal mining and reclamation operations to use all reasonably available spoil to backfill highwalls in all remaining situations. The suspension means that the concept of adverse physical impact no longer applies and all persons conducting remining operations are required to use all reasonably available spoil in the vicinity of the remining operation to backfill the highwall to the maximum extent technically practical. The revised State regulation relating to remining would have an effect similar to the suspended Federal rules at 30 CFR 816.106(b) and 817.106(b). Therefore, the Director finds that the proposed revision to Wyoming Chapter V, section 7(a)(ii), renders the Wyoming program less effective than the Federal regulations and is not approving it. The Director also finds that a further revision to the Wyoming regulations is required to render the State's provision no less effective than the Federal regulations at 30 CFR 816.106(b) and 817.106(b) as interpreted by the court.

4. Chapter VI—Blasting for Surface Coal Mining Operations

Wyoming has revised Chapter VI of its regulations to correspond to similar revisions made to the Federal regulations. Chapter VI of the Wyoming regulations addresses the State's requirements for conducting blasting for surface coal mining operations.

Specifically, Wyoming has revised section 2 concerning citizens' rights and responsibilities when requesting a preblasting survey to correspond to revisions made to 30 CFR 816.62. Wyoming also specifies in this section the procedures to be followed by the State regulatory authority when conducting a preblasting survey.

Wyoming has revised section 3 which addresses the permittee's obligation to publish notice of the blasting schedule. The State has revised its regulations to correspond to the revised Federal provisions at 30 CFR 816.64, which require an operator to publish the blasting schedule in a newspaper of general circulation in the locality of the blasting at least 10 days, but not more than 30 days before beginning a blasting program.

Wyoming has revised section 4, concerning blasting standards, to correspond to comparable revisions made to the Federal regulations at 30 CFR 816.67. Specifically, Wyoming revised its regulations to: lower airblast limits in some instances; grant to the Administrator of the LQD the authority to require lower airblast levels if necessary to prevent damage; require the operator to conduct periodic airblast monitoring; require an operator not to exceed the maximum ground vibration limits as approved in the operator's blasting plan and grant to the Administrator of the LQD, the authority to reduce the maximum allowable ground vibration limit if necessary to provide damage protection.

Wyoming has revised Section 5 in light of revisions to the Federal regulations at 30 CFR 816.68 concerning the operator's responsibility to make and retain records of each blast. Specifically, the State is revising its regulations to require operators who conduct blasting to maintain blasting records that include detailed sketches of the blast pattern, information on the total weight of explosives used per hole, information on airblast records and reasons and conditions for each unscheduled blast.

The Director finds the revisions to Chapter VI, sections 2, 3, 4, and 5, concerning use of explosives to be no less effective than the Federal requirements of 30 CFR 816.62, 816.64, 816.67 and 816.68.

5. Chapter VII—Underground Mining

a. Wyoming has revised Chapter VII of its regulations concerning underground mining. The State has revised its regulations to correspond to the revised Federal provisions at 30 CFR Parts 784 and 817. The revisions to section 1 of the Wyoming regulations concern the submission of a subsidence

control plan as part of the permit application. The revised regulation identifies the content requirements of the subsidence control plan, including a description of the mining methods, the extent and effect of planned and controlled subsidence, the measures to be taken to prevent or minimize unplanned subsidence and measures to be taken to prevent, lessen or mitigate material damage. The Director finds the revisions to Chapter VII, section 1, to be no less effective than the Federal requirements at 30 CFR 784.20.

b. Wyoming has revised section 2 of its regulations to correspond to revisions made to the Federal regulations at 30 CFR 817.121(d). The proposed revisions to section 2 concern performance standards applicable to underground coal mining operations. Specifically, the State has revised its regulations to prohibit underground mining beneath and adjacent to public facilities and bodies of water with a volume of 20 acre feet or more unless an advance showing of no material damage can be made. Wyoming has also revised its regulations to provide the LQD the authority to suspend mining if it threatens to cause material damage to cities, towns, communities, industrial or commercial buildings or major water impoundments. Lastly, Wyoming has revised this section to require operators to submit a detailed plan of underground workings within a schedule approved by the LQD. The detailed plan shall include maps and descriptions of significant features of the underground mine, extraction ratios, measures taken to prevent or minimize subsidence and related damage and other pertinent information as required by the Administrator. The Director finds the revisions to Chapter VII, Section 2 to be no less effective than the Federal requirements at 30 CFR 817.121(d).

c. Wyoming has revised section 4 of this chapter concerning surface owner protection. The revised language at Section 4(a)(ii) requires the operator to compensate for or correct material damage to structures or facilities caused by subsidence. However, the State's provision is limited by the phrase *to the extent required under State law*. The Federal rule at 30 CFR 817.121(c) concerning protection of structures damaged by subsidence was suspended, in part, on February 21, 1985 (50 FR 7274). The phrase, "to the extent required under State law" was that part suspended by OSMRE. As a result of the suspension, the modified Federal provision at 30 CFR 817.121(c) now requires either correction of material damage to structures caused by subsidence or compensation to the owner of such structures or facilities in the full amount of the diminution in value from the subsidence.

Therefore, the Director finds that a further revision to the Wyoming regulations is required to render the State's provision no less effective than the Federal provisions at 30 CFR 817.121(c), as modified by OSMRE's suspension of the phrase discussed above.

6. Chapter XI—Coal Exploration

a. Wyoming has revised section 1(a) of its regulations concerning coal exploration to correspond to comparable revisions to the Federal regulations at 30 CFR 772.11(a). The revised Wyoming provision is analogous to the Federal provision that was remanded as part of the July 15, 1985 District Court decision in *In re: Permanent Surface Mining Regulation Litigation II*. The Federal regulation limits the requirement to file a written notice of intent to explore to only those operations which may substantially disturb the natural land surface. The court held that the Secretary had failed to adequately explain his departure from the previous rule which required all persons planning to explore to file a notice. The Director finds that the revised Wyoming rule at Chapter XI, section 1(a), includes the same limitation as the Federal rule which was remanded by the court and for this reason is not approving it.

b. Wyoming has revised section 1(b) of this Chapter concerning the content requirements of the notice of intent to explore that must be filed with the Administrator of the LQD. The Director finds that the revisions to section 1(b) are no less effective than the Federal requirements at 30 CFR 772.11(b), with the exception noted below.

The revision to section 1(b)(iii) is analogous to the Federal provision at 30 CFR 772.11(b)(3) which was remanded as part of the July 15, 1985 District Court decision in *In re: Permanent Surface Mining Regulation Litigation II*. The Federal rule requires the notice of intent to include a narrative or map of the exploration area. The court held that the Federal rule does not establish standards to ensure that a sufficient level of detail will be included to ensure compliance with section 512(a) of SMCRA, which requires that a description of the exploration area be included in the notice of intent to explore. The Director finds, in light of the court's decision, that he cannot approve Chapter XI, section 1(b)(iii), as revised by the State, because it requires either a narrative or a map. When OSMRE has completed further rulemaking to address this decision, the State will be notified of any amendments needed to render the Wyoming provisions no less effective than the Federal provisions.

c. Wyoming has revised section 3 of this Chapter concerning decisions on coal exploration applications during which more than 250 tons of coal will be removed. The revised section requires notification of the State's decision on exploration applications for removal of more than 250 tons to other commenters, as well as to the applicant and appropriate governmental agencies. The revised regulation at section 3(b), however, does not provide that a person having an interest which is or may be adversely affected by a decision of the LQD on an exploration application shall have an opportunity for administrative and judicial review, as provided by the Federal regulations at 30 CFR 772.12(e)(2). The Director finds the State's revisions to Chapter XI, section 3(b) render the Wyoming program less effective than the Federal regulation. Therefore, the Director finds that further revisions to the Wyoming regulations are required in order to render them no less effective than the Federal regulations at 30 CFR 772.12(e)(2).

7. Chapter XVI—Release of Bonds or Deposits for Surface Coal Mining Operations

Wyoming has made limited revisions to this Chapter of the regulations concerning procedures for bond release. The State has revised its provisions to correspond to similar revisions to the Federal provisions at 30 CFR 800.40(b)(1). Specifically, Wyoming has revised its rules at section 3(b) of this Chapter to allow interested parties access to proposed bond release sites for the purpose of gathering information for the bond release proceeding. Wyoming also revised section 4 of this Chapter concerning notification procedures to be followed when the LQD acts upon an operator's bond release application. The Administrator, LQD now notifies all parties who either filed written objections or who objected at any hearing, of his decision concerning the bond release. The Director finds the revisions made by Wyoming to Chapter XVI are no less effective then the Federal provisions at 30 CFR 800.40(b)(1) and 800.40(b)(2).

8. Chapter XVIII—Designation of Areas Unsuitable for Surface Coal Mining

a. Wyoming has revised its definition of "fragile lands at Section 1(a) of this Chapter." The State has revised its

definition to correspond to revisions to the Federal definition at 30 CFR 762.5. However, on January 3, 185, OSMRE announced in the **Federal Register** (50 FR 257) its suspension of the definition of "fragile lands" as the result of an agreement which was approved December 3, 1984, by order of the court prior to the round III decision in *In re: Permanent Surface Mining Regulation Litigation II*, Civil Action No. 79–1144 (D.D.C.).

The settlement agreement calls for the suspension, in part, of the definition of "fragile lands" at 30 CFR 762.5. In compliance with the agreement, the phrase "beyond an operator's ability to repair or restore" was suspended by OSMRE. This means that instead of requiring a showing of irreparable or permanent damage to the lands to allow for designation of an area as unsuitable for mining, a showing of significant damage will be sufficient. As a result of the suspension, the Director cannot approve Wyoming's revised definition insofar as it contains the phrase "beyond an operator's ability to repair or restore". The Director finds that a further revision is required at Chapter XVIII, section 1(a) to render the State's provision no less effective than 30 CFR Part 762.5, as modified by OSMRE's suspension of the phrase discussed above.

b. Wyoming has revised section 2 of this Chapter concerning content requirements for petitions to designate lands as unsuitable for surface coal mining and petitions to terminate such designations. The State's revisions are intended to address changes made to the Federal regulations at 30 CFR 764.

In modifying the provisions of section 2, Wyoming has included at 2(b)(viii) and 2(c)(ix) a requirement that "other information which is requested by the administrator" be provided as part of a petition. It would appear that the addition of this requirement to the content requirements for petitions is in conflict with the Federal requirements at 30 CFR 764.13(b)(2) and (c)(2) in that it does not specify that only readily available information be provided by the petitioner. However, the Director believes that in application, the Wyoming provision would have the same effect as the Federal provision for the following reasons:

1. Because the Wyoming provision does not identify information that a petitioner must submit, a petition could not be found incomplete because this requirement of the Wyoming regulations was not addressed;

2. Modification of the minimum content requirements for petitions would necessitate further modification of the approved Wyoming State program and rulemaking by the State and would be subject to public review and approval by OSMRE. At that time specific requirements could be reviewed to determine compliance with applicable Federal requirements; and,

3. Information submitted by petitioners or other parties after a petition has been found to be complete is utilized by the regulatory authority in preparing the statement required under the State counterpart to 30 CFR 764.19(a)(4) and in preparing the written decision required under the State counterpart to 30 CFR 764.19(b). Failure to provide information requested by the regulatory authority is not a basis for a decision on an unsuitability petition.

4. OSMRE will be evaluating closely the State's application of these provisions, as part of the ongoing oversight process to verify that the application of the State provisions does not conflict with Federal requirements at 30 CFR 764.13 (b)(2) and (c)(2).

Wyoming also modified section 2(d) by adding a provision that states all allegations of fact and supporting evidence must assume that contemporary mining practices required under the Act and regulations would be followed if the area were to be mined.

The Director therefore finds that the provisions contained in the Wyoming program at Chapter XVIII, section 2, are consistent with SMCRA and no less effective than the requirements in 30 CFR 764.13.

c. Wyoming has revised sections 3, 4 and 5 of this Chapter concerning procedures for processing petitions to designate certain areas unsuitable for surface coal mining. The State's revisions are intended to address changes made to the Federal regulations at 30 CFR Part 764. The Director finds the revisions to Chapter XVIII, sections 3, 4 and 5 are no less effective than the Federal requirements with the exception noted below.

Sections 3(a) (iii) and (viii) of the revised regulations establish procedures for the suspension of unsuitability petitions which are analogous to those in OSMRE's regulations at 30 CFR 764.15(a) (3) and (8). In the July 15, 1985 District Court decision in *In re: Permanent Surface Mining Regulation Litigation II*, the court held that the Federal regulations allowing the regulatory authority to suspend processing of a petition where it finds that there is no real or foreseeable potential for surface coal mining operations to occur were inconsistent with section 522(c) of the Act.

The Director finds, in light of the court's decision, that he cannot approve Chapter XVIII, sections 3(a) (iii) and (viii), as revised by the State of Wyoming. Therefore, the Director finds that a further revision is required at Chapter XVIII, sections 3(a) (iii) and (viii), to render the State's provision no less effective than the Federal regulation at 30 CFR 764.15(a) (3) and (8).

IV. Public Comments

The Director solicited public comment on the proposed amendment in the July 22, 1985 **Federal Register** (50 FR 29704). Comments were received from the National Wildlife Federation, filed in conjunction with the Wyoming Wildlife Federation.

Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h)(10)(i), comments were also solicited from various Federal agencies. Of those agencies invited to comment, none chose to do so.

The following discussion summarizes all comments received and the Director's response.

1. The National Wildlife Federation (NWF) commented that Wyoming's proposed definition of "fragile lands" at Chapter XVIII, section 1(a) conflicts with the settlement agreement which was approved by court order prior to the round III decision in *In re: Permanent Surface Mining Regulation Litigation II.*

The settlement agreement calls for the suspension of that part of the definition which establishes the irreparable damage standard. Accordingly, OSMRE, On January 3, 1985, announced in the **Federal Register** (50 FR 257) the suspension of the phrase "beyond an operator's ability to repair or restore" as found in the definition of "fragile lands."

The Director agrees with the commenter and has indicated in his findings that he is not approving Chapter XVIII, section 1(a), insofar as it contains the phrase "beyond an operator's ability to repair or restore." The Director, as part of his finding on the above proposed rule, is requiring a further revision to this regulation to render the State's definition no less effective than the Federal definition.

2. The NWF expressed concern over Wyoming's deletion from the proposed definition of "renewable resource lands" at Chapter XVIII, section 1(e), the phrase "critical habitat for game species regulated by the Wyoming Department of Game and Fish." The commenter contended that the alteration severely limits the amount of land eligible for unsuitability designations and is inconsistent with Federal unsuitability criteria.

The Director does not agree. The revised Wyoming definition is no less effective than the Federal definition of

"renewable resource lands" at 30 CFR 762.5. The Federal definition does not contain language concerning critical wildlife habitat. The Director cannot require Wyoming to adopt a more stringent definition.

3. The NWF expressed concern that Wyoming had revised Chapter XVIII, section 2(b)(iv), concerning content requirements for petitions to designate lands as unsuitable for mining. Specifically, the NWF objected to the revised requirement for a description of potential adverse effects on people, land, air or other resources, including the petitioner's interests. The commenter stated that this revision demands more than is required by either Federal or State law.

The Director does not agree. The Federal provision at 30 CFR 764.13(b)(1)(iv) contains the same information requirements as does the revised Wyoming provisions.

4. The NWF contends that the language of the revised Wyoming rule Chapter XVIII, section 2(b)(viii), is too broad. The commenter stated that the revised regulation, which allows the Administrator of LQD to request additional information from persons submitting petitions to designate lands unsuitable for surface coal mining, is too open-ended and not authorized by Wyoming's statute.

The Director does not agree with the commenter and directs the commenter to the discussion of this issue in Finding 8.b.

5. The NWF expressed concern about the proposed language at Wyoming's Chapter XVIII, section 2(d), which states that all allegations of fact and supporting evidence, in lands unsuitable petitions, must assume that contemporary mining practices, as required by the Act and regulations would be followed. The NWF went on to state that petitioners must not be precluded from being able to demonstrate that contemporary mining practices may not be used.

An identical provision is contained in the Federal regulations at 30 CFR 764.13(b)(1)(v). The Director cannot require Wyoming to adopt provisions more stringent than those contained in the Federal regulations.

6. The same commenter expressed concern about the added provisions at Chapter XVIII, section 3(a)(1), concerning procedures to be followed in the conduct of informal conferences, if held, for lands unsuitable petitions. The commenter urged the State to allow the petitioner, in the event that the Administration conducts an informal conference, to have the right to respond to adverse comments, and not to place the burden of proof on the petitioner.

The Director has found the added Wyoming provisions provide an additional opportunity for participation in the lands unsuitable designation process and are no less effective than the Federal provisions. The Director has also found that the Wyoming provisions at Chapter XVIII, Section 4, provide for adequate participation in the decision-making process concerning lands unsuitable petitions consistent with 30 CFR 764.15(b)(1) and (2) of the Federal requirements. The Director cannot require that Wyoming adopt more stringent rules.

7. The NWF expressed concern about Wyoming's proposed provisions at Chapter XVIII, section 3(a)(iii), which address procedures the LQD would follow should it decide to suspend a lands unsuitable petition on the grounds there is no real or foreseeable potential for surface coal mining. The State's proposed rule is analogous to the Federal rule at 30 CFR 764.15(a)(3).

NWF's concern has been addressed in Finding 8. C. of this notice. In his Finding, the Director discusses the court decision in which it was held that suspension of lands unsuitable petitions was inconsistent with section 522(c) of the Act.

In light of the court's decision, the Director is not approving Chapter XVIII, section 3(a)(iii), of the proposed amendment.

8. The same commenter stated that the requirements of proposed Wyoming rule Chapter XVIII, section 3(b)(v), exceed the information requirements needed by the regulatory authority in order to prepare the detailed statement required by the Federal rules. The commenter also stated that the proposed language was in apparent conflict with another proposed provision which states that no person shall bear the burden of proof or persuasion during a hearing on a lands unsuitable petition hearing.

The Director disagrees with the NWF. With respect to the first item of concern, it appears the commenter misinterpreted the State's proposed rule by stating that it requires, at the request of the administrator and the Environmental Quality Council (EQC), all parties to prepare a detailed statement addressing certain aspects of the unsuitability petition. The proposed language at Chapter XVIII, section 3(b)(v) actually reads as follows, "Prior to the hearing, the administrator and, at the request of the Council, all parties shall each prepare a detailed statement . . ." . The proposed Wyoming rule requires the preparation of a detailed statement by the administrator prior to designating any land areas as unsuitable for surface mining as required at 30 CFR 764.17(e) of the Federal regulations. In addition to the Administrator's statement, all other parties could be requested by the EQC to prepare individual statements, using existing and readily available information.

The Director acknowledges that this approach is different than that addressed in the Federal provisions; however, he disagrees with the commenter's statement that the State's approach improperly places a burden on the petitioner to produce facts not within his/her expertise. The Director finds the procedures proposed by the LQD to be no less effective than the Federal provisions in that the administrator of LQD must prepare a detailed statement. In addition, all other parties to the petition could have the opportunity to present additional data or information in support of their positions concerning the lands unsuitable designation.

In its argument against this proposed rule, the commenter incorrectly states that the information contained in the detailed statements does not weigh in the regulatory authority's decision as to whether the lands should be designated as unsuitable for surface coal mining. The Director directs the commenter's attention to Chapter XVIII, section 5(a)(iii), which states that, in reaching its decision on a petition, the regulatory authority shall use the prepared detailed statement. This provision is analogous to 30 CFR 764.19(a)(3).

9. The commenter states that proposed Wyoming rule Chapter XVIII, section 4(d)(ii), which allows for the cross-examination of expert witnesses in lands unsuitable petition hearings imposes a significant burden on the petitioner, a burden from which Congress tried to protect citizen petitioners.

The Director disagrees with the commenter. The proposed Wyoming rule allowing for cross-examination of expert witnesses in no less effective than the Federal provisions at 30 CFR 764.17(a) and 769.17(a) which allow the same opportunity to cross-examine expert witnesses during lands unsuitable petition hearings.

V. Director's Decision

The Director, based on the above

findings, is approving the proposed amendment to the Wyoming program, as submitted on June 10, 1985 with the following exceptions: Chapter V, section 6(a) concerning certification and safety standards associated with backfilling for auger operations in previously affected areas, Chapter V, section 7(a)(ii) concerning highwall elimination in previously affected areas, Chapter VII, Section 4, concerning surface owner protection from damage caused by subsidence resulting from underground mining, Chapter XI, sections 1(a), 1(b) and section 3, concerning the degree of notification of intent to conduct coal exploration operations, Chapter XVIII, section 1(a), concerning the definition of "fragile lands," Chapter XVIII, section 3(a)(iii) and (viii), concerning procedures for the suspension of lands unsuitable petitions. The Federal rules at 30 CFR Part 950 are being amended to implement this decision.

VI. Procedural Requirements

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a regulatory impact analysis and regulatory review by OMB.

The Department of the Interior has determined that the rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 950

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: March 24, 1986.

James W. Workman,

Deputy Director, Operations and Technical Services, Office of Surface Mining Reclamation and Enforcement.

PART 950—WYOMING

30 CFR Part 950 is amended as follows:

1. The authority citation for Part 950 continues to read as follows:

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

2. 30 CFR 950.10 is revised to read as follows:

§ 950.10 State regulatory program approval.

The Wyoming permanent program, as submitted on August 15, 1979, and as revised on October 23, 1979, May 30, 1980, and August 5, 1980, is approved effective November 26, 1980. Copies of the approved program are available at:

(a) Office of Surface Mining Reclamation and Enforcement, Casper Field Office, Federal Building, 100 East "B" Street, Room 2128, Casper, Wyoming 82601–1918, Telephone: (307) 328–5824.

(b) Office of Surface Mining Reclamation and Enforcement, Administrative Record, 1100 "L" Street, NW., Room 5124, Washington, DC 20240, Telephone: (202) 343–4855.

(c) Wyoming Department of Environmental Quality, Land Quality Division, Herschler Building, 122 West 25th Street, Cheyenne, Wyoming 82002, Telephone: (307) 777–7756.

§ 950.15 [Amended]

3. 30 CFR 950.15 is amended by adding a new paragraph (h) to read as follows:

* * * * *

(h) The following amendments to the Wyoming permanent regulatory program submitted to OSMRE on June 10, 1985, are approved effective to October 22, 1984 with the exceptions identified in 30 CFR 950.16:

(1) Modifications to Chapter II, section 3 concerning information requirements that must be included as part of the applicant's blasting plan;

(2) Modifications to Chapter III, section 2 which provides the Administrator of the Land Quality Division the authority to provide, if requested by the applicant, a preapplication determination as to the existence and extent of an alluvial valley floor;

(3) Modifications to Chapter V, section 1 which address new applicability requirements, section 6, with the exception of 6(e), concerning procedures to be used when sealing auger holes, and section 7, with the exception of 7(a)(ii) concerning highwall elimination in previously affected areas;

(4) Modifications to Chapter VI, section 2 concerning preblasting surveys, section 3 concerning public notification of an operators' blasting schedule, section 4 concerning blasting standards and section 5 concerning the operator's responsibility to record and retain records of each blast;

(5) Modifications to Chapter VII, section 1 concerning the submission of a subsidence control plan as part of the permit application, section 2 concerning performance standards applicable to underground coal mining operations, section 3 concerning public notification procedures for underground mining operations and section 4, with the exception, in part, of 4(a)(ii), concerning surface owner protection from underground coal mining operations;

(6) Modifications to Chapter XI, section 1, with the exception of 1(a) and 1(b)(iii), concerning general requirements for exploration operations of less than 250 tons, section 2 concerning general requirements for exploration operations of more than 250 tons, section 3, with the exception of 3(b), concerning decisions on applications to explore for more than 250 tons, section 4 concerning reclamation performance standards on coal exploration operations and Section 6, concerning public availability of information;

(7) Limited modifications to Chapter XVI, sections 1, 2, 3, 4 and 5 concerning procedures for bond release; and

(8) Modifications to Chapter XVIII, section 1, with the exception, in part, of the definition of "fragile lands" at 1(a) and sections 2, 3 (with the exception of 3(a)(iii) and 3(a)(viii)), 4 and 5 concerning procedures for processing petitions to designate lands as unsuitable for surface coal mining.

4. 30 CFR 950.16 is revised to read as follows:

§ 950.16 Required program amendments.

Pursuant to 30 CFR 732.17 Wyoming is required to submit for OSMRE's approval the following proposed program amendments by the dates specified.

(a) By December 31, 1986, Wyoming shall submit for OSMRE's approval:

(1) Rules requiring an operator of an auger mining operation in a previously disturbed area to demonstrate to the regulatory authority that the backfill was designed by a registered professional engineer and that it has a minimum static safety factor of 1.3 for

the stability of the backfill as required by 30 CFR 819.19(b)(i).

(2) Rules requiring all persons conducting surface coal mining operations in previously disturbed areas to use all reasonably available spoil in the vicinity of the remining operation to backfill the highwall to the maximum extent technically practical in a manner no less effective than the Federal regulations at 30 CFR 816.106(b) and 817.106(b) as interpreted by the court in *In re: Permanent Surface Mining Regulation Litigation II*, Civil Action No. 79-1144 (D.D.C.).

(b) By December 31, 1986, Wyoming shall submit for OSMRE's approval rules requiring the operator of an underground coal mining operation to either correct material damage to structures caused by subsidence or compensate the owner of such structures in the full amount of the diminution in value from the subsidence in a manner no less effective than 30 CFR 817.121(c).

(c) By December 31, 1986, Wyoming shall submit for OSMRE's approval rules providing for persons having an interest which is or may be adversely affected by a decision of the regulatory authority, an opportunity for administrative and judicial review in a manner no less effective than that as provided by the Federal regulations at 30 CFR 772.12(e)(2).

(d) By December 31, 1986, Wyoming shall submit for OSMRE's approval:

(1) Rules defining the phrase "fragile lands" in a manner no less effective than the revised Federal definition at 30 CFR 762.5 as agreed upon in the court settlement and as published in the January 3, 1985 **Federal Register** (50 FR 257); and

(2) Rules deleting the provision which allows for the suspension of lands unsuitable petitions in a manner no less effective than the Federal provisions at 30 CFR 764.15(a) (3) and (8) as modified by the courts remand.

[FR Doc. 86-6966 Filed 3-28-86; 8:45 am]
BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CCGD12 86-02]

Regatta; Twelve Meter Estuary Festival

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the Twelve Meter Estuary Festival in the Oakland Inner Harbor, commonly known as the Oakland/Alameda Estuary. This event will be held on April 4, 5, and 6, 1986. It will include, among other activities, races between twelve meter sailing yachts, crew and pulling boat races, a classic boat parade, and a water skiing demonstration. Regulations are needed for certain portions of the festival to provide for the safety of life on the navigable waters for both participants and spectators. Vessel traffic during the specified hours in designated areas will be regulated and, during the twelve meter races, the area will be restricted to the races and official vessels.

EFFECTIVE DATE: These regulations become effective on April 5, 1986, at 9AM PST, and terminate on April 6, 1986 at 8PM PST.

FOR FURTHER INFORMATION CONTACT: LT Bob Olsen, c/o Commander (bt), Twelfth Coast Guard District, Coast Guard Island, Alameda, California 94501-5100, (415) 437-3309.

SUPPLEMENTARY INFORMATION: Good cause exists for making these regulations effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. The application was not received until February 6, 1986, and there was not sufficient time in advance of the event to publish the proposed rule in the **Federal Register** or to provide for a delayed effective date. On February 20, 1986 the Coast Guard published the notice of proposed rulemaking in the *TWELFTH COAST GUARD DISTRICT LOCAL NOTICE TO MARINERS NO. 8*. The notice was also mailed to 251 businesses, boating organizations, periodicals, and commerical maritime interests in the San Francisco Bay area. Interested persons were requested to submit comments and five comments were received. The delay in publishing this final rule was required to allow adequate time for public comment on the proposed regulations.

Drafting Information

The drafters of this regulation are LT Bob Olsen, project officer, Chief, Boating Technical Branch, Twelfth Coast Guard District, and LCDR Peter K. Mitchell, project attorney, Twelfth Coast Guard District Legal Office.

Discussion of Comments

Commercial shipping and towing companies that operate within the Oakland Inner Harbor were consulted prior to the drafting of these regulations. They were primarily concerned with the movement of ocean-going commercial vessels withint the regulated area. The Coast Guard Patrol Commander has the authority to allow vessels to transit the regulated area during the times of closure. To meet the concerns of these parties, it has been determined that ocean-going commerical vessels will have priority over regatta participants. Five comments were received during the comment period, one of which was withdrawn prior to the closing of the comment period. Of the remaining comments one supported the Twelve Meter Estuary Festival, two were inquiries about provisions being made for ocean-going commercial vessels transiting the regulated area during times of closure. The final comment was concerned with safety during the Estuary Festival due to the events planned in relation to the limited area of the Oakland Inner Harbor and the large number of spectator craft anticipated. This party was also concerned that the event could interfere with commercial enterprises in the Oakland Inner Harbor area. He was not aware of any specific conflicts that would occur. Conflicts with commercial traffic have been minimized by allowing ocean-going commercial vessels to transit the regulated area during periods of closure. Other commercial vessels as well as recreational vessels may request clearance from the Coast Guard Patrol Commander to transit the area. The estuary will not be closed on April 4, 1986 as published in the notice of proposed rulemaking. Due to the concerns for public safety the regulated area has been established during the major festival events and the regulated area will be closed to navigation during the twelve meter yacht races except when specific clearance is obtained from the Coast Guard Patrol Commander. Changes from the proposed rule other than the effective dates are editorial in nature and do not change the intent or effect of the regulations.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. The regulated area will only be closed to navigation for two and one-half hours each day for two days of the Festival and will be open for the passage of commercial vessels and recreational vessels at all other times. Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that

they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Final Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulatons, is amended as follows:

Part 100—[Amended]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary § 100.35–1202 is added to read as follows:

§ 100.35–1202 Oakland Inner Harbor, Twelve Meter Estuary Festival.

(a) *Regulated area.* Oakland Inner Harbor, Grove St. Pier to Brooklyn Basin and Brooklyn Basin South Channel. That portion of Oakland Inner Harbor as shown on the enclosed chartlet from a line between 37°47'41" No. 122°16'53" W. and 37°47'32" N., 122°16'53" W. Southeast to a line between 37°46'38" N. 122°14'28" W. and 37°46'31" N. 122°14'36" W., will be subject to these regulations from 9AM to 8PM PST April 5 and 6, 1986. The area will be closed to navigation during the twelve meter match races on Saturday and Sunday, April 5 and 6, from 1:30PM to 4PM PST.

(b) *Special Local Regulations.* (1) All vessels not officially involved with the Twelve meter match race will remain outside of the regulated area during periods of closure unless authorized by the Coast Guard Patrol Commander.

(2) No vessel shall anchor or drift in the regulated area except spectator boats may anchor in areas designated by the Coast Guard Patrol Commander.

(3) When the regulated area is open to navigation, or when vessels are specifically authorized to enter the area, those vessels not officially involved with the Twelve Meter Estuary Festival shall proceed directly through the regulated area in a safe and prudent manner at a no-wake speed.

(4) All vessels in the regulated area shall comply with the instruction of the U.S. Coast Guard or local enforcement patrol personnel.

(c) *Effective dates:* These regulations become effective on April 5, 1986 at 9 AM PST and terminate on April 6, 1986 at 8 PM PST.

Dated: March 20, 1986.

M.E. Gilbert,

Captain, U.S. Coast Guard, Acting Commander, Twelfth Coast Guard District.

[FR Doc. 86–7012 Filed 3–28–86; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[CCGD1–85–4R]

Safety Zone; Chelsea River, Boston Inner Harbor, Boston, MA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard has established a safety zone on the waters of the Chelsea River, Boston Inner Harbor, one hundred yards above and below the Chelsea Street Drawbridge located approximately at Latitude 42–23–10 North, Longitude 71–01–23 West. The zone is needed to protect vessels and the bridge structure from damage associated with reduced vertical clearance under the span and a damaged vessel fender system around the foundations of the bridge abutments. Navigation through this zone is prohibited unless the conditions noted below are met, or permission allowing deviation from those conditions is specifically authorized by the Captain of the Port.

EFFECTIVE DATE: This regulation becomes effective March 31, 1986, because of the hazard the weakened structural condition of the bridge presents to passing vessels and the bridge itself. This regulation will be terminated or modified by the Captain of the port as the conditions of the bridge dictate.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Michael A Wade (617) 223–1470.

SUPPLEMENTARY INFORMATION: A final rule with opportunity for public comment was published in the Federal Register on Thursday, June 27, 1985. Interested persons were requested to submit comments and two comments were received.

Drafting Information

The drafters of these regulations are Lieutenant Commander Michael A Wade, Project Officer, and Lieutenant Commander James M. Collin, Project Attorney, First Coast Guard District Legal Office.

Discussion of Comments

The comments received from the public addressed the following sections of the rule:

Section 165.120(b)(3)(i)—One commentor questioned whether the vessel length restriction of 660 feet is reasonable. The commentor went on to identify a class of tankships that was built to a length of 661 feet and that include vessels known to commonly call at oil facilities upstream of the Chelsea Street Drawbridge. During the research of this question it was noted that in practice, the original limitation of 660 feet in length was established by the Boston Docking Masters and applied to a 660 foot class of tankship. The Coast Guard agrees with the commentor's contention that a 661 foot long tankship can be included within the vessel length limitation without significantly increasing the hazard to the bridge. Variances to the length limitation have been granted to accommodate ships of 661 feet in length since the first publication of this rule. The section has been rewritten with a new vessel length limitation of 661 feet. Most other vessel dimension limitations have been increased by 0.5 feet. This change was made to better reflect the intent of the regulation when drafted and to better reflect the effective limitations, through variances granted thus far.

Section 160.120(b)(4)—The second comment received suggested rewording of this section so that it could be more easily understood. The section has been reworded. Other editorial changes were also made to improve clarity. The and/or verbage between length and breadth limitations was reworded to read or. This amendment was made because it was intended that a vessel of either greater length or greater beam than the limitation would be denied passage through the bridge.

This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of 33 CFR 165.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. The limitations now embodied in this rule were substantially in effect in the form of a policy that had been observed by the Port of Boston Docking Masters since 1975. Since the impact of these regulations is expected to be minimal the Coast Guard Certifies that they will not have a significant impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 165

Regulated navigation areas, Safety zones, Security zones, Restricted waterfront areas.

Final Regulations

In consideration of the foregoing, Part 165 of Title 33 Code of Federal Regulations is amended as follows:

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 46 CFR 1.46; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5.

2. Section 165.120 is added to read as follows:

§ 165.120 Safety Zone: Chelsea River, Boston Inner Harbor, Boston, MA.

(a) Location. The following area is a safety zone: The waters of the Chelsea River, Boston Inner Harbor, for 100 yards upstream and downstream of the center of the Chelsea Street Draw span (in the approximate position of Latitude 42-33-10 North, Longitude 71-01-23 West).

(b) Regulation. The following standards are the minimum requirements for transit of the Safety Zone. Additional precautions may be taken by the pilot and/or person in charge (Master or Operator).

(1) All tankships greater than 1,000 Gross Tons shall be under the direction and control of the Licensed Federal Pilot. This does not relieve persons in charge (Masters or Operators) from their ultimate responsibility for the safe navigation of vessels.

(2) All vessel(s) speed shall be kept to a minimum considering all factors and the need for optimum vessel control.

(3) Restrictions on size and draft of vessels:

(i) No vessel greater than 661 feet in length (using length overall) or greater than 90.5 feet in beam (using extreme breadth) shall transit the Safety Zone.

(ii) No vessel greater than 630.5 feet in length or 85.5 feet or greater in beam shall transit the Safety Zone during the period between sunset and sunrise.

(iii) No tankship greater than 550.5 feet in length shall transit the Safety Zone, either inbound or outbound, with a draft less than 18.0 feet forward and 24.0 feet aft.

(4) Restrictions when the Chelsea River channel is obstructed by vessel(s) moored at the Northeast Petroleum Terminal located downstream of the Chelsea Street Bridge on the Chelsea, MA side of the Chelsea River—hereafter referred to as the Jenny Dock (approximate position 42-23-09 North, 71-01-31 West)—or the Mobile Oil Terminal located on the East Boston Side of the Chelsea River downstream of the Chelsea Street Bridge (approximate position 42-23-05 North, 71-01-31 West):

(i) When there is a vessel moored at each terminal, no vessel greater than 300.5 feet in length or greater than 60.5 feet in beam, shall transit the safety zone.

(ii) When a vessel with a beam greater than 60.5 feet is moored at either terminal, no vessel greater than 630.5 feet in length or greater than 85.5 feet in beam shall transit the Safety Zone.

(iii) When a vessel with a beam greater than 85.5 feet is moored at either terminal, no vessel greater than 550.5 feet in length or greater than 85.5 feet in beam shall transit the Safety Zone.

(5) Requirements for tug assistance:

(i) All tankships greater than 630.5 feet in length or greater than 85.5 feet in beam shall be assisted by at least four tugs of adequate horsepower.

(ii) All tankships from 450 feet in length up to and including 630.5 feet in length and less than 85.5 feet in beam shall be assisted by at least three tugs of adequate horsepower.

(iii) All tug/barge combinations with a tonnage of over 10,000 Gross Tons (for the barge(s), in all conditions of draft, shall be assisted by at least one tug of adequate horsepower.

(6) U.S. Certificated integrated tug/barge (ITB) combinations shall meet the requirements of a tankship of similar length and beam except that one less assist tug would be required.

(7) Variances from the above standard must be approved in advance by the Captain of the Port of Boston, MA.

Dated: February 25, 1986.

R.L. Anderson,

Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.

[FR Doc. 86-7013 Filed 3-28-86; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 165

[COTP San Francisco Bay Regulation 86-02]

Security Zone Regulation; San Francisco Bay, CA

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a Security Zone in the San Francisco Bay around the USS MISSOURI while it is moored at Pier 30/32, San Francisco, CA. The zone is needed to safeguard the USS MISSOURI from sabotage, subversive acts, accidents, or incidents of a similar nature. The Security Zone extends 50 yards around the vessel. Entry into this Security Zone is prohibited unless authorized by the Captain of the Port, San Francisco Bay.

EFFECTIVE DATES: This regulation becomes effective on 6 May 1986 at approximately 11:45 A.M., PDT. It terminates when the USS MISSOURI departs San Francisco Bay at approximately 11:45 A.M. PDT, 12 May 1986.

FOR FURTHER INFORMATION CONTACT: LT. Jay E. HESS, Coast Guard Marine Safety Office San Francisco Bay, CA, 415-437-3073.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C 553, a "Notice of Proposed Rulemaking" (NPRM) was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. The U.S. Navy's request for assistance was not received until 20 March 1986, and there was not sufficient time remaining to publish NPRM. Delaying the Security Zone's effective date would be contrary to the public interest since immediate action is needed to safeguard vessels and their occupants.

Drafting Information

The drafters of this regulation are LT. Jay E. HESS, Project Officer for the Captain of the Port, and CDR W.K. BISSELL, Project Attorney, Twelfth Coast Guard District Legal Office.

Discussion of Regulation

The event requiring this regulation will occur on 6 May 1986 when the USS MISSOURI will arrive in San Francisco Bay for a port call and recommissioning ceremony. It is expected that the arrival of the USS MISSOURI will attract significant public and media attention and may be subject to protest demonstrations. A Security Zone will provide the Captain of the Port San Francisco Bay with the authority necessary to help ensure that spectators and/or protesters do not create situations where the USS MISSOURI and its occupant or the spectators and/or protestors themselves may come to harm. The security of the USS MISSOURI is in the national interest and a Security Zone is justified to help protect this military resource and its occupants. This regulation is issued pursuant to 50 U.S.C. 191 as set out in the authority citations for all of Part 165.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, Subpart D of Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

PART 165—[Amended]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231, 50 U.S.C. 191, 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5.

2. A new § 165.T1202 is added to read as follows:

§ 165.T1202 Security Zone: San Francisco Bay.

(a) *Location.* The following area is a Security Zone: A Security Zone is established 6 May 1986 around the USS MISSOURI while moored to Pier 30/32, San Francisco, CA. The Security Zone extends 50 yards around the USS MISSOURI.

(b) *Effective Date.* This regulation becomes effective when the vessel moors at Pier 30/32, San Francisco, CA and remains effective whenever moored at this location. It terminates when the USS MISSOURI departs San Francisco Bay at approximately 11:45 A.M., PDT, 12 May 1986.

(c) *Regulations.* (1) In accordance with the general regulation in 165.33 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, San Francisco Bay, CA. Section 165.33 also contains other general requirements.

(33 U.S.C. 1225 and 1231; 49 CFR 1.46; and 33 CFR 160.5)

Dated: March 21, 1986.

David Zawadzki,

Captain, U.S. Coast Guard, Captain of the Port San Francisco Bay.

[FR Doc. 86–7016 Filed 3–28–86; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF EDUCATION

34 CFR Part 614

College Housing Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary of Education amends the regulations governing the College Housing Program. This amendment is needed to reflect a legislative change to the Housing Act of 1950 made by section 307 of the Department of Education Appropriation Act, 1986. The amendment extends the period for accepting discounted prepayments of college housing loans through September 30, 1986.

EFFECTIVE DATE: The amendment to the regulations takes effect either 45 days after publication in the Federal Register or later if the Congress takes certain adjournments. If you want to know the effective date of this amendment, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Samuel J. Weaver, Chief, Institutional Receivables Branch, U.S. Department of Education, L'Enfant Plaza, P.O. Box 23471, Washington, DC 20024. Telephone: (202) 472–9300.

SUPPLEMENTARY INFORMATION: In the Department of Education Appropriation Act, 1986, the Congress amended section 402(c) of the Housing Act of 1950 to extend the authority for discounted prepayments of College Housing loans through September 30, 1986.

The Secretary is therefore amending the regulations in 34 CFR 614.63 to extend for one year the period of time during which an institution may prepay a loan at a discount.

Executive Order 12291

The regulations have been reviewed by the Department in accordance with Executive Order 12291. They are classified as non-major because they do not meet the criteria for major regulations established in the Order.

Regulatory Flexibility Act

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. This amendment merely extends the date for accepting discounted prepayments of College Housing loans in accordance with a statutory amendment.

Waiver of Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)), and the Administrative Procedure Act, 5 U.S.C. 553, it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, since the change made in the regulations merely incorporates a statutory change into existing regulations and does not itself establish new substantive policy, public comment could have no effect on the content of this amendment. Therefore, the Secretary has determined under 5 U.S.C. 553(b)(B) that proposed rulemaking on this amendment is unnecessary and contrary to the public interest.

Intergovernmental Review

This program is listed in other regulations promulgated by the Secretary (34 CFR Part 79) as subject to the intergovernmental review requirements of Executive Order 12372 and section 204 of the Demonstration Cities and Metropolitan Development Act of 1966. The objective of these requirements is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

In accordance with the Order, this document is intended to provide early notification of the Department's specific plans and actions for this program. However, the limited discount program offered by the Secretary is not subject to section 204 because no financial assistance for capital construction is awarded.

Assessment of Educational Impact

The Secretary has determined that the regulations in this document would not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 614

Colleges and universities, Education, Housing, Loan programs—housing and community development.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these regulations.

(Catalog of Federal Domestic Assistance Number 84.142—College Housing Program)

Dated: March 26, 1986.

William J. Bennett,

Secretary of Education.

The Secretary amends Part 614 of Title 34 of the Code of Federal Regulations as follows:

PART 614—COLLEGE HOUSING PROGRAM

1. The authority citation for Part 614 is amended to read as follows:

Authority: 12 U.S.C. 1749–1749d, unless otherwise noted.

2. In § 614.63, paragraph (d)(1) is revised to read as follows:

§ 614.63 Discounted prepayment of a loan.

* * * * *

(b) * * *

(1) The prepayment is made before October 1, 1986;

* * * * *

[FR Doc. 86-7061 Filed 3-28-86; 8:45 am]

BILLING CODE 4000-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-2989-2]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Final rulemaking.

SUMMARY: USEPA is approving a site-specific revision to the Illinois State Implementation Plan (SIP) for Total Suspended Particulates (TSP) as it applies to the Villa Grove Farmers Elevator Company (Villa Grove), which is located in Bongard, Champaign County, Illinois. The revision would allow Villa Grove to delay compliance with the requirements of Illinois Rule 203 (d)(8)(B)(ii) until September 1, 1987. This action is being taken in response to a February 6, 1985, request from the State of Illinois.

EFFECTIVE DATE: This final rulemaking becomes effective on April 30, 1986.

ADDRESSES: Copies of the SIP revision and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Uylaine E. McMahan, at (312) 886-6031, before visiting the Region V office).

Environmental Protection Agency, Region V, Air Program Branch, 230 South Dearborn Street, Chicago, Illinois 60604

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

Illinois Environmental Protection Agency, Division of Air Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706.

Copies of this revision to the Illinois SIP are available for inspection at: The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Uylaine E. McMahan, Environmental Protection Agency, Region V, Air Program Branch, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6031.

SUPPLEMENTARY INFORMATION: On February 6, 1985, the Illinois Environmental Protection Agency (IEPA) submitted a site-specific revision to its TSP SIP for Villa Grove's "Dump and Boot Pit" emissions in Villa Grove, Illinois. Villa Grove is located in Champaign County, which is classified as attainment with respect to the TSP national ambient air quality standards (NAAQS).

The State requested that Villa Grove's Dump and Boot Pit be allowed to delay compliance with the 90 percent control requirement of Illinois Rule 203(d)(8)(B), until September 1, 1987. Rule 203(d)(8)(B) requires that dump pit emissions shall be controlled by 90 percent at any new or modified facility with an annual throughput of more than 300,000 bushels but, less than 2,000,000 bushels, which is located outside a major population area.

Villa Grove is in the process of modifying its facility. Two small dump pits are to be replaced by a larger dump pit, and a rack dryer will be replaced by a column dryer. Rule 203(d)(8)(F) requires that modified grain handling operations comply with the requirements of Rule 203(d)(8)(B). Rule 203(d)(8)(B)(ii) would require Dump and Boot Pit emissions at Villa Grove to be controlled by 90 percent to 0.76 tons per year, a 6.8 ton year reduction. With USEPA's approval of the revision, this reduction will not immediately occur, and the Dump and Boot Pit emissions will remain 7.56 tons per year. However, some of the other emissions from the facility will be reduced due to the modifications. The Headhouse Receiving Leg emissions, for instance, will be subject to Rule 203(d)(8)(B)(iii) for Internal Transferring Area, which also requires 90 percent control. This will provide an enforceable emission reduction of 5.85 tons per year.

USEPA proposed to approve this site-specific SIP revision on August 16, 1985 (50 FR 33072). No public comments were received in response to the proposed approval.

Because the delayed compliance will not cause an increase in actual emissions in Champaign County (in fact the modification will provide an enforceable emission reduction of 5.68 tons per year), and because the facility is in an attainment area, this temporary variance will not interfere with maintenance of the TSP NAAQS or consume prevention of significant deterioration (PSD) increment. Therefore, USEPA is proposing to approve the temporary variance as a SIP revision. USEPA notes, however, that this revision does not affect the issue of whether the Villa Grove facility is subject to USEPA's new source performance standard (NSPS) or new source review requirements.

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

Petitions for judicial review of this action under Section 307(b)(1) of the Act must be filed in the United States Court of Appeals for the appropriate circuit by May 30, 1986. This action may not be challenged later in proceedings to enforce its requirements (See section 307(b)(2) of the Act).

List of Subjects in 40 CFR Part 52

Air pollution control, Particulate matter, Intergovernmental relations.

Dated: March 10, 1985.

Lee M. Thomas,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart O—Illinois

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

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

Authority: 42 U.S.C. 7401-7642.

2. Section 52.720 is amended by adding new paragraph (c)(63) as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(63) On February 6, 1985, the Illinois Environmental Protection Agency (IEPA) submitted a site-specific revision to its total suspended particulates State Implementation Plan for Villa Grove's "Dump and Boot Pit" emissions in Champaign County, Illinois.

(i) Incorporation by reference.

(A) Illinois Pollution Control Board, Opinion and Order of the Board, PCB 84-53, Villa Grove's "Dump and Boot Pit" site-specific TSP revision. This revision extends the compliance date for control requirements on these emissions until September 1, 1987, and was adopted on July 14, 1984.

[FR Doc. 86-6747 Filed 3-28-86; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

46 CFR Part 10

[CGD 85-094]

Licensing of Pilots; Annual Physical Examination

AGENCY: Coast Guard, DOT.

ACTION: Confirmation of Interim Rule as Final.

SUMMARY: This confirms without change the interim final rule published on December 23, 1985, that amended the annual physical examination requirements for pilots to allow first class pilots to take the required physical examination at any time during the calendar year, with the stipulation that the time between each physical examination may not exceed 13 months. This rule provides flexibility in scheduling physical examinations in order to accommodate the employment practices in the merchant marine.

EFFECTIVE DATE: Confirmation of Interim Rule effective March 31, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. John J. Hartke, Office of Merchant Marine Safety (G–MVP/12), Room 1210, U.S. Coast Guard Headquarters, 2100 2nd Street, SW., Washington, DC 20593, (202) 426–2985.

SUPPLEMENTARY INFORMATION: On June 24, 1985, the Coast Guard published a Final Rule at 50 FR 26106 regarding the licensing of pilots, effective July 24, 1985. Due to numerous comments that the physical exam schedule requirements of the rule could not be met within the 30 days allowed without a substantial disruption of pilots' schedules, the effective date of the physical exam schedule was amended to January 1, 1986 (50 FR 30274). Subsequent to the revision of the effective date, more comments were received objecting to the manner in which the statutory requirement for an annual physical exam was being applied. Under 46 U.S.C. 7101(e)(3) an individual may be issued a license as a pilot only if the individual has a thorough physical examination each year while holding the license.

In response to the comments, the Coast Guard published an interim final rule on December 23, 1985, 50 FR 52329, amending 46 CFR section 10.07–9 to allow pilots the flexibility of taking the required physical examination any time during the calendar year with the restriction that subsequent annual physicals must be completed before the first day of the month following the anniversary of the previous physical examination. The interim rule was effective January 1, 1986. Comments were solicited to assist in determining if the practical problems with physical exam scheduling have been eliminated. The comment period ended February 6, 1986. No comments were received.

Drafting Information

The principal persons involved in drafting this rule are: Mr. John J. Hartke, Project Manager, Office of Merchant Marine Safety, and Commander Ronald C. Zabel, Project Attorney, Office of the Chief Counsel.

List of Subjects in 46 CFR Part 10

Seamen, Marine safety, Navigation (water), Passenger vessels.

Therefore, the amendment to Part 10 of Title 46 of the Code of Federal Regulations published on December 23, 1985, at 50 FR 52329 is confirmed as final.

Dated: March 25, 1986.

J.W. Kime,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 86–7020 Filed 3–28–86; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

Common Carrier Services; Policy Statement on Interconnection of Cellular Systems

AGENCY: Federal Communications Commission.

ACTION: FCC policy statement of interconnection of cellular systems.

SUMMARY: This action states current Commission policy on interconnection of cellular systems.

This action is taken because of developments since the Commission's adoption of cellular interconnection policies in 1981 and 1982.

This action is intended to provide guidance to cellular carriers and telephone companies in negotiating reasonable interconnection agreements.

EFFECTIVE DATE: February 21, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Steven Weiss, Mobile Services Division, Common Carrier Bureau, (202) 632–6450.

SUPPLEMENTARY INFORMATION:

FCC Policy Statement on Interconnection of Cellular Systems

1. We have examined the statements of interconnection principles submitted by CTIA and the Telocator Cellular Division in connection with the Commission's interconnection policy announced in *Cellular Communications Systems*, CC Docket No. 79–318, *Report and Order*, 86 FCC 2d 469, 495–96 (1981), *Reconsideration*, 89 FCC 2d 56, 80–82 (1982) and in light of developments in this area since that time. It is our intention to give some guidance to cellular carriers and telephone companies in negotiating reasonable interconnection agreements.

2. The Commission's general interconnection policy for cellular systems, as set forth in that rulemaking, is that telephone companies are required to provide (a) a form of interconnection to a non-wireline carrier no less favorable than that used by the wireline cellular carrier and (b) a form of interconnection that is reasonable for the particular cellular system, to be negotiated by the cellular carrier and the wireline telephone company. 89 FCC 2d at 81–82; 96 FCC 2d at 495–86. A non-wireline cellular carrier is specifically given the right to request interconnection that may not be the same as that used by the wireline cellular carrier, and may not be "'locked into the specific interconnection arrangements requested by a wireline carrier." 89 FCC 2d at 82. The cellular carrier is entitled to reasonable interconnection, the form of which depends upon the cellular system design and other factors: in some cases the interconnection of a cellular system as an end office (Type 2) may be most appropriate, and in others, interconnection as a PBX (Type 1) may be best. 86 FCC 2d at 496. A cellular system operator is a common carrier, rather than a customer or end user, and as such is entitled to interconnection arrangements that "minimize unnecessary duplication of switching facilities and the associated costs to the ultimate consumer." *Id.* Underlying these policies, the Commission stated, was the goal of interconnection arrangements most favorable to the end user. *Id.* at 495.[1]

3. *Form of interconnection.* Both Telocator-Cellular and CTIA take the position that the cellular carrier should be permitted to choose the type of interconnection, Type 2 or Type 1, and that a telephone company should not refuse to provide the type of interconnection requested. We agree. We have not mandated a particular form of interconnection, but we have stated explicitly that a cellular carrier is entitled to a type of interconnection that is reasonable, given its system design.

[1] As a related matter, in our *Access Charge* proceeding, we ruled that radio common carriers and cellular carriers were not "interexchange carriers" subject to the imposition of access charges for exchange access and were also not "end users" subject to subscriber line charges. *MTS/WATS Market Structure*, 97 FCC 2d 834, 861–883 (1984).

The system design is up to the cellular carrier, which may choose to design for either form of interconnecting. If the system is capable of functioning as an end office and there are no technical reasons for not interconnection the system as an end office, the telephone company should not refuse to provide Type 2 interconnection. That Type 2 interconnection is feasible as a general matter is proven by the fact that to date at least eight non-wireline cellular systems have received this form of interconnection. The terms and conditions of interconnection depend, of course, on innumerable factors peculiar to the cellular system, the local telephone network, and local regulatory policies; accordingly, we must leave the terms and conditions to be negotiated in good faith between the cellular operator and the telephone company.

4. *NXX Codes and Telephone Numbers.* Telephone companies administer the assignment of NXX codes and telephone numbers under the North American numbering plan in World Zone one. They do not "own" codes or numbers, but rather administer their distribution for the efficient operation of the public switched telephone network. Accordingly, telephone companies may not impose recurring charges solely for the use of numbers. Companies may impose a reasonable initial connection charge to compensate the costs of software and other changes associated with new numbers. Cellular telephone companies are part of the network and are entitled to reasonable accommodation of their numbering requirements on the same basis as an independent wireline telephone company. We expect telephone companies responsible for the administration of the numbering plan to accommodate the needs of cellular carriers for NXX codes and telephone numbers in accordance with the status of cellular companies as providers of local exchange service.[2] See *generally Amendment of Part 22 (A/B Switch), CC* Docket No. 85-25, FCC 85-539, 50 FR 45843, released October 11, 1985.

5. *Compensation Arrangements.* In view of the fact that cellular carriers are generally engaged in the provision of local, intrastate, exchange telephone service, the compensation arrangements among cellular carriers and local telephone companies are largely a matter of state, not federal, concern.[3] We therefore express no view as to the desirability or permissibility of particular compensation arrangements, such as calling-party billing, responsibility for the costs of interconnection, and establishment of rate centers. Such matters are properly the subject of negotiations between the carriers as well as state regulatory jurisdiction. Compensation may, however, be paid under contract or tariff provided that the tariff is not an "access tariff" treating cellular carriers as interexchange carriers, except as noted in footnote 3.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 86-6836 Filed 3-28-86; 8:45 am]

BILLING CODE 6712-01-M

[2] While we expect telephone companies to provide NXX codes to cellular carriers, we recognize that after several years, if the cellular carrier does not utilize all 10,000 numbers in the NXX block and there is a shortage of telephone numbers for landline subscribers, it may be necessary for the telephone company to regain access to unused numbers for its landline customers.

[3] This is true as a general rule. However, there may be exceptions: some cellular carriers provide their customers with a service whereby a call to a subscriber's local cellular number will be routed to them over interstate facilities when the customer is "roaming" in a cellular system in another state. In this case, the cellular carrier is providing not local exchange service but interstate, interexchange service. In this and other situations where a cellular company is offering interstate, interexchange service, the local telephone company providing interconnection is providing exchange access to an interexchange carrier and may expect to be paid the appropriate access charge. This is not inconsistent with our holding in the *Access Charge* proceeding, *supra* note 1, that cellular carriers are exchange carriers, because that holding is based on the presumption that the cellular carrier does not provide interexchange service. 47 CFR 69.5(b), 97 FCC 2d at 882. Therefore, to the extent that a cellular operator does provide interexchange service through switching facilities provided by a telephone company, its obligation to pay carrier's carrier charges is defined by § 69.5(b) of our rules, 47 CFR 69.5(b).

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47 CFR Part 69

[CC Docket 86-1; FCC 86-115]

Common Carrier Services; WATS-Related and Other Amendments of the Access Charge Rules

AGENCY: Federal Communications Commission.

ACTION: Final Rule.

SUMMARY: The Commission has adopted certain changes to the Part 69 access charge rules in light of its decision to amend the separations rules to provide for the direct assignment of the closed ends of WATS access lines. It has adopted special access treatment of closed end WATS lines and revised the treatment of resellers of WATS and other interstate services under the access charge rules. Furthermore, it has decided to permit exchange carriers to use peak/off-peak pricing structures for carrier access rates and to revise the method for carrier common line cost recovery by shifting more of these costs to terminating minutes of use.

EFFECTIVE DATE: June 1, 1986.

ADDRESS: Federal Communications Commission, Washington, DC, 20554.

FOR FURTHER INFORMATION CONTACT: Sandra Eskin, Policy and Program Planning Division, Common Carrier Bureau, (202) 632-9342.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's report and order, CC Docket 86-1, adopted March 13, 1986, and released March 21, 1986.

The full text of Commission decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC, 20037.

Summary of Report and Order

On January 6, 1986, the FCC released a Notice of Proposed Rulemaking, (Notice) CC Docket 86-1 (51 FR 633; January 7, 1986), proposing to make certain changes to the Part 69 access charge rules in light of its decision to amend the separations rules to provide for the direct assignment of the closed ends of WATS access lines. By this Report and Order, the FCC reinstated closed end WATS lines in the special access element, effective June 1, 1986, which will provide for direct recovery of the fixed costs of these lines through flat, non-traffic sensitive charges. This proposed change conforms the access charge treatment of WATS closed ends to that provided other dedicated lines, like those used in the provision of private line service, and the closed end of foreign exchange (FX) service. In this Order, the FCC also directed the Chief of the Common Carrier Bureau to commence an immediate investigation of existing WATS rates to ascertain the changes that are warranted as a result of this decision.

The FCC also adopted the changes to the treatment of resellers of WATS and other services proposed in the initial Notice. WATS resellers will be required to pay access charges for their connection to the local exchange once

special access treatment of WATS closed ends becomes effective. Resellers of MTS and other similar services will be exempted from payment of carrier common line charges, because their resold usage does not increase common line costs, but they will pay traffic-sensitive charges, because resold usage does increase the costs of traffic-sensitive access facilities.

Recognizing that WATS resellers may face transitional problems in trying to reconfigure their networks in response to this change, the FCC implemented a short transitional period for existing resellers. The rule changes will apply, effective June 1, 1986, to all resold WATS lines put in service *after* March 13, 1986, the date the Order was adopted. For their interstate traffic carried on resold WATS lines in service as of March 13, 1986, the FCC will require that resellers pay all traffic-sensitive access charges, effective June 1, 1986, but will be excused from payment of carrier common line charges until January 1, 1987.

The FCC also indicated that it will permit exchange carriers to file waivers of the existing rules in order to implement peak/off-peak price structures for carrier access rates. It adopted a voluntary approach due to implementation problems that would arise if peak/off-peak pricing was mandated at this time. The FCC also noted that any waiver request for peak/off-peak tariffs should reflect only traffic-sensitive charges, because of the consensus among commenting parties that inclusion of non-traffic sensitive costs would, among other things, increase bypass incentives.

Additionally, the FCC adopted rules changes that will shift some, but not all, carrier common line cost recovery to terminating usage. Under the current rules, non-traffic sensitive costs allocated to the carrier common line element are recovered through a uniform charge applied to both originating and terminating switched access minutes. The FCC amended its rules to provide that, effective June 1, 1986 through December 31, 1987, the carrier common line charge applied to terminating minutes will be frozen at the current rate of 4.33 cents per minute, and the carrier common line charge for originating minutes will provide the balance of the carrier common line revenue requirement. All open end minutes of WATS and other similar services with one open end, like FX service, will be treated as terminating minutes for the purpose of applying carrier common line charges. Thus, the carrier common line charge will be 4.33 cents per minute for (i) all terminating minutes on calls with two open ends (*e.g.* MTS or OCC MTS-type calls), and (ii) all open end minutes on calls with one open end (*e.g.* WATS, FX, or OCC WATS-type calls). The FCC indicated that a partial, but not total, shift of carrier common line cost recovery to terminating usage could reduce bypass incentives on the originating end for the short term, without unduly increasing incentives for terminating bypass.

The FCC affirmed its determination in the Notice that a Regulatory Flexibility Analysis is not necessary in this proceeding. This docket is a sequel to the major access charge rulemaking proceeding in CC Docket 78–72, in which the FCC determined that the Regulatory Flexibility Act did not apply in that local exchange carriers, the parties directly subject to our rules, do not fall within the Act's definition of a "small entity."

The proposals adopted in this Order have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

Ordering Clauses

Accordingly, it is ordered that, pursuant to section 4(i), 4(j), 201–205, 218, 220, 403, and 404 of the Communications Act of 1934, 47 U.S.C. 154(i), 154(j), 201–205, 218, 220, 403, and 404, the policies, rules and requirements set forth in this report and order are adopted.

It is further ordered that the Motion for extension of time filed by Advanced Telecommunications Corporation is denied.

It is further ordered, that the Motion for extension of time filed by Teltec Saving Communications Co. is denied.

It is further ordered, that the Motion for leave to file late comments filed by United States Transmission Systems, Inc. is granted.

It is further ordered, that the Motion for leave to file late comments by the Ad Hoc Resellers is granted.

It is further ordered, that the Motion for leave to file late comments by the NYNEX Telephone Companies is granted.

It is further ordered, that the Motion to Accept Late-Filed Comment or, in the Alternative, to Treat Filing as a Petition for Rulemaking by the National Association of Regulatory Utility Commissioners is denied.

It is further ordered, that the amendments to Part 69 of the Commission's rules as shown at the end of this document are adopted, effective June 1, 1986.

List of Subjects in 47 CFR Part 69

Common carriers, Access charges, Communications common carriers, Resale, Wide Area Telephone Service (WATS).

William J. Tricarico,

Secretary.

Part 69 of Title 47 of the Code of Federal Regulations is amended to read as follows:

PART 69—ACCESS CHARGES

1. The authority citation for Part 69 continue to read as follows:

Authority: Section 4(j), 201, 202, 203, 205, 218, 403, and 410 of the Communications Act as amended; 47 U.S.C. 154(i), 154(j), 201, 202, 203, 205, 218, 403, and 410.

2. Section 69.2 is amended by revising paragraph (m) to read as follows:

§ 69.2 Definitions.

* * * * *

(m) "End user" means any customer of an interstate or foreign telecommunications service that is not a carrier except that a carrier other than a telephone company shall be deemed to be an "end user" when such carrier uses a telecommunications service for administrative purposes and a person or entity that offers telecommunications services exclusively as a reseller shall be deemed to be an "end user" if all resale transmissions offered by such reseller originate on the premises of such reseller;

* * * * *

3. Section 69.5 is amended by revising paragraphs (b) and (c) to read as follows:

§ 69.5 Persons to be assessed.

* * * * *

(b) Carrier's carrier charges shall be computed and assessed upon all interexchange carriers that use local exchange switching facilities for the provision of interstate or foreign telecommunications services except that carrier common line, line termination, local switching, intercept, information, and transport charges shall not be assessed upon an interexchange carrier to the extent it resells private line service to offer services which are not MTS/WATS-type services.

(c) Special access surcharges shall be assessed upon users of exchange facilities that interconnect these facilities with means of interstate or foreign telecommunications to the extent that carrier's carrier charges are not assessed upon such interconnected

usage. As an interim measure pending the development of techniques accurately to measure such interconnected use and to assess such charges on a reasonable and non-discriminatory basis, telephone companies shall assess special access surcharges upon the closed ends of private line services and WATS services pursuant to the provisions of §69.115 of this part.

4. Section 69.105 is reviewed to read as follows:

§ 69.105 Carrier common line.

(a) A charge that is expressed in dollars and cents per access minute of use shall be assessed upon all interexchange carriers that use local exchange common line facilities for the provision of interstate or foreign telecommunications services.

(b) A per minute charge shall be computed by dividing the revenue requirement for the Carrier Common Line element by the projected annual access minutes of use for all interstate and international services that use local exchange common line facilities. Each minute of use of any local exchange common line by such services shall be counted for purposes of computing and assessing this charge.

(c) Any interexchange carrier shall receive a credit for Carrier Common Line charges to the extent that it resells services for which these charges have already been assessed (*e.g.*, MTS or MTS-type service of other common carriers).

5. Section 69.106 is revised to read as follows:

§ 69.106 Line termination.

(a) A charge that is expressed in dollars and cents per access minute shall be assessed upon all interexchange carriers that use local exchange switching facilities for the provision of interstate or foreign telecommunications services.

(b) A per minute charge shall be computed by dividing the projected annual revenue requirement for the Line Termination element by the projected annual access minutes for all interstate or foreign services that use local exchange switching facilities. Each minute of use of any termination in a local exchange switch by such services shall be counted for purposes of computing and assessing this charge.

6. Section 69.107 is amended by revising paragraph (a) to read as follows:

§ 69.107 Local switching.

(a) Charges that are expressed in dollars and cents per access minute of use shall be assessed upon all interexchange carriers that use local exchange switching facilities for the provision of interstate or foreign services.

* * * * *

7. Section 69.108 is revised to read as follows:

§ 69.108 Intercept.

(a) A charge that is expressed in dollars and cents per access minute of use shall be assessed upon all interexchange carriers that use local exchange switching facilities for the provision of interstate or foreign telecommunications.

(b) A per minute charge shall be computed by dividing the projected annual revenue requirement for the Intercept element by the projected annual access minutes of use for all interstate or foreign services that use local exchange switching facilities.

8. Section 69.111 is amended by revising paragraph (a) to read as follows:

§ 69.111 Common transport.

(a) A charge that is expressed in dollars and cents per access minute shall be assessed upon all interexchange carriers that use switching or transmission facilities that are apportioned to the Common Transport element for purposes of apportioning net investment.

* * * * *

9. Section 69.115 is amended by revising paragraph (a) to read as follows:

§ 69.115 Special access surcharges.

(a) Pending the development of techniques accurately to measure usage of exchange facilities that are interconnected by users with means of interstate or foreign telecommunications, a surcharge that is expressed in dollars and cents per line termination per month shall be assessed upon users that subscribe to private line services or WATS services that are not exempt from assessment pursuant to paragraph (e) of this section.

* * * * *

§ 69.202 [Amended]

10. Section 69.202 is amended by removing paragraph (g).

11. Section 69.203 is amended by adding a new paragraph (g) to read as follows:

§ 69.203 Interim Common Line Charges.

* * * * *

(g) No charge shall be assessed for any WATS access line.

12. A new section 69.207 is added to read as follows:

§ 69.207 Interim Carrier Common Line Charges.

Notwithstanding §§ 69.203 and 69.205, the transitional premium charges for the Carrier Common Line element shall be computed in accordance with this section during the period commencing June 1, 1986, and concluding December 31, 1987. For purposes of this section, the term "open end" of a call refers to the origination or termination of a call that utilizes exchange carrier common line plant. (A call can have no, one, or two open ends.) The transitional premium charges for the Carrier Common Line element shall be expressed in dollars and cents per access minute. The charge shall be 4.33 cents per premium minute for: (i) All terminating premium minutes on calls with two open ends (*e.g.*, an MTS or OCC MTS-type call); and (ii) all open end premium minutes on calls with one open end; (*e.g.*, a WATS, OCC WATS-type, or FX call). For purposes of this section, the term "originating-II minutes" refers to originating minutes on calls with two open ends. The charge on premium originating-II minutes shall be computed by subtracting the sum of the projected revenues generated from (i) the 4.33 cents per minute premium charge described above and (ii) the corresponding non-premium charge, from the carrier common line revenue requirement and dividing the remainder by the sum of the projected premium originating-II minutes and a number equal to .45 multiplied by the projected non-premium originating-II minutes.

13. A new section 69.208 is added to read as follows:

§ 69.208 Interim charges for WATS resellers.

(a) Notwithstanding § 69.5(b), during the period commencing June 1, 1986 and ending December 31, 1986, Carrier Common Line charges shall not be assessed upon an interexchange carrier to the extent that it resells WATS services provided over WATS lines in service as of March 13, 1986.

(b) Notwithstanding § 69.5(c), during the period commencing June 1, 1986 and ending December 31, 1986, special access surcharges shall not be assessed upon users of exchange facilities to the extent that Carrier Common Line charges are not assessed upon such interconnected usage.

14. Section 69.303 is amended by revising paragraph (c) to read as follows:

§ 69.303 Station equipment.

* * * * *

(c) Investment in all other station equipment shall be apportioned between the Special Access and Common Line elements on the basis of the relative number of equivalent lines in use, as provided herein. Each interstate or foreign Special Access line, excluding lines designated in § 69.115(e), shall be counted as one or more equivalent lines where channels are of higher than voice bandwidth, and the number of equivalent lines shall equal the number of voice capacity analog or digital channels to which the higher capacity is equivalent. Local exchange subscriber lines shall be multiplied by the interstate separations factor for non-traffic sensitive plant to determine the number of equivalent local exchange subscriber lines.

* * * * *

15. Sections 69.304 is amended by revising paragraph (a) and (b) to read as follows:

§ 69.304 Customer OSP.

(a) Investment in local exchange subscriber lines shall be assigned to the Common Line element.

(b) Investment in interstate and foreign private lines and interstate WATS access lines shall be assigned to the Special Access element.

* * * * *

16. Section 69.305 is amended by revising paragraph (b) to read as follows:

§ 69.305 Carrier OSP.

* * * * *

(b) Carrier OSP, other than WATS access lines, not assigned pursuant to paragraph (a) of this section that is used for interexchange services that use switching facilities for origination and termination that are also used for local exchange telephone service shall be apportioned between the dedicated Transport and Common Transport elements. Such OSP shall be assigned to the Dedicated Transport element if it is used exclusively for the interexchange services of a particular carrier.

* * * * *

[FR Doc. 86-6838 Filed 3-28-86; 8:45 am]
BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1051

[No. MC-C-10939]

Motor Carriers; Petition for Waiver or Modification of the Recordkeeping Requirements for Shipments of Low Value Packages

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: On January 27, 1986, the Commission issued a decision granting a waiver to United Parcel Service (UPS) from the recordkeeping requirements of 49 CFR 1051.1 [51 FR 3516, January 28, 1986]. In that decision we announced that we would examine further the possibility of waiving the recordkeeping provisions with respect to all general freight carriers. The Commission has determined that such proposal has merit and, therefore, is adopting rules allowing waiver of the recordkeeping requirements of 49 CFR 1051.1 for all common carriers and shippers where packages designated as low value are involved.

EFFECTIVE DATE: April 30, 1986.

FOR FURTHER INFORMATION CONTACT: Robin Williams Denick, (202) 275-7711.

or

Howell I. Sporn, (202) 275-7691.

SUPPLEMENTARY INFORMATION:

PART 1051—[AMENDED]

Title 49 of the CFR is amended as follows:

1. The authority citations following § 1051.1 and § 1051.2 are removed and an authority citation for 49 CFR Part 1051 is added to read as follows:

Authority: 49 U.S.C. 10321 and 11144; 5 U.S.C. 553.

2. Section 1051.1 is amended by adding new paragraph (c) to precede the cross reference to read as follows:

§ 1051.1 Information to be shown.

* * * * *

(c) The carrier and shipper may elect to waive the above provisions and use a more streamlined recordkeeping or documentation system, as devised by the common carrier, for distribution of "low value" packages. Election of this waiver includes the option of shipping such packages under the released rates provision of 49 U.S.C. 10730. The shipper has the ultimate responsibility for determining which of its packages should be designated as low value. A useful guideline for such a determination is an invoice value less than or equal to the costs associated with preparing a loss or damage claim.

* * * * *

Additional Information

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. Infosystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (D.C. Metropolitan area) or toll free (800) 424-45403.

Energy and Environmental Considerations

The final rule, as shown in this notice, will not affect significantly the quality of the human environment or the conservation of energy resources.

Regulatory Flexibility Analysis

The Commission certifies that adoption of the rule modification approved in this proceeding will not have a significant economic impact on a substantial number of small entities because only recordkeeping requirements are waived for certain shipments.

The index terms for 49 CFR Part 1051 are as follows: Buses, Freight, and Motor Carriers.

Decided: March 6, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley. Commissioner Lamboley commented with a separate expression. Vice Chairman Simmons dissented with a separate expression.

James H. Bayne,

Secretary.

[FR Doc. 86-6974 Filed 3-28-86; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status and Critical Habitat for the Desert Pupfish

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines the desert pupfish (*Cyprinodon macularius*) to be an endangered species. Critical habitat is also designated for this species in Imperial County, California, and Pima County, Arizona. Viable, self-

sustaining populations of desert pupfish are now believed to exist in only two of the historic habitats in the United States. The remaining populations in Mexico are also reported to be declining or vulnerable. The surviving natural populations are impacted by competition from exotic fishes for food and space, predation by exotic fishes, water pollution, ground-water pumping, agricultural pesticide drift, stream channelization, and possibly the habitat modifications associated with flooding in the Colorado River delta in 1983 and 1984. Designation of the desert pupfish as an endangered species affords this species the full protection provided by the Endangered Species Act of 1973, as amended.

DATE: The effective date of this rule is April 30, 1986.

ADDRESS: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 NE., Multnomah Street, Portland, Oregon 97232.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne S. White, Chief, Division of Endangered Species, at the above address, (503/231–6131 or FTS 429–6131).

SUPPLEMENTARY INFORMATION:

Background

The desert pupfish (*Cyprinodon macularius*) is a small, laterally-compressed fish with a smoothly rounded body shape. Adult fish rarely grow larger than 75 millimeters (3 inches) in total length. Males are larger than females and during the reproductive season become brightly colored with blue on the dorsal portion of the head and sides and yellow on the caudal fin and the posterior part of the caudal peduncle. Females and juveniles typically have tan to olive backs and silvery sides. Most adults have narrow, vertical, dark bars on their sides, which are often interrupted to give the impression of a disjunct, lateral band. The desert pupfish was described in 1853 by Baird and Girard from specimens collected in the San Pedro River of Arizona.

The desert pupfish was once common in the desert springs, marshes, and tributary streams of the lower Gila and Colorado River drainages in Arizona, California, and Mexico. It also formerly occurred in the slow-moving reaches of some large rivers, including the Colorado, Gila, San Pedro, and Santa Cruz. The species is currently known from only two historic locations in the United States. In California, it still exists in two Salton Sea tributaries (San Felipe Creek system and its associated wetland San Sebastian Marsh, Imperial County, and Salt Creek, Riverside County) and a few shoreline pools and irrigation drains along the Salton Sea in Imperial and Riverside Counties. In Arizona, it still inhabits Quitobaquito Spring within the Organ Pipe Cactus National Monument in Pima County. The species is also believed to inhabit the Colorado River system in the Rio Sonoyta drainage and Santa Clara Slough in Sonora, Mexico. Recent surveys of Salt Creek and the irrigation drains around the Salton Sea (Moore, 1983) and the Rio Sonoyta (McMahon and Miller, 1985) indicate that the populations there may now be reduced to such low levels that they are no longer viable. The current status of the population in Santa Clara Slough is unknown. However, the floods that inundated vast reaches of the Colorado River delta in 1983 and 1984 may have given tilapia (*Tilapia zillii*), largemouth bass (*Micropterus salmoides*), and other exotic fishes that compete with, or prey upon, the desert pupfish, access to this slough. These recent high flows also may have enhanced habitat conditions for exotic fishes by improving water quality in the delta.

Refugia populations of desert pupfish have been established in Arizona at Bog Hole (Santa Cruz County), Research Ranch (Santa Cruz County), Arizona-Sonora Desert Museum (Pima County), Boyce Thompson Arboretum (Pinal County), and Arizona State University (Maricopa County). The Bog Hole and Research Ranch populations are believed to be derived from Quitobaquito Spring. The fish at Arizona-Sonora Desert Museum and Boyce Thompson Arboretum were obtained from Dexter National Fish Hatchery, which obtained its fish from the Santa Clara Slough population. Two populations have been established in refugia at Arizona State University, one derived from Quitobaquito Spring and the other from Santa Clara Slough.

In California, refugia populations exist at Salton Sea State Park (Riverside County), the Living Desert Reserve (Riverside County), and three separate locations in Anza-Borrego State Park (San Diego County). The populations in Salton Sea State Park and the Living Desert Reserve are derived from Salton Sea Stock. Two of the refugia populations at Anza-Borrego State Park (Palm Spring and the Visitor Center) are derived from the Salton Sea; the third (Palm Canyon) is derived from San Felipe Creek. Most of these refugia populations are maintained in highly artificial environments, and contain relatively small numbers of fish.

Desert pupfish are also being held at Dexter National Fish Hatchery, Dexter, New Mexico. These fish were obtained from Santa Clara Slough. They are being maintained in that facility for use in research and for future reintroduction efforts in Arizona.

Desert pupfish were recently introduced into one natural and two manmade spring habitats on Bureau of Land Management (BLM) land in Arizona. These populations, which were established from the stock at Dexter National Fish Hatchery, are located at Peoples Canyon in the Bill Williams River drainage (Yavapai County), Howard Well in the Gila River drainage (Graham County), and Mesquite Spring in the Gila River drainage (Pinal County). However, it will be some time before it is known whether these introductions have resulted in the establishment of self-sustaining populations that can survive the local climatic regime.

Land ownership of the remnant natural habitats in the United States is divided between private and Federal interests. Quitobaquito Spring is entirely on National Park Service Lands within the boundaries of Organ Pipe Cactus National Mounment. Title to the lands along San Felipe Creek is arranged in a checkerboard pattern, about evenly divided between Federal and private holdings.

Desert pupfish are adapted to harsh desert environments and are capable of surviving extreme environmental conditions. They have been reported to survive water temperatures in excess of 43.3 Centigrade (110 Fahrenheit) (Moyle, 1976), oxygen levels as low as 0.1 to 0.4 parts per million (Lowe *et al.*, 1967), and salinities nearly twice that of seawater (Barlow, 1958). They are also capable of surviving extreme fluctuations in temperature (Lowe and Heath, 1969) and daily salinity changes of as much as 10 to 15 parts per thousand (Kinne, 1960). Although desert pupfish are extremely hardy in many respects, they cannot tolerate competition or predation and are thus readily displaced by exotic fishes.

Desert pupfish mature rapidly and may produce up to three generations per year. Spawning males typically defend a small spawning and feeding territory in shallow water. The eggs are usually laid and fertilized on a flocculent substrate and hatch within a few days. After a few hours, the young begin to feed on small plants and animals. Spawning occurs throughout the spring and summer months. Individuals typically survive for about a year.

These characteristics, along with the adaptability of the desert pupfish to laboratory aquaria, make it a valuable research animal for ichthyologists and

other biologists. A great deal has been learned from this species about fish ecology, genetics, behavior, and physiology. In addition, the rapidity with which the desert pupfish and other members of the genus *Cyprinodon* differentiated into distinct species may give scientists valuable insights into the process of speciation.

The precarious status of the desert pupfish is recognized by the State of California, which has classified the desert pupfish as an "endangered" species, and by the State of Arizona, which has included the desert pupfish on its list of native species that are in danger of being extirpated from the State. The desert pupfish was included in the Service's December 30, 1982, Review of Vertebrate Wildlife for Listing as Endangered or Threatened Species (47 FR 58454). In that review, the desert pupfish was classified as a category 1 species, indicating that the Service had substantial information on hand to support a proposed rule to list the species as endangered or threatened. On April 12, 1983, the Service was petitioned by the Desert Fishes Council to list the desert pupfish. The Service published a notice of finding on June 14, 1983 (48 FR 27273), announcing that the petition had presented substantial information indicating that listing may be warranted. On May 16, 1984, the Service published a proposed rule to list the desert pupfish as an endangered species and declare critical habitat (49 FR 20739), in accordance with Section 4(b)(3)(B)(ii) of the Endangered Species Act of 1973, as amended.

Summary of Comments and Recommendations

In the May 16, 1984, proposed rule (49 FR 20739) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, foreign governments, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices were published in the *Arizona Republic*, the *Tucson Citizen*, and *Ajo Copper News* on June 13, 1984, and in the *Imperial Valley Press* on June 15, 1984, which invited general public comment. The Service received written comments from 28 interested parties in response to these notifications and newspaper notices. These comments are grouped together by subject matter and are discussed below, together with the Service's response. Four of the commentors expressed support for the proposed rule, and one commentor submitted recommendations for protecting critical habitat without expressing support or opposition.

Comments were received from the Arizona Game and Fish Department (AGFD), Bureau of Land Management (BLM) and Arizona-New Mexico Chapter of the American Fisheries Society (AFS) expressing support for listing the desert pupfish as endangered but recommending that introduced populations in all or parts of Arizona be excluded. The Service replies that the reintroductions already conducted and those proposed in Arizona are essential for recovery of this species. The Service does not believe this rule is the appropriate mechanism for excluding such populations from the protection afforded by the Endangered Species Act. When the Act was reauthorized in 1982, it was amended to authorize the Secretary to designate introduced populations, including those introduced before a species is listed, as experimental, if circumstances warrant such designation. Populations that are determined to be experimental, and not essential to the survival of the species, pursuant to section 10(j) of the Act are exempt from the formal consultation requirements prescribed in section 7. The 1982 Amendments to the Act also provide greater flexibility with respect to the taking of endangered species from experimental populations. Section 9 of the Act generally prohibits the taking of endangered species of fish and wildlife. However, experimental populations are treated as threatened species even though the donor populations from which they are derived are listed as endangered. If an introduced population is determind to be experimental, and thereby threatened for the purposes of Section 9, the Secretary may impose less restrictive prohibitions on the take of animals from that population pursuant to section 4(d) of the Act. In view of the increased flexibility provided by the 1982 Amendments relative to experimental populations, the Service believes that the appropriate mechanism for responding to the concerns expressed by BLM, AGFD, and AFS regarding the proposed introductions is through a separate rulemaking conducted pursuant to section 10(j).

AGFD and AFS also recommended that the final rule identify the status of introduced populations throughout the desert pupfish's historic range. AFS further recommended that a survey be conducted in Santa Clara Slough to assess the impact that the recent high flows in the Colorado River delta have had on that habitat. The Service replies that the current status of all known introduced and refugia populations of desert pupfish is discussed in the background section. Continued monitoring of the desert pupfish and its habitat, including Santa Clara Slough, will be part of the recovery effort.

BLM noted that the proposal failed to recognize that BLM has designated the area around San Sebastian Marsh in Imperial County, California, as an Area of Critical Environmental Concern (ACEC), and that BLM and other agencies are involved in cooperative efforts to acquire private inholdings within that ACEC. The Service acknowledges that BLM and other agencies are cooperating in efforts to secure the integrity of the critical habitat, and appreciates such efforts.

AGFD, BLM, and AFS expressed concern about a lack of interagency coordination during the development of the proposed rule. The Service acknowledges that some misunderstandings occurred as a result of differing interpretations of decisions reached at a 1981 meeting attended by representatives of all affected agencies. Measures have been taken to insure that adequate coordination occurs on all future actions involving the desert pupfish.

One letter of support for the rulemaking, as proposed for California populations, was received from the Western Regional Office (WRO) of the National Park Service (NPS). However, support was withheld for the listing and designation of critical habitat at Quitobaquito Spring, Arizona, pending the completion of ongoing studies. The WRO expressed concern that listing the desert pupfish would mandate single species management actions for the area, thus precluding research and management activities that are needed to maintain other native species at the Monument. The WRO noted that threats to Quitobaquito Spring include pesticide drift from new agricultural uses in Mexico and groundwater pumping that could conceivably eliminate spring flow to that entire ecosystem. The Service responds that it is not appropriate to exclude the population at Quitobaquito Spring from the application of the final rule. That determination is based on threats to the habitat that are cited in the proposed rule and that are reiterated by the WRO in its comments on the proposal. Section 4(b)(1) of the Endangered Species Act specifies that determinations to list a species shall be based solely on the best scientific and commercial data available regarding the status of a species. Pursuant to section 4(b)(2) of the Act, the Service may exclude an area from critical habitat if

the benefits of such exclusion outweigh the benefits of inclusion, unless the failure to designate the area will result in extinction of the species. The NPS, however, did not provide any information or data to indicate that the benefits of excluding Quitobaquito Spring and its riparian area outweigh the benefits of its inclusion as critical habitat. The Service recognizes that the NPS has a responsibility to conserve other native species that occur at Quitobaquito Spring, but considers that listing the desert pupfish and designating its critical habitat are compatible with NPS conservation responsibilities.

Comments were received from four user groups expressing concern or opposition to the proposed rule. Two of these, the Coachella Valley Water District (CVWD) and Imperial Irrigation District (IID) shared several concerns and doubted that the desert pupfish qualifies for listing under the Endangered Species Act. The two districts contended that the range of the desert pupfish and the amount of available habitat is greater today than it was prior to the formation of the Salton Sea in 1905. They also contended that the construction of agricultural drains around the Salton Sea and the establishment of refugia at Anza-Borrego State Park and other locations have increased the amount of desert pupfish habitat over what was available historically. On this basis, they asserted that the range and habitat of the desert pupfish is not in danger of destruction, significant modification, or curtailment. The Service responds that the decline in the distribution and abundance of the desert pupfish is well documented in the proposed rule. The Service rejects contentions by the two districts that the distribution of the desert pupfish is greater today than prior to 1905 because of the formation of the Salton Sea. Although the desert pupfish was once abundant in the Salton Sea and its tributaries, this species has now been extirpated from all but one of its historic habitats in Arizona, from all but one of its historic habitats in California, and from all but one or two of its historic habitats in Mexico.

CVWD and IID noted that no information is presented in the proposed rule to indicate that the desert pupfish is overutilized for commercial, recreational, scientific, or educational purposes. The Service responds that overutilization for commercial, recreational, scientific, or educational purposes is not a significant current threat to the survival of the desert pupfish.

CVWD and IID questioned the validity of the sampling techniques and methodology used to estimate desert pupfish numbers in and around the Salton Sea, and they viewed as spurious those reports in the literature that indicate a decline in desert pupfish abundance since 1960. They projected that the Salton Sea would contain 239,000 pupfish if the population density is only one desert pupfish per acre. On this basis, they contended that the threats related to predation and disease are not adequately documented, and therefore, listing of the desert pupfish as endangered is not justified. The Service responds that the sampling techniques used to document the decline of desert pupfish in the Salton Sea and its tributaries are scientifically valid. All of the published data indicate that desert pupfish numbers in the Salton Sea have declined drastically in the last 20 to 30 years. The two districts did not present any data to support their projection that the Salton Sea may have a population of 239,000 desert pupfish. For that projection to be valid, desert pupfish would have to be uniformly distributed throughout the Sea and have an average population density of a least one desert pupfish per acre. The Service does not accept the validity of either assumption. Historical observations indicate that the desert pupfish was never very common in the open waters of the Salton Sea, and recent collection records show the desert pupfish to be extremely rare or absent from the inshore areas. In 1983, the California Department of Fish and Game (CDFG) surveyed a variety of Salton Sea habitats. Its surveys involved over 13,000 trap-hours and yielded only six desert pupfish. These six fish represented less than 0.1% of the total number of all fish collected. The Service believes these survey data, in conjunction with the results summarized by Black (1980), McMahon and Miller (1985), Miller (1943), Miller (1961), and Schoenherr (1980) provide adequate documentation to support a finding that the desert pupfish population has declined and that the species is endangered.

Both CVWD and IID commented that existing land uses within Organ Pipe Cactus National Monument are controlled to insure protection of the desert pupfish at that site. They also stated that BLM and NPS have designated desert pupfish habitats as protected and manage them accordingly. They noted that the State of California has placed the desert pupfish on its endangered species list. On this basis, they contended that existing regulatory mechanisms are adequate to insure the continued existence of the desert pupfish. The Service responds that some protective actions have been taken by State and Federal agencies to help prevent the extinction of the desert pupfish. However, the Service does not believe these actions are sufficient to insure the species' continued existence. This determination is supported by the comments of the Resources Secretary of the State of California, who noted that, subsequent to State listing, CDFG has requested emergency Federal listing of this critically endangered fish on three occasions.

CVWD and IID also contended that other natural or manmade factors do not support a finding that the desert pupfish is endangered. They commented that *Hydrilla* is not currently present in desert pupfish habitat, and therefore, no scientific basis exists for believing this plant is a threat to this species. They further commented that the Service failed to provide any scientific evidence that pesticides are significantly reducing the pupfish population or that a major pesticide spill is probable. The Service agrees that *Hydrilla* is not present in desert pupfish habitat, but the Service disagrees with the conclusion that it is not a potential threat. *Hydrilla* has invaded many aquatic habitats and the distinct possibility exists that it could become established in the fish's habitat. If this plant does invade the ecosystem, extreme control methods (mechanical, chemical, and biological) will likely be recommended. As an example, CVWD has proposed using grass carp to control aquatic weed growth in the Imperial and Coachella Valleys. If *Hydrialla* becomes established in the irrigation drains and canals around the Salton Sea and grass carp are used as a control, the carp may compete for food and space with the desert pupfish. With respect to the contention that pesticide drift is not a problem, the Service notes that the National Park Service's comments on the proposed rule also indicate that pesticide drift from Mexico is a significant potential threat to the population in Quitobaquito Spring.

The CVWD and IID commented that section 4(b) of the Endangered Species Act requires the Secretary to take into consideration the efforts being made by any State, or any political subdivision of a State, to protect a species. They stated that the State of California has placed the desert pupfish on its endangered species list and that this action provides prohibitions against taking the fish without a permit. They noted that CDFG has been working with the Federal Government to establish an Area of Environmental Concern and an

Outstanding Natural Area in the San Felipe Creek watershed to protect the desert pupfish. They noted that desert pupfish have been established in refugia at Anza-Borrego State Park and other locations. They also noted that Riverside, San Diego, and Imperial Counties are required, under the California Environmental Quality Act, to mitigate impacts related to development that might adversely affect the desert pupfish. They concluded that because of these conservation actions, the desert pupfish is not in danger of extinction throughout all or a significant portion of its range, and, therefore, it does not need to be listed as endangered. After consulting with the affected States, the Service has determined that existing conservation efforts are not adequate to insure the continued existence of the desert pupfish. That determination is based on the comments submitted by State Officials from Arizona and California, which are summarized herein.

IID, CVWD, and the two other water user groups, Imperial Dam Advisory Board (IDAB), and Yuma County Water User's Association (YCWUA), expressed concern that listing the desert pupfish would adversely affect operation and maintenance activities associated with irrigation. In addition, YCWUA contended that the maintenance work performed by water related agencies has been beneficial to the desert pupfish because the amount of usable fish habitat has been increased by the periodic removal of aquatic vegetation; hence, the desert pupfish should not be listed as endangered. IID requested that all maintained systems currently used for irrigation or the diversion of runoff or flood waters be excluded from the application of the final rule. The Service responds that the dredging activities carried out by water districts to maintain the irrigation drains and canals around the Salton Sea have not been a significant factor in the recent decline of the desert pupfish. Prior to the invasion of tilapia and sailfin mollies into these habitats, desert pupfish were present in large numbers and survived the districts' periodic dredging operations without apparent ill effect. Even though desert pupfish are now truly scarce or entirely absent from these habitats, the Service recognizes that there is still some potential for incidental take to occur in the course of the districts' normal maintenance operations. However, the Service has determined that it does not have the authority under the Endangered Species Act to exclude the districts' irrigation drains and canals from the application of the final rule. That determination is based on section (4)(b)(1) of the Act, which specifies that determinations to list a species shall be based solely on the best scientific and commercial data available. The Service notes, however, that incidental take of an endangered species may be authorized pursuant to section 7 or section 10(a) of the Endangered Species Act.

CVWD requested that the listing process be extended for six months to allow time for additional data to be obtained. The Service replies that it does not believe that substantial information has been presented to show that CDFG's collection data are either insufficient or inaccurate.

A letter of support was received from the Organ Pipe Cactus National Monument. In addition, it recommended expanding the critical habitat to be designated at Quitobaquito Spring to include a buffer zone. The Service considers the proposed critical habitat to be sufficient to delineate the areas essential to the conservation of the desert pupfish. If future surveys indicate the existence of additional areas warranting designation as critical habitat, the Service will consider making such a designation.

Three California State agencies expressed support for listing the desert pupfish as endangered. The Secretary of the State of California commented that he and Governor Deukmejian fully support including *Cyprinodon macularius* on the Federal list of endangered species, and endorse the designation of critical habitat as proposed. The CDFG supported listing the desert pupfish as endangered and concurred with the proposed critical habitat. CDFG also noted that it had asked the Service to list this species on an emergency basis on three separate occasions. The California Department of Parks and Recreation suggested that Salt Creek in Imperial County should be added as critical habitat, and that the critical habitat in the San Felipe Creek drainage should be expanded to provide a buffer zone large enough to protect the hydrologic features that sustain perennial flows in San Felipe Creek and San Sebastian Marsh. The Service responds that it has decided to retain critical habitat as described in the proposed rule. That determination is based on the information and recommendations submitted by CDFG. If future surveys document the occurrence of viable populations of desert pupfish in other habitats or demonstrate that protection of the designated critical habitat along San Felipe Creek is not adequate for the conservation of the population there, the Service will consider revising the critical habitat.

Two county agencies in California, the Riverside County Parks Department and the Riverside County Planning Department, submitted comments supporting the proposed rule.

Dr. Robert R. Miller, University of Michigan Museum of Zoology; Dr. Larry C. Oglesby, Pomona College; Dr. Jonathan Baskin, California State Polytechnical University; Dr. Allan Schoenherr, Fullerton College; and Mr. J.A. St. Amand, and Mr. K.E. Moore, CDFG Biologists, provided personal observation data on the decline of pupfish numbers. These biologists also provided additional support for the Service's conclusions on the species, and they provided some views on other potential threats. Specifically, Dr. Oglesby was concerned that the brackish water snail of the family Thiaridae, a recent introduction into the Salton Sea system, could compete with the pupfish for food. Mr. J.A. St. Amand reported that the fish could be threatened by lining of the drains and canals for water conservation and potentially by geothermal developments in the Imperial Valley. The Service agrees that these factors could also threaten the continued existence of the desert pupfish.

Dr. Schoenherr also stated that based on his survey results he believes San Felipe Creek contains the only viable California population of the species. The Service agrees that this may be true but believes more study is required before a final determination can be made.

Three conservation organizations, the Desert Fishes Council (DFC), International Union for Conservation of Nature and Natural Resources (IUCN), and Arizona Wildlife Federation (AWF) submitted comments expressing support for listing the desert pupfish as endangered and provided additional information or recommendations concerning the proposed rule. DFC and AWF recommended various measures to protect the remaining desert pupfish habitats. IUCN submitted a draft data sheet on the desert pupfish, prepared for inclusion in the forthcoming IUCN Fish *Red Data Book*, and indicated that the desert pupfish will probably be categorized as endangered in that publication.

Four conservation organizations (Defenders of Wildlife, Desert Tortoise Council, Lower Basin Native Fishes Subcommittee, and Yuma Audubon Society) submitted general comments expressing support for the proposed

rule, but they did not provide any additional information or recommendations concerning the desert pupfish or its habitat.

The Imperial County Planning Department commented that the California Department of Parks and Recreation is considering expansion of the Ocotillo Wells Recreational Area and noted that off-road vehicular use in the San Felipe Creek watershed could adversely affect the critical habitat, but it did not offer an opinion on the rule. The Service agrees that off-road vehicular use may pose a threat.

The Coachella Valley Water District, the Imperial Irrigation District, and the Imperial Dam Advisory Board each requested that a public hearing be held on the proposed rule. On August 13, 1984, the Service published a notice in the **Federal Register** (49 FR 32320) announcing that a public hearing was scheduled to receive public input on this proposal. The hearing was held in Imperial, California, on August 30, 1984. Testimony was presented at this hearing by representatives of four organizations. Two of the representatives spoke in opposition to the proposal, one spoke in support of the proposal, and one spoke in support of expanding critical habitat in the San Felipe Creek watershed, without expressing support or opposition to the proposal as it related to listing the desert pupfish as endangered. A summary of the testimony presented at this hearing is given below along with the Service's response.

The testimony of CVWD and IID was essentially the same as presented in the written comments that were submitted by the two districts regarding the proposed rule. The Service has already responded to these issues. The testimony of the Imperial County Planning Department (ICPD) was also similar to that presented in its written comments on the proposal. In addition, ICPD noted that Imperial County requires a permit for water wells that are drilled in Imperial County and requested the Service to notify ICPD if it becomes aware of attempts to utilize water wells in the vicinity of San Sebastian Marsh. ICPD requested that the critical habitat be expanded to include the area described as critical habitat by Lebo *et al.* (1982). The Service has previously responded to the issue of whether the critical habitat in California should be expanded, and will notify ICPD if it becomes aware of any new well activity in the vicinity of San Sebastian Marsh. The CDFG presented testimony in support of listing the desert pupfish as endangered and responded to several points that were raised by CVWD and IID.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the desert pupfish (*Cyprinodon macularius*) should be classified as an endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; revised to accommodate 1982 Amendments—see 49 FR 38900, October 1, 1984) were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the desert pupfish (*Cyprinodon macularius*) are as follows:

(A) *The present or threatened destruction, modification, or curtailment of its habitat or range.* At the beginning of the 20th century, the desert pupfish was widespread throughout the lower Gila River and its tributaries, the San Pedro and Santa Cruz Rivers, and the lower Colorado River in Arizona, California, and Baja California; and Sonora, Mexico. Starting in the 1880's many desert rivers began experiencing major erosional cycles that resulted in the loss of permanent waters in numerous pupfish streams and the drying up of the shallow, littoral areas preferred by this species. Miller (1961) related this increase in erosion to overgrazing. The construction of mainstream dams on the Gila, Colorado, and Salt Rivers for irrigation and flood control dewatered the lower Gila and Salt Rivers and eliminated the marshy sidepools in the Colorado River that were utilized by desert pupfish. After this occurred, the pupfish were forced into the mainstream channels of the remaining permanent streams where they were eaten by predators or outcompeted by native and exotic species.

The desert pupfish is now known to exist only in two locations in the United States, the Salton Sea area and Quitobaquito Spring. The desert pupfish in the Salton Sea area have been severely reduced in numbers and distribution as the result of the introduction of exotic fish species, modifications to the water conveyance facilities used for irrigating and draining agricultural lands, the application of agricultural pesticides, the dewatering of some natural spring habitats by groundwater pumping, and the inundation of other spring habitats by the rising waters of the Salton Sea. These factors, in combination, have reduced pupfish numbers in most habitats to such low levels that long-term survival prospects are poor.

The only known habitat in California in which the desert pupfish make up a dominant part of the fish fauna is a short reach of San Felipe Creek and two small tributaries near San Sebastian Marsh (Black 1980). However, the integrity of this habitat is threatened by proposals to convert the privately owned lands to irrigated agriculture. The removal of large volumes of ground-water from the aquifers that feed San Felipe Creek could cause the marsh to become desiccated and destroy its habitat value for pupfish. Geothermal development is also a potential threat to this habitat. Geothermal lease applications have been filed with the Bureau of Land Management for some tracts in the vicinity of San Sebastian Marsh. If geothermal energy is discovered in this area in commercially marketable quantities, it is likely the privately owned lands around San Sebastian Marsh would be developed with adverse consequences to pupfish habitat. The Federal lands around San Sebastian Marsh have been leased for oil and gas exploration with a no surface occupancy stipulation. Oil and gas development on the adjacent privately owned lands could adversely affect desert pupfish habitat, particularly if there are significant surface disturbances. The Federal lands around Salt Creek have been leased for geothermal development and oil and gas exploration.

The population in Quitobaquito Spring is located downwind from nearby farms in Mexico that are sprayed with organophosphates and chlorinated hydrocarbons. Recent studies of this population (Kynard, 1981) revealed that the fish in Quitobaquito Spring contained detectable levels of both parathion and DDT derivatives in the late 1970's. Because of the extremely restricted range of the desert pupfish, any major accidental spills or increased levels of pesticide drift could have a devastating impact on the entire population in Quitobaquito Spring.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* A few individuals may occasionally be taken incidentally from the Salton Sea by anglers collecting sailfin mollies (*Poecilia latipinna*) for bait. However, there is no evidence that desert pupfish are currently overutilized for any purpose.

C. *Disease or predation.* Several known predators and competitors of

desert pupfish have become established in the natural and manmade tributaries of the Salton Sea, including tilapia (*Tilapia mossambica* and *Tilapia zillii*), sailfin mollies, shortfin mollies (*Poecilia mexicana*), mosquitofish (*Gambusia affinis*), pothole livebearers (*Poeciliposis gracilis*), and several members of the families Centrarchidae, Ictaluridae, and Cyprinidae. Desert pupfish populations in the Salton Sea area have also been infected by a parasitic copepod (anchor worm) of the family Lernaidae. In Arizona, desert pupfish have been displaced from many of their historic spring habitats by largemouth bass.

Recent studies have shown that juvenile tilapia compete with desert pupfish for many of the same food items, and that adult tilapia prey on fish and fish eggs. Field and laboratory observations have revealed that tilapia also interfere with the reproductive behavior of desert pupfish (Schoenherr, 1980). The extent to which this type of interference has suppressed pupfish reproduction is not known. Largemouth bass are voracious predators that are capable of eliminating pupfish completely from small spring habitats (Miller and Pister, 1971).

D. *The inadequacy of existing regulatory mechanisms.* California State law (The Endangered Species Act of 1970, Chapter 1510, Stats. 1970) prohibits the taking of desert pupfish without a permit. That law was recently amended (Chapter 1240, Stats. 1984) to require State agencies to consult with CDFG on State projects that may affect State listed species. However, few of the activities that pose a threat to the desert pupfish in California are likely to require State agency approval. Hence, California's endangered species law does not provide an adequate regulatory mechanism to protect the remaining desert pupfish habitats. The Service is not aware of any regulatory mechanisms that have been established to protect the surviving Mexican populations and their habitats, or to alleviate the threats to the Quitobaquito Spring population that are associated with aerial pesticide spraying and increased ground-water pumping in Mexico.

E. *Other natural or manmade factors affecting its continued existence.* The exotic aquatic weed, *Hydrilla verticillata*, was recently introduced into the All American Canal. This plant is capable of spreading rapidly and is very difficult to control. Consequently, it is possible that this aquatic weed may soon find its way into habitats that support desert pupfish. It is not known what the direct effect of its establishment would be on desert pupfish. However, the extreme methods of chemical, mechanical, and biological control that have been used in other areas where this plant has become established would be likely to have a detrimental effect upon pupfish habitat.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list the desert pupfish as endangered with critical habitat. The now localized distribution of this fish, competition from exotic species, predation pressure, and continued adverse modifications of habitat (i.e., ground-water pumping, pesticide applications, and changes in water conveyance facilities) indicate it is imminently threatened with extinction. Therefore, endangered classification is warranted.

Critical Habitat

Critical habitat, as defined by Section 3 of the Act means: (i) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection, and (ii) specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Section 4(a)(3) of the Act requires that critical habitat be designated to the maximum extent prudent and determinable concurrently with the determination that a species is endangered or threatened. Recent status surveys have been instrumental in assessing essential habitat and the present condition of the desert pupfish. Overcollection is not the primary threat facing the desert pupfish. For these reasons the Service does not believe that determining critical habitat for the desert pupfish will contribute to a further decline in the species; hence, critical habitat is designated by this rule. Critical habitat is being designated for the desert pupfish at Quitobaquito Spring, Organ Pipe Cactus National Monument, Pima County, Arizona, and along portions of San Felipe Creek, Carrizo Wash, and Fish Creek Wash, Imperial County, California. The areas designated as critical habitat include approximately one-half acre of aquatic habitat at Quitobaquito Spring and a 100 foot riparian buffer around the spring, and approximately 11 miles of stream channel along San Felipe Creek and two of its tributaries and a riparian buffer zone of 100 feet on both sides of the stream channel. A riparian buffer zone of 100 feet around Quitobaquito Spring and at least 100 feet on each side of the stream channel are deemed necessary because any activities that are carried out adjacent to these areas may have a direct impact on the quality of aquatic habitat for desert pupfish. Constituent elements for all four areas designated as critical habitat include clean unpolluted water that is relatively free of exotic organisms, especially exotic fishes, in small slow-moving desert streams and spring pools with marshy backwater areas. The "Regulations Promulgation" section contains a legal description of the critical habitat.

The areas being designated as critical habitat satisfy all known criteria for the ecological, behavioral, and physiological requirements of the species. The species successfully reproduces in Quitobaquito Spring and the designated reaches of San Felipe Creek, Carrizo Wash, and Fish Creek Wash. These areas also provide adequate food and cover. Perhaps most importantly, these areas are also isolated or at least partially isolated from predatory and competing exotic fishes. Because the desert pupfish is non-migratory, the areas it inhabits must fulfill all the requisites for survival and successful reproduction.

Section 4(b)(8) requires, for any proposed or final regulation that designates critical habitat, a brief description and evaluation of those activities (public or private) which may adversely modify such habitat or may be affected by such designation. It should be emphasized that critical habitat designation may not affect each of the activities listed below, as critical habitat designation affects only Federal agencies through section 7 of the Act.

1. Withdrawal of water either directly or indirectly from San Sebastian Marsh could destroy or reduce the suitability of this habitat for desert pupfish.

2. Stocking of additional exotic fish or other non-endemic species into waters within the critical habitat, or into waters through which such fish may gain access to the critical habitat, may introduce parasites and increase the incidence of predation on desert pupfish.

3. Other activities (which, though not anticipated at this time, could conceivably occur in the foreseeable future) could also reduce the habitat's suitability for desert pupfish. These activities include geothermal development, oil or gas development, stream channelization, intensive

recreational use, and the siting of transmission lines, roads, canals, or irrigation drains within the designated areas.

Section 4(b)(2) of the Act requires the Service to consider economic and other impacts of designating a particular area as critical habitat. The Service has considered the critical habitat designation in light of relevant additional information obtained and concludes that no significant economic or other impacts are expected to result from the critical habitat designation. The designation of critical habitat is apparently compatible with NPS conservation objectives for Organ Pipe Cactus National Monument. Some geothermal and oil and gas leases have been issued by BLM within or in the vicinity of the critical habitat area in California. BLM, however, has informed the Service that it does not expect that geothermal or oil and gas exploration and development will occur in the foreseeable future. BLM's current management of the portion of critical habitat within the San Sebastian Marsh/San Felipe Creek ACEC and interagency land exchange efforts in progress since 1980 are also apparently compatible with the critical habitat designation. In addition, there is no known involvement of Federal funds or permits for the private land included in the critical habitat designation. For these reasons, no adjustments to the boundaries of the proposed critfcal habitat were warranted.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402 and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Federal activities that may affect the desert pupfish and its habitat in the future were previously discussed in the "Critical Habitat" section of this rule.

The Act and its implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that had been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered if such relief were not available.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Regulatory Flexibility Act and Executive Order 12291

The Department of the Interior has determined that designation of critical habitat for this species will not constitute a major action under Executive Order 12291 and certifies that this designation will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Land use in the critical habitat is currently limited to recreation, scientific research, and oil and gas leasing. The public lands adjacent to the critical habitat were recently leased for geothermal exploration. The potential for geothermal or oil and gas development in the area is considered to be low in view of the negative results obtained from nearby test wells. The management objectives of NPS and BLM, for those portions of critical habitat within Organ Pipe Cactus National Monument and the San Sebastian Marsh/San Felipe Creek ACEC, respectively, are compatible with the designation of critical habitat There is also no known involvement of Federal funds or permits for the private land included as critical habitat. No other Federal activities are presently known or anticipated that would adversely affect or be adversely affected by the critical habitat designation. Therefore, no significant economic or other impacts are expected to result from the critical habitat designation for the desert pupfish. In addition, no direct costs, enforcement costs, or information collection or recordkeeping requirements are imposed on small entities by this designation. These determinations are based on a Determination of Effects that is available at the Regional Office, U.S. Fish and Wildlife Service, 500 N.E. Multnomah Street, Suite 1692, Portland, Oregon 97232.

Literature Cited

Barlow, G.W 1958. High salinity mortality of desert pupfish, *Cyprinodon macularius*. Copeia 1958:231–232.

Black, G.F. 1980. Status of the desert pupfish, *Cyprinodon macularius* (Baird and Girard), in California. State of California, Department of Fish and Game, Inland Fisheries Endangered Species Program, Special Publ. 80–1. 42 pp.

Kinne, O. 1960. Growth, food intake, and food conversion in a euryplastic fish exposed to different temperatures and salinities. Physiol. Zool. 33:288–317

Kynard, B.E. 1981. Study of Quitobaquito pupfish: systematics and preservation. Final Report, National Park Service No. PX–8100–6–0215. 16 pp.

Lebo, A., L. Nitikman, and C. Salmen (eds.) 1982. San Sebastian Marsh, a resource survey and management plan. Imperial County, California. Publ. No. 9, Environmental Field Program, Univ. California, Santa Cruz. 322 pp.

Lowe, C.H., and W.G. Heath. 1969. Behavioral and physiological responses to temperature in the desert pupfish, *Cyprinodon macularius*. Physiol. Zool 42:53–59.
Lowe, C.H., D.S. Hinds, and E.A. Halpern. 1967. Experimental catastrophic selection and tolerances to low oxygen concentrations in native Arizona freshwater fishes. Ecology 48:1013–1017.
McMahon, T.E., and R.R. Miller. 1985. Status of the fishes of the Rio Sonoyta basin, Arizona and Sonora, Mexico. Proc. Desert Fishes Council, Vol. 14. (In Press).
Miller, R.R. 1943. The status of *Cyprinodon macularius* and *Cyprinodon nevadensis*, two desert fishes of western North America. Occ. Pap. Mus. Zool. Univ. Michigan. 437:1.25.
———. 1961. Man and the changing fish fauna of the American Southwest. Michigan. Acad. Sci., Arts, and Lett. 46:365–404.
Miller, R.R., and E.P. Pister. 1971. Management of the Owens pupfish, *Cyprinodon radiosus*, in Mono County, California. Trans. Amer. Fish. Soc. 100:502–509.
Moore, K.E. 1983. Results of two fisheries surveys of the desert pupfish resource in and around the Salton Sea, Imperial and Riverside Counties. Memorandum to Fisheries Management, Region 5, California Dept. Fish and Game. 5 pp.
Moyle, P.B. 1976. Inland fishes of California. Univ. California Press., Berkeley. 405 pp.
Schoenherr, A.A. 1980. The role of competition in the replacement of native fishes by introduced species. *In* R.J. Naiman and D.L. Soltz (eds.). Fishes in North American deserts. Pp. 173–203. John Wiley and Sons, New York.

Authors

The primary authors of this rule are Mr. Edward M. Lorentzen and Dr. Kathleen E. Franzreb, Sacramento Endangered Species Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room E–1823, Sacramento, California 95825 (916/484–4935 or FTS 468–4935).

List of Subjects in 50 CFR Part 17

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

Regulations Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Amend § 17.11(h) by adding the following, in alphabetical order under "FISHES," to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
FISHES							
Pupfish, desert	*Cyprinodon macularius*	U.S.A. (AZ, CA) Mexico	Entire	E	222	17.95(e)	NA

3. Amend § 17.95(e) by adding critical habitat for the desert pupfish as follows: The positions of this entry under § 17.95(e) will follow the same sequence as the species occurs in 17.11.

§ 17.95 Critical habitat—fish and wildlife.

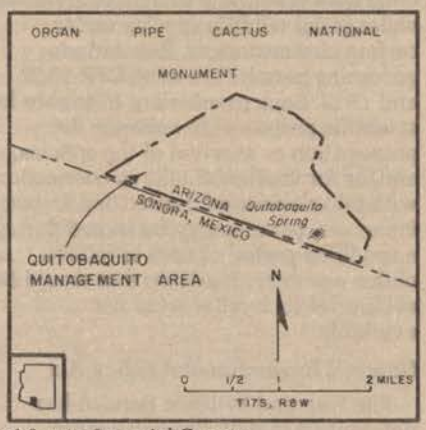
(e) * * *

* * * * *

Desert Pupfish (*Cyprinodon macularius*)

Arizona: Pima County.

1. *Quitobaquito Spring*, approximately 25 miles WNW Lukeville, Arizona in Organ Pipe Cactus National Monument, in T17S R8N; and a 100-foot riparian buffer zone around the spring.

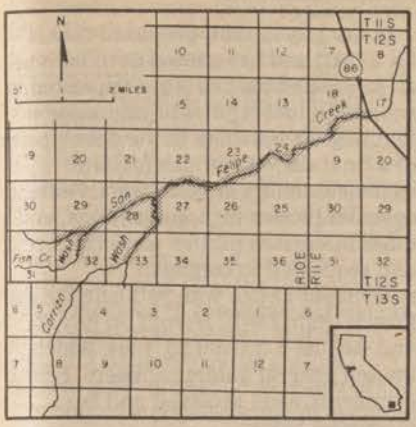


California: Imperial County.

1. *San Felipe Creek.* Approximately 8½ stream miles and 100 feet on either side of San Felipe Creek or the stream channel commencing at the State Highway 86 bridge crossing (approximately ¼ mile south of intersection of Hwy. 78 and Hwy. 86) upstream to the eastern boundary of Section 31, T12S; R10E; including those areas of the stream channel in: T12S; R11E; Section 17, 18, and 19; T12S; R10E; Section 22, 23, 24, 26, 27, 28, 29, and 32.

2. *Carrizo Wash.* Approximately 1¾ stream miles and 100 feet on either side of or the stream channel commencing at the confluence of Carrizo Wash with San Felipe Creek upstream to the southern boundary of N½ Section 33; T12S; R10E; including those areas of the stream channel in T12S; R10E; Section 27, 28, and N½ Section 33.

3. *Fish Creek Wash.* Approximately three-fourths of one stream mile and 100 feet on either side of the stream channel from the confluence of Fish Creek Wash with San Felipe Creek upstream to the southern boundary of N½ Section 32; T12S; R10E; including those areas of the stream channel in T12S; R10E; Section 29 and N½ Section 32.



Constituent elements for all four areas designated as critical habitat include clean unpolluted water that is relatively free of exotic organisms, especially exotic fishes, in small slow-moving desert streams and spring pools with marshy backwater areas.

* * * * *

Dated: February 28, 1986.

P. Daniel Smith,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-6980 Filed 3-28-86; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Final Rule Determining the June Sucker (Chasmistes liorus) To Be an Endangered Species With Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service has determined the June sucker (*Chasmistes liorus*) to be an endangered species and has designated its critical habitat under the authority of the Endangered Species Act of 1973, as amended. The June sucker occurs only in Utah Lake, Utah, and its major tributaries. It uses the lower portion of the Provo River, the largest tributary of Utah Lake, for spawning and larval rearing. It is threatened with habitat alteration through dewatering and degrading water quality, competition and predation by exotic species, and killing during the spawning run. Also, it has been suggested that the Central Utah Project (portions of the Bonneville Unit), presently under construction, could impact this species by reducing and changing flows in the Provo River, the major spawning site of the June sucker, and affect portions of Utah Lake resulting in habitat loss for the species while potentially increasing habitat for exotic species. This determination will provide opportunities for protection and management under the Endangered Species Act of 1973, as amended.

EFFECTIVE DATE: April 30, 1986.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Regional Endangered Species Office, U.S. Fish and Wildlife Service, 134 Union Boulevard, fourth floor, Lakewood, Colorado and the Endangered Species Office, U.S. Fish and Wildlife Service, 2078 Administration Building, 1745 West 1700 South, Salt Lake City, Utah 84104–5110.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Ruesink, Field Supervisor, Endangered Species Staff, U.S. Fish and Wildlife Service, 2078 Administration Building, 1745 West 1700 South, Salt Lake City, Utah 84104 (801/524–4430 or FTS 588–4430).

SUPPLEMENTARY INFORMATION:

Background

The June sucker (*Chasmistes liorus)* is endemic to Utah Lake in Utah and uses the lower portion of the Provo River, the largest tributary of Utah Lake, for spawning and larval rearing. Utah Lake is a 38,000 hectare (94,000 acres) (approximately 38 kilometers (23.6 miles) long and 21 kilometers (13 miles) wide at the maximum points) remnant of ancient Lake Bonneville. The lake is shallow, slightly saline, turbid, and highly eutrophic, and is the largest freshwater lake located entirely in Utah. The lake has an average depth of 2.9 meters (9.5 feet) and a maximum depth of 4.2 meters (13.8 feet). In 1885, the compromise elevation (maximum level to which Utah Lake would be allowed to fill) was established at 1,368.35 meters (4,489.34 feet) (Radant and Sakaguchi, 1981).

The June sucker was first collected and described by David S. Jordan in 1878 (Jordan, 1878). The common name June sucker is based on the fact that peak spawning time for this species occurs during the month of June. Some confusion has existed over the systematics of Utah Lake suckers in recent years. It has been reported that at least three species of suckers occurred in Utah Lake (Stubbs, 1966; Lowder, 1951; and Jordan, 1878). However, recent information presented by Miller and Smith (1981) suggested that only two species, the Utah sucker (*Catostomus ardens*) and the June sucker occurred in Utah Lake. June suckers are readily distinguished from Utah suckers by their subterminal mouth, relatively smooth divided lips, broad skull, and greater numbers of gill rakers. The June sucker spawns in June while Utah suckers spawn in early April (Radant and Hickman, 1984).

Recently, Miller and Smith (1981) concluded that the June suckers present in Utah Lake today are different from the June suckers collected prior to 1900. They have hypothesized that the June and Utah suckers hybridized during the 1932 to 1935 drought when fish populations were stressed. As June suckers returned to abundance, the new genes were incorporated into the population and have become normal characteristics. They have assigned the name *Chasmistes liorus liorus* to specimens collected in the late 1800's and *Chasmistes liorus mictus* to specimens collected after 1939. However, to avoid confusion, this final rule is viewing the June sucker as a full species, since it has maintained its distinctiveness from other suckers and is not known to hybridize with any species today.

Decline in abundance of June suckers can be attributed to habitat alteration through dewatering and degrading water quality, competition and predation by exotic species, commercial fishing, and killing of the adults during the spawning run.

Historically, the June sucker was very abundant in Utah Lake. Jordan (1891) reported millions of suckers existing in the lake when he visited there in 1889. As a result of this visit, he proclaimed Utah Lake as: " . . . the greatest sucker pond in the universe." In the late 1800's it was estimated that 361 metric tons (398 tons) of spawning suckers were killed in 3.3 kilometers (2.1 miles) of the Provo River due to dewatering (Carter, 1969). Carter (1969) again reported that 2.3 metric tons (2.5 tons) of suckers were removed from a dewatered irrigation ditch during the early 1920's.

Utah Lake suckers were an important part of the total commercial fish harvest until their numbers became too low. Cope and Yarrow (1875) reported that the June sucker was extremely numerous and the fishermen considered them a nuisance; however, they sold readily in the winter for an average price of 2½ cents per pound (Cope and Yarrow, 1875, reported that fresh trout were selling for 30 cents per pound during this same period). In the early 1900's, commercial fishermen were still reporting large catches of suckers annually. Between 1901 and 1905, an average of 162 metric tons (178.6 tons) of suckers were harvested annually

(Carter, 1969). Large numbers of suckers were still being caught in the early 1950's; Lowder (1951) reported that in 1951, as many as 1,350 suckers could still be taken in a single day of commercial seining. Today, few, if any, suckers are captured in the nets of commercial fishermen in Utah Lake.

Hundreds of tons of suckers were lost during the 1932 to 1935 drought due to crowding and freezing when irrigation practices nearly drained Utah Lake dry (Tanner, 1936). Tanner (1936) reported that in the spring of 1935 there were no suckers running up the Provo River to spawn, "Something that had never happened before in the history of Utah Lake."

In 1951 suckers were still considered to be the second most abundant species in Utah Lake. However, the 1959 suckers were the fourth most abundant species in the lake with gillnet catch rates of 0.16 suckers per net hour (Arnold, 1959). Similar gillnetting efforts in 1970 captured only 0.01 suckers per net hour (White and Dabb, 1970). During this 1970 study, suckers were reported to be the sixth most abundant species in the lake.

An intensive inventory of the Utah Lake fishery during 1978 and 1979 using a variety of sampling gear resulted in 2,097 separate net collections which captured 34,292 adult fish. However, only 102 (0.3 percent of the total catch) were identified as June suckers, while only 18 were identified as Utah suckers. The Utah sucker is still abundant in areas outside Utah Lake. No young-of-the-year suckers were taken during the study. Gillnetting collections during this study produced no suckers (Radant and Sakaguchi, 1981).

The decline of sucker numbers to present levels appears to correspond closely with the introduction of white bass and walleye in the mid-1950's. Competition and predation from exotic species is one of the serious threats to the survival of the June sucker. Over 20 exotic fish species have been introduced into Utah Lake during the past 100 years. Radant and Sakaguchi (1981) reported that the most successful introductions of exotic species have been with the carp (1886), largemouth bass (1890), black bullhead (1893), channel catfish (1919), walleye (1955), and white bass (1956). The dominant fishes in Utah Lake today are the white bass, walleye, channel catfish and carp, all exotic species.

Prior to 1978, biological information for the June sucker was virtually nonexistent, and even today much remains to be learned about this species. Due to its rarity, few biological data have been collected pertaining to its life history requirements in the lake. Much of the information pertaining to biological requirements of the species deals with the spawning and larval rearing period in the Provo River. June sucker spawning is restricted primarily to the Provo River, with limited spawning possibly occurring in the Spanish Fork River, (Radant and Sakaguchi, 1981; Shirley, 1983; Radant and Hickman, 1984). The adult June sucker ascends the Provo River during the second or third week of June and completes spawning within 5 to 8 days. It can travel as far as 7.8 kilometers (4.9 miles) upstream to a diversion barrier that bars further upstream movement. Spawning occurs throughout the reach of river below the diversion barrier. Details on spawning behavior, habitat, water velocities, hatching time, larval development, etc., can be found in papers by Shirley (1983) and Radant and Hickman (1984).

Young-of-the-year June suckers have been collected in the Provo River up to five months after hatching. However, no young-of-the-year or juvenile suckers are known to have been collected from Utah Lake in recent years. Accurate population estimates for the June sucker have not been made. It is suspected that there are less than 1,000 adults (based upon spawning run estimates) today. They all appear to be over 15 years in age. It is possible that the June sucker population existing today is very old, with little or no recruitment occurring.

Past actions affecting this taxon began on December 30, 1982, when the Service included the June sucker in a notice of review published in the **Federal Register** (47 FR 58456). This notice pertained to vertebrate species that were currently under review for listing as endangered or threatened. This notice indicated that substantial information was available to support the biological appropriateness or proposing to list this species as endangered or threatened. On April 12, 1983, a petition was received by the Service from the Desert Fishes Council requesting that the June sucker be listed as an endangered species. A notice of finding on this petition was published by the Service in the June 14, 1983, **Federal Register** (48 FR 27273). This notice stated that the petition was accepted and that the Service had one year from the date that the petition was received to publish its findings in the **Federal Register**. On July 2, 1984, the Service published a proposed rule (49 FR 27183) to list the June sucker (*Chasmistes liorus*) as an endangered species with critical habitat, in accordance with Section 4(b)(3)(B)(ii) of the Act.

Summary of Comments and Recommendations

In the July 2, 1984, proposed rule (49 FR 27183) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice was published in the Provo, Utah, *Daily Herald* on July 30, and August 6, 13 and 20, 1984, which invited general public comment. Four comments were received and are discussed below.

Comments were received from the Governor of Utah, the Bureau of Reclamation, the Central Utah Water Conservancy District, and the Provo River Water Users Association.

The Governor of Utah agreed that the June sucker (*Chasmistes liorus*) met the criteria prescribed for listing by the Endangered Species Act. He urged the Service to expedite the listing process and make funds available to develop and implement a recovery plan.

The Central Utah Water Conservancy District (CUWCD) and Provo River Water Users Association (PRWUA) pointed out the taxonomic confusion over Utah Lake suckers and doubted that laymen could distinguish between the June sucker (*Chasmistes liorus*) and the Utah sucker (*Catostomus ardens*). The Service agrees that the taxonomic status of suckers in Utah Lake was confusing until Miller and Smith (1981) clarified the problem. They provide several distinguishing characteristics between the two species. A public information program could be part of a recovery plan for the June sucker.

The Bureau of Reclamation (BR), CUWCD and PRWUA questioned the statement that listing the June sucker was compatible with development of the Central Utah Project (CUP). The Service agrees that this statement is confusing and should have stated, in effect, that listing could be compatible with CUP provided that certain modifications and conservation measures could be developed to protect and enhance June sucker survival. However, the question of any Federal action jeopardizing the continued existence of proposed or listed species or adversely affecting critical habitat would be determined on a case-by-case basis through the consultation process under Section 7 of the Endangered Species Act of 1973, as amended.

BR and CUWCD pointed out that some systems of the CUP may increase spring and summer flows in the Provo River, thereby enhancing June sucker spawning and young-of-the-year survival. The Service agrees that increased flows in the Provo River during spring and summer could be beneficial to the June sucker.

The CUWCD and PRWUA questioned that water diversion and upstream impoundments are the main threats to June sucker survival. They cite continued survival of the June sucker following most of the water diversions at the turn of the century and the apparent recovery of the species following the drought conditions of the 1930's. Carter (1969) reported instances where water diversions killed suckers in the Provo River and irrigation ditches. Tanner (1936) reported hundreds of tons of suckers killed when irrigation practices nearly drained Utah Lake between 1932 and 1935. As a result, in the spring of 1935 there were no suckers running up the Provo River to spawn; something that had never happened before in the history of Utah Lake (Tanner 1936). Thus, the Service feels that water diversions have in the past and potentially could in the future threaten June sucker survival. Upstream impoundments could benefit June sucker spawning and young-of-the-year survival by releasing optimal amounts of water at critical times.

The CUWCD and PRWUA doubted that the killing of June suckers is a significant factor in their decline since it has occurred for decades. The Service agrees that the killing has probably occurred for a long time, but feels that it is a significant mortality factor with the current low numbers. Protection given the species by the State of Utah has not prevented this killing.

The CUWCD, PRWUA, and BR felt that predation by white bass and walleye in Utah is the main threat to June sucker survival and that listing will not remove this threat. The Service agrees, but listing is followed by recovery planning and actions. The State of Utah is currently implementing portions of its June Sucker Management Plan to ensure the survival of the species and attempt to overcome the impacts of predation. Section 7 consultations could also ensure that Federal projects would not benefit the predator species at the expense of the June sucker.

The CUWCD and PRWUA felt strongly that the economic impacts of listing and recovery should be published for public review and comment prior to proceeding with listing. An economic analysis of designating critical habitat is a part of this final rule. The cost breakdown of recovery actions for State and Federal governmental agencies will be included in the recovery plan when it is finalized. The final recovery plan will be made available to the public.

Both the CUWCD and PRWUA felt that important data are currently lacking, without which listing should not proceed. The Service feels that the drastic decline in June sucker numbers, the apparent lack or recruitment to the population, and the threats of predation and habitat alteration warrant listing the June sucker as an endangered species with critical habitat.

The BR questioned designating the Spanish Fork River as critical habitat because instream diversions block access and virtually dewater the stream in July and August. June suckers in spawning condition have been captured in the Spanish Fork River during the month of June, but no young-of-the-year June suckers have been found. Much of the habitat below major diversions consists of a silt substrate which is not suitable for spawning. Therefore, based on this biological information and reevaluation of the Spanish Fork River proposed critical habitat, and Service agrees with BR and is removing the Spanish Fork River from consideration as critical habitat.

The CUWCD and PRWUA pointed out that measuring critical habitat from the rivers' confluence with Utah Lake is impossible with the current high water level of Utah Lake. The Service agrees and the upper limit of critical habitat on the Provo River is now defined by the Columbia Lane (Tanner Race) diversion in the SW¼, NE¼, SW¼, section 36, T6S, R2E SLB&M, which represents a barrier to any further upstream movement.

Section 4(b)(5)(E) of the Endangered Species Act of 1973, as amended, requires that a public hearing be held, if requested within 45 days of the publication of the proposed rule. On August 14, 1984, the Service received requests for a hearing on the June sucker from Attorney Dave McMullin, Payson, Utah, on behalf of the East Bench, Lake Shore, Lake Side, Salem, South Field, and West Field Irrigation Companies. Additional requests for a hearing were received from Mayor Janes E. Ferguson, Provo, Utah and the Central Utah Water Conservancy District, Orem, Utah.

Subsequently, a notice of public hearing and reopening the comment period was published in the September 25, 1984, **Federal Register** (49 FR 37649). A newspaper notice was published in the Provo, Utah, *Daily Herald* on September 17 and 24, and October 1 and 8, which announced the public hearing and reopened the comment period until October 21, 1984.

The public hearing was held October 11, 1984, from 6 p.m. to 9 p.m., at the Provo City Building, the City Council Chambers, 359 W. Center Street, Provo, Utah.

A total of thirteen statements were received at the public hearing from: Dave McMullin, an attorney representing the Spanish Fork West Field Irrigation Company, Spanish Fork South Field Irrigation Company, Spanish Fork East Bench Irrigation Company, Lake Shore Irrigation Company and Salem Irrigation Company; Leland Gamette, representing Mayor Ferguson of the City of Provo, Utah; Lynn Ludlow, general manager and secretary for the Central Utah Water Conservancy District; Marion Hinckley; William Loy, a commercial fisherman; C. Neal Sorensen; Margaret Rasmussen, neighborhood chairman for the Fort Utah Neighborhood in Provo; Phil Edwards; Jim Pissot, president of the Utah Audubon Society; Dorothy Harvey; Peter Hovingh, representing the Utah Nature Study Society and Federation of Western Outdoor Clubs; Hugh McKellar, superintendent for the Provo River Water Users Association; and Ray Aitken.

Mr. Ludlow raised serveral questions about the taxonomic status of the June sucker, i.e., is it a true species, how can it be distinguished from the Utah sucker and are suckers with June sucker characteristics found in other waters? The Service believes that the taxonomic confusion was clarified by Miller and Smith (1981); they give several distinguishing characteristics between Utah and June suckers, recognize the June sucker as a distinct taxon, and in their searching have not found *Chasmistes liorus* in any other location. Mr. McKellar shares the belief that more effort should be made to determine if June suckers are found elsewhere. While the possibility of other June sucker populations exists, the Service feels that a considerable effort has been made through searching collections and contacts with university and State wildlife agencies to locate other June sucker populations, and the probability of finding a new population is very low.

Mr. Ludlow disagreed with statements in the proposed rule that alteration of habitat due to water impoundments, irrigation, killing of spawning adults, water pollution and development of the Central Utah Project (CUP) are threats to June sucker survival. Carter (1969) documents instances where suckers were killed by water diversions and killing has continued in spite of

protected status by the State of Utah in 1983. The CUP has the potential to affect June suckers by removing lake habitat and altering flows in the Provo River (Radant 1983). The Service believes that the evidence is contrary to Mr. Ludlow's position.

Mr. Ludlow believed that predation by white bass and walleye in Utah Lake is the reason for decline of the June sucker and that listing is meaningless until this problem is resolved. The Service agrees that predation is a major factor in the lack of recruitment to the June sucker population, and that listing, by itself, will not remove the predators. However, listing allows recovery planning and activities which attempt to remove threats and recover the species. Failing to list the June sucker, which is drastically declining in numbers, would be avoiding Service responsibilities under the Endangered Species Act. Threats to the June sucker are complex and not easily removed; therefore, a cooperative agreement in lieu of listing, as Mr. Ludlow suggests, is not being pursued.

Mrs. Rasmussen opposed listing of the June sucker because she fears her neighborhood would be flooded if dredging the Provo River is prohibited. Listing the June sucker would not expressly prohibit dredging. If the dredging would be done by a Federal agency or if Federal permits were required, the project impacts would be analyzed under provisions of section 7 of the Endangered Species Act, as amended. State or private dredging would not require section 7 consultation if there was no Federal involvement. The Service believes that section 7 offers the flexibility to deal with situations such as flooding without causing undue risk to human life or property.

Mr. Pissot, Ms. Harvey and Mr. Hovingh gave statements supporting listing the June sucker and designating critical habitat. Additionally, Mr. Hovingh recommended designating the entire Utah Lake as critical habitat. While the entire lake is presently occupied by June suckers, the Service feels that current information indicates that critical habitat designation is only necessary for spawning and larval rearing areas. The Service will evaluate all new information that indicates changes, additions, or deletions to critical habitat, as needed in the future.

Mr. McMullin, Mr. Ludlow, Mr. Loy, Mr. Sorensen, and Mr. Aitken questioned designating the Spanish Fork River as critical habitat, citing access barriers and poor habitat conditions. The Service agrees with this position and is removing the Spanish Fork River from designated critical habitat.

Mr. Gamette, Mr. McKellar, and Mr. Ludlow questioned designating the Provo River as critical habitat citing the predation problem and need for economic analysis. The lower 7.8 kilometers (4.9 miles) of the Provo River is the only area where June sucker spawning has been documented and young-of-the-year found. If a self-sustaining June sucker population is to continue in Utah Lake, this spawning and rearing habitat must be protected. An economic analysis of designating critical habitat for the June sucker was prepared in conjunction with this rule.

Mr. Gamette, Mr. Ludlow, and Mr. McKellar felt that the data are currently inadequate and incomplete and do not justify listing the June sucker as an endangered species. The Service feels that the drastic decline in the June sucker population, and apparent lack of recruitment, threats posed by predators, and habitat alteration all support the need for urgent listing of the June sucker as an endangered species with critical habitat. New information will continually be sought during listing and recovery programs.

Five comments were received after reopening the comment period until October 21, 1984, from: the Bonneville Chapter of the American Fisheries Society; Dennis K. Shiozawa, assistant professor of zoology, Brigham Young University; Mr. Karl H. Alleman; Peter Hovingh, Utah vice president, Federation of Western Outdoor Clubs; and Hugh McKellar, superintendent, Provo River Water Users Association.

The comments of Mr. McKellar and Mr. Hovingh are very similar to their statements at the public hearing, and have already been addressed.

The Bonneville Chapter, American Fisheries Society, felt that existing data clearly indicate the future existence of the June sucker is in jeopardy. The Chapter urges prompt action by the Service to protect the June sucker under the Endangered Species Act and fund recovery actions.

Dr. Shiozawa supported additional study of the June sucker in Utah Lake. He feels that the diking of Goshen Bay (a proposed element of the Bonneville Unit, Central Utah Project) would adversely affect the June sucker population. Mr. Alleman feels that diking Goshen Bay and Provo Bay will improve Utah Lake for the June sucker. Radant (1983), in analyzing impacts of the Bonneville Unit, CUP, reported habitat losses for the June sucker resulting from diking Provo and Goshen Bays. The Service agrees with Mr. Radant.

Dr. Shiozawa doubted that the Spanish Fork River provides essential habitat for the June sucker, but stresses the importance of the Provo River to the species. The Service has already responded to concerns about the Spanish Fork River proposed critical habitat in previous comments.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the June sucker (*Chasmistes liorus*) should be classified as an endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (50 CFR Part 424) were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the June sucker (*Chasmistes liorus*) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Alteration of habitat has been a major factor in the decline of this species. Currently, the main threats to the June sucker are (1) habitat modification through the diversion of water for irrigation, municipal, and industrial purposes; and (2) the possibility of habitat modification from upstream impoundments associated with the Central Utah Project. Alteration of habitat through water diversions and intermittent releases from upstream impoundments could seriously impact the spawning habitat of the June sucker. If a large volume of water was diverted during a drought year, it could adversely modify the lake habitat.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Killing of the adult June suckers occurs during the spawning migration. This is done with guns, arrows, rocks, nets, etc. Although the State of Utah has included this species on its protected list, illegal killing still occurs, especially during low water years. The species is very vulnerable during this time period. It is possible that a majority of the entire June sucker population is concentrated in one section of the Provo River during this 3 to 4 week period. Some commercial fishing occurs on Utah Lake, but does not constitute any threat to the June sucker.

C. *Disease or predation.* The June sucker currently faces predation and competition from various piscivorous fishes which have been introduced into Utah Lake. The decline of sucker numbers to present levels appears to correspond closely with the introduction of white bass and walleye in the mid-1950's. Competition and predation from exotic species is one of the serious threats to the survival of the June sucker. Over 20 exotic fish species have been introduced into Utah Lake during the past 100 years. Radant and Sakaguchi (1981) reported that the most successful introductions of exotic species have been with the carp (1886), largemouth bass (1890), black bullhead (1893), channel catfish (1919), walleye (1955), and white bass (1956). The dominant fishes in Utah Lake today are the white bass, walleye, channel catfish, and carp, all exotic species.

Although parasitism is not a known problem at this time, very little information is available. More work needs to be done on impacts of various diseases on the June sucker (Hickman, 1984).

D. *The inadequacy of existing regulatory mechanisms.* Although the State of Utah lists the June sucker as a protected species, illegal killing still occurs. Protected species status by the State of Utah does not provide any protection for the habitat of the June sucker.

E. *Other natural or manmade factors affecting its continued existence.* The impact of pollution from local communities may be adversely affecting this species but more information is needed to document this threat.

The Service has carefully assessed the best scientific and commercial information available, regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list the June sucker as an endangered species. The habitat of this fish is threatened with alteration through dewatering and degrading water quality, competition by exotic species, and illegal killing during the spawning run. These threats are to the entire occupied range and are too significant to merit a listing status of "threatened." A decision to take no action would exclude the June sucker from needed protection and would be contrary to the intent of the Endangered Species Act.

Critical Habitat

Critical habitat, as defined by Section 3 of the Act means: (i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection, and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Section 4(a)(3) of the Act requires that critical habitat be designated to the maximum extent prudent and determinable concurrently with the determination that a species is endangered or threatened. Critical habitat is being designated for the June sucker to include the lower section of the Provo River, a major tributary of Utah Lake. Included as critical habitat is the lower 7.8 kilometers (4.9 miles) of the main channel of the Provo River from the Lake upstream to the Tanner Race diversion. Based on additional biological information brought forward in written comments and at the public hearing, the Spanish Fork River is no longer included as critical habitat. Critical habitat in the Provo River remains unchanged. A measurement error, however, was made in estimating the Provo River portion of proposed critical habitat. The recalculated estimate for the length of the Provo River proposed critical habitat is 7.8 kilometers (4.9 miles). This recalculation does not change the boundaries of the Provo River portion of critical habitat originally described in the proposed rule. This section of the Provo River is located in Utah County, Utah. The upper limit is defined as the Columbia Lane (Tanner Race) diversion in the SW¼, NE¼, SW¼, section 36, T6S, R2E SLB&M. While the June sucker is found throughout Utah Lake, this area is vital to its reproduction and requires special management considerations. In the future, however, suitable habitat in Utah Lake and additional sections of the Provo River could be proposed as critical habitat if it is found to be essential to the conservation of the species.

Section 4(b)(8) requires, for any proposed or final regulation that designates critical habitat, a brief description and evaluation of those activities (public or private) which may adversely modify such habitat or may be affected by such designation. Any activities such as habitat alteration or increased water use from Utah Lake and the Provo River could be detrimental to this species and would need to be examined on a case-by-case basis. Additionally, the introduction of exotic species into the June sucker's habitat along with their associated parasites, could harm the June sucker through predation, competition and possible parasitism. It has been suggested that the Municipal and Industrial System (M&I System) of the Central Utah Project (a Federal project funded by the BR) presently under construction, could impact this species by reducing and changing flows in the Provo River, the major spawning site of the June sucker, and affect portions of Utah Lake resulting in habitat loss for the species while potentially increasing habitat for exotic species. This project and any other Federal activities planned for the Provo River (portion designated as critical habitat), which might affect the sucker or its habitat, would require section 7 consultation to prevent any adverse impacts.

Section 4(b)(2) of the Act requires the Service to consider economic and other impacts of designating a particular area as critical habitat. The Service has considered the critical habitat designation in light of all additional relevant information obtained. This information was obtained during the comment period, at the public hearing, and from discussions with the Federal, State and local officials cited in the economic analysis. The information concerned flows in the Provo River, flooding of residential areas, dredging of the Provo River, zoning and land uses along the critical habitat portion of the Provo River. With the exception of the M&I System, there is no known involvement of Federal funds or permits for the State, county, city, or private activities within or adjacent to the proposed critical habitat designation.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies, and prohibitions against taking and harm, are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species

that is proposed or listed as endangered or threatened and with respect to its critical habitat. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402, and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Since there is Federal funding involved in the Central Utah Project, formal consultation will be required when this listing and critical habitat designation is finalized.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that had been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to Section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** of October 25, 1983 (48 FR 49244).

Regulatory Flexibility Act and Executive Order 12291

The Department of the Interior has determined that designation of critical habitat for this species will not constitute a major action under Executive Order 12291 and certifies that this designation will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

No significant economic or other impacts are expected to result from the proposed critical habitat designation. This conclusion is based on BR's awareness of the critical habitat designation and the uncertainty concerning future needs for flow augmentation due to the M&I System; the absence of Federal involvement for State, county, city, and private lands fronting the critical habitat; and the unquantifiable benefits that may result from the designation of critical habitat for the June sucker. In addition, no direct costs, enforcement costs, or information collection or recordkeeping requirements are imposed on small entities by this designation. These determinations are based on a Determination of Effects that is available at the Regional Endangered Species Office, U.S. Fish and Wildlife Service, 134 Union Boulevard, fourth floor, Lakewood, Colorado; and at the Salt Lake City Field Office, U.S. Fish and Wildlife Service, 2078 Administration Building, 1745 West 1700 South, Salt Lake City, Utah 84104–5110.

Literature Cited

Arnold, B.B 1959. Unpublished fish collection records. Utah Division of Wildlife Resources files, Springville, Utah.

Bureau of Reclamation. 1979. Central Utah Project, Bonneville Unit, Municipal and industrial System, Final Environmental Statement. Volume I. Salt Lake City, Utah.

Carter, D. 1969. A history of commercial fishing on Utah Lake. M.A. Thesis. Brigham Young University, Provo, Utah. 142 pp.

Cope, E.D., and H.C. Yarrow. 1875. Report upon the collections of fishes made in portions of Nevada, Utah, California, Colorado, New Mexico, and Arizona, during the years 1871, 1872, 1873 and 1874. Report on Geographic and Geologic Exploration and Survey West of the 100th Meridian (Wheeler Survey) 5:635–703.

Jordan, D.S. 1878. A synopsis of the family Catostomidae. Contributions to North American Ichthyology III B. U.S. Natural History Museum Bulletin 12:97–220.

Jordan, D.S. 1891. Report of exploration in Colorado and Utah during the summer of 1889, with an account of the fishes found in each of the river basins examined. U.S. Fish Commission Bulletin 9(1889):1–40.

Lowder, J. 1951. A taxonomic study of the Catostomidae of Utah Lake with notes on the fish population. M.S. Thesis, Brigham Young University, Provo, Utah. 45 pp.

Miller, R.R., and G.R. Smith. 1981. Distribution and evolution of *Chasmistes* (Pisces: Catostomidae) in western North America. Occasional papers of the Museum of Zoology, University of Michigan, Ann Arbor, Michigan. No 696. 46 pp.

Radant, R.D. 1983. Fisheries impact analysis of Utah Lake diking plan, irrigation and drainage system, Bonneville Unit, Central Utah Project. Prepared by Utah Division of Wildlife Resources under cooperative agreement No. 8–07–40–S0634 with the Bureau of Reclamation. Salt Lake City Utah.

Radant, R.D. and T.J. Hickman. 1984. Status of the June sucker *(Chamistes liorus)*. Proceedings of the Desert Fishes Council 15th Annual Symposium, Death Valley, California. November 17, 1983. 5 pp.

Radant, R.D. and D.K. Sakaguchi. 1981. Utah Lake fisheries inventory. U.S. Bureau of Reclamation Contract 8–07–40–50634. Utah Division of Wildlife Resources, Salt Lake City, Utah. 244 pp.

Shirley, D.S. 1983. Spawning ecology and larval development of the June sucker. Proceedings of the Bonneville Chapter, American Fisheries Society, pp. 18–36.

Stubbs, W.J. 1966. The weberian osteology of three Utah suckers (Catostomidae). M.S. Thesis, Brigham Young University, Provo, Utah. 53 pp.

Tanner, V.M. 1936. A study of the fishes of Utah. Utah Academy of Science, Arts, Letters, 13:155–183.

White, J., and B. Dabb. 1970. Fish population studies, Utah Lake. Division of Wildlife Resources, Springville, Utah. 45 pp.

Authors

The primary authors of this final rule are Mr. Robert G. Ruesink, Endangered Species Staff, U.S. Fish and Wildlife Service, 2078 Administration Building, 1745 West 1700 South, Salt Lake City, Utah 84104–5110 and Dr. James L. Miller, Endangered Species Staff, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225.

List of Subjects in 50 CFR Part 17

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

Regulations Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Amend § 17.11(h) by adding the following, in alphabetical order under

"FISHES," to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
FISHES							
Sucker, June	*Chasmistes liorus*	U.S.A. (UT)	Entire	E	223	17.95(e)	NA

3. Amend § 17.95(e) by adding critical habitat of the June sucker (*Chasmistes liorus*) as follows: The position of this entry under § 17.95(e) will follow the same alphabetical sequence as the species occurs in 17.11.

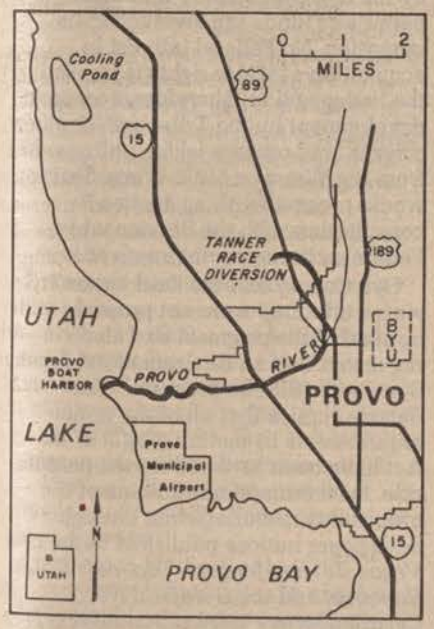
§ 17.95 Critical habitat—fish and wildlife.

(e) Fishes.

* * * * *

June Sucker (*Chasmistes liorus*)

Utah, Utah County. Provo River, Sec. 5, T7S, R2E; to Sec. 36, T6S, R2E, the lower 7.8 kilometers (4.9 miles) of the main channel of the river as measured from it confluence with Utah Lake, upstream to the Tanner Race diversion.



Known constituent elements of the critical habitat include one to three feet of high quality water constantly flowing over a clean, unsilted gravel substrate. Larval June suckers require shallow areas with low velocities connected to the main channel of the river.

* * * * *

Dated: February 26, 1986.

P. Daniel Smith,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-6979 Filed 3-28-86; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Threatened Status and Critical Habitat for the Railroad Valley Springfish

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines the Railroad Valley springfish (*Crenichthys nevadae*) to be a threatened species with critical habitat. This action is being taken because suitable habitat for this species has decreased since its discovery and the publication of the original description in 1932. Primary threats to the species include the presence of exotic fishes, habitat alterations, and ground water depletion in the Railroad Valley basin. The Railroad Valley springfish occurs only in thermal springs located in Railroad Valley, northeastern Nye County, Nevada. The final rule would provide protection to all populations of this species. Critical habitat is designated for those habitats within the species' native range. A special rule is included which would allow take for certain purposes in accordance with Nevada State laws and regulations.

EFFECTIVE DATE: April 30, 1986.

ADDRESS: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Suite 1692, Lloyd 500 Building, 500 NE. Multnomah Street, Portland, Oregon 97232.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne S. White, Chief, Division of Endangered Species, at the above address (503/231-6131 or FTS 429-6131).

SUPPLEMENTARY INFORMATION:

Background

Hubbs (1932) described the genus *Crenichthys* and the species (*Crenichthys nevadae*) based on specimens collected from thermal springs in the Duckwater area of Railroad Valley in central Nevada. Since Hubbs described the genus *Crenichthys*, a second species, *C. baileyi* from the White River of eastern Nevada, has been placed in the genus (La Rivers 1962, Williams and Wilde 1981). Thus, *Crenichthys* consists of two species confined to separate valleys in central and eastern Nevada.

The Railroad Valley springfish is native to four thermal springs near Locke's Ranch (Big, North, Hay Corral, Reynolds) and two thermal springs on the Dockwater Shoshone Indian Reservation (Big Warm and Little Warm), all in Railroad Valley, Nye County, Nevada. Additionally, the species has been introduced into Chimney Springs, approximately six miles south of Locke's Ranch, a seepage area which forms small thermal ponds at Sodaville in Mineral County, Nevada, and into springs at the source of Hot Creek, approximately 40 miles west of Locke's Ranch. In these springs, it inhabits the springpools, their outflow, and adjacent marshy areas.

The long term threat to the Railroad Valley springfish is the alteration of its thermal spring habitats and the introduction of exotic organisms, especially fishes. All of the springs historically inhabited by the Railroad Valley springfish have been altered by man's activities, and springfish populations have decreased in all habitats throughout its range. Diking of springpools, diversion of outflows, and channelization of outflow creeks have reduced suitable habitat for the Railroad Valley springfish at Big, Hay Corral, Big Warm, and Little Warm Springs. Aquatic and riparian habitat around North Spring is also subject to being trampled by the large number of cattle watering in the spring and outflow. The thermal spring habitat of the Railroad Valley springfish is further threatened by pumping of underground aquifers, which may result in spring failures. The threat of reduced spring flows was realized during 1981 when the habitat of the introduced springfish population at Chimney Springs was lost after spring discharge decreased. Springfish were subsequently reintroduced into Chimney

Springs when flows resumed. Several other springs to the south of Locke's Ranch also failed during 1981. The adverse effect of increased ground water pumping on the Railroad Valley springfish countinues to threaten this species. Threats to the survival of the Railroad Valley springfish were reviewed by Williams and Williams (1981) and Hardy (1979). The Nevada Fish and Game Commission lists the species as protected (NRS 503.065).

The presence of exotic fishes in the extremely limited habitat of the Railroad Valley springfish represents a serious threat to this species. Guppies *(Poecilia reticulata)* have become established in Big Warm Spring and have nearly eliminated springfish from the main springpool area. Development of one outflow channel of Big Warm Spring as a catfish farm has resulted in escape of catfish into the spring system. The presence of guppies and channel catfish *(Ictaclurus punctatus)* in Big Warm Spring greatly increases the possibility that these species will be introduced into nearby Little Warm Spring.

On December 30, 1982, the Service published a Notice of Review of Vertebrate Wildlife for Listing as Endangered or Threatened Species (47 FR 58454). The Railroad Valley springfish was included in the review as a category 1 taxon, indicating that the Service has substantial information on hand to support the proposal of this fish for protection under provisions of the 1973 Endangered Species Act, as amended. On April 12, 1983, the Service was petitioned by the Desert Fishes Council to list the Railroad Valley springfish. The Service reviewed and evaluated the petition and determined that it did present substantial information that the petitioned action might be warranted. The notice of finding for this petition was published in the **Federal Register** on June 14, 1983 (48 FR 27273). The proposed rule to list the Railroad Valley springfish as threatened with critical habitat was published in the **Federal Register** on April 17, 1984, and represented the Service's finding that the petitioned action is warranted in accordance with section 4(b)(3)(B)(ii) of the Act.

Summary of Comments and Recommendations

In the April 17, 1984, proposed rule (49 FR 15109) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices were published in the *Las Vegas Review Journal* (May 25, 1984) and the *Tonopah Times Bonanza* and *Goldfield News* (May 31, 1984), which invited general public comment. A total of seventeen letters were received and are discussed below. A public hearing was requested by Nye County, and was held at the Duckwater Shoshone Indian Reservation, Duckwater, Nevada, on August 16, 1984. The hearing announcement was published on July 31, 1984 (49 FR 30554) and the comment period extended until August 31, 1984. Comments received during the public hearing are also included and discussed.

Comments opposing the proposed action came from Nye County, the Duckwater Shoshone Tribe, Nevada Fish Growers, Inc., Nevada Department of Wildlife, and Nevada Executive Office. Comments in support of the proposed action were received from the Nevada Division of State Parks, International Union for Conservation of Nature and Natural Resources (IUCN), a graduate student at Sacramento State University, Toiyabe Chapter of the Sierra Club, the Desert Fishes Council, Professor of Biology at the University of Nevada, Las Vegas.

Additional comments, voicing neither support nor opposition, were received from the Bureau of Land Management, Nevada Lieutenant Governor, Nevada Division of State Lands, Nevada Division of Historical Preservation and Archaeology, Nevada Division of Water Resources, and research associate at the University of Nevada, Las Vegas.

Opposition to the proposed rule by Nevada Department of Wildlife, Nevada Fish Growers, Inc., Nye County, Duckwater Shoshone Tribe, and Nevada Executive Office was primarily focused on the potential effects of the listing and critical habitat designation on the existing commercial catfish rearing facility at Big Warm Spring, on existing and future oil production in the area, and on general economic development on the Duckwater Shoshone Indian Reservation and other private lands. The Service responds that the 1982 Amemdments to the Endangered Species Act (ESA) require that determinations to list species as threatened or endangered be based solely on the best available scientific and commercial information available for the species. Thus, economic impacts are not to be considered when determining biological justification for listing. The ESA specifies, however, that the economic impact(s) of designating a particular area as critical habitat must be considered. Critical habitat designation may then be modified by excluding any area if it is determined that the benefits of such exclusion outweigh the benefits of specifying the area as part of the critical habitat. However, the area may not be excluded from critical habitat if it is determined, based on the best scientific and commercial data available, that failure to designate an area as critical habitat will result in extinction of the species concerned. The Service has accordingly prepared an economic analysis of these areas determined in this rule to be critical habitat.

Critical habitat designations only affect Federal actions (see Critical Habitat section of this rule). The designated springfish critical habitat occurs on private lands on the Duckwater Reservation and at Locke's Ranch and has no impact under section 7(a)(2) of the Act when purely private actions are involved

The Service states the designation of critical habitat will have no effect on the existing catfish facility since this facility is privately owned and is on private land. This enterprise could be affected by the designation only if Federal permits or funds are involved in its operation. No Federal interest in acquisition of water rights is implied by the listing action. Therefore, economic development by the Tribe and/or other private land owners which utilize water from Big Warm or Little Warm Springs would proceed without section 7 consultation with the Service when Federal actions are not involved.

Nye County and the Duckwater Tribe stated that they were not properly notified of the proposal and also requested that an Environmental Impact Statement (EIS) be prepared. The Service replies that all of the notice requirements in section 4(b)(5) of the Act have been satisfied for the proposed rule. Furthermore, notification of the proposal was made public through newspaper notices published in the *Las Vegas Review-Journal, Tonopah Times-Bonanza,* and the *Goldfield News.* Certified letters were sent notifying Nye County, the Duckwater Tribe, and the owners of the Locke's Ranch property of the proposed rule. On May 30, 1984, Fish and Wildlife Service biologists from the Great Basin Complex office assured Nye County officials that Fish and Wildlife Service would honor Nye County's request for a public hearing. With respect to preparation of an EIS, the Service replies that NEPA documentation need not be prepared for regulations adopted under section 4(a) of the Act. See 48 FR 49244 (October 25,

1983). Therefore, the development of an EIS is not required for this action.

Nevada Fish Growers, Inc., Nevada Executive Office, Nevada Department of Wildlife, and Nevada Division of State Lands stated that the presence of natural populations of springfish in at least six individual springs in Railroad Valley, and in three habitats outside the known native range, was sufficient to insure the species' survival. Nevada Fish Growers, Inc., also stated that listing the springfish as threatened was unjustified since no springfish population estimates had been conducted and thus no decline in numbers of fish could be demonstrated. The Service replies that the ESA specifically identifies factors which the Secretary is to utilize in determining whether a species is threatened or endangered. One of these is "the present or threatened destruction, modification, or curtailment of its habitat or range." The Service has received comments stating that all springs where the springfish is known to occur naturally have been modified by channelization, diking, etc.; one is occupied by exotic fishes known to displace other fishes closely related to the Railroad Valley springfish by competition and predation; and four are threatened by ground water pumping. These comments were presented by a Professor of Biology and a graduate student, both of whom have conducted field research on springfish habitats in Railroad Valley. Service biologists are also familiar with proposals for additional ground water removal in Railroad Valley and observations by investigators who have documented a decline in range and numbers of springfish of both Big and Little Warm Springs on the Duckwater Indian Reservation since introduction of guppies and channel catfish (D.W. Sada and J.E. Williams, U.S. Fish and Wildlife Service, pers. comm., September 1984; G.L. Vinyard, Biology Department, University of Nevada, Reno, pers. comm., July 1984).

The Service also notes that documentation of a decline in numbers of individuals or populations is not required for consideration for listing. In this case, the identified threats to the springfish's habitats and the limited extent of natural habitat are sufficient justification under the Act to list the species as threatened.

Nye County, the Duckwater Shoshone Indian Tribe, and Nevada Fish Growers, Inc., commented that guppies and channel catfish have not detrimentally influenced springfish in Big Warm Spring. The Service replies that comments provided by its own personnel, personnel from the University of Kentucky, Universities of Nevada at Reno and Las Vegas, and private individuals have reported a decline in the numbers of springfish in the springpool and outflows since the introduction of catfish and guppies. Nevada Fish Growers, Inc., also questioned the predatory nature of catfish by stating that analysis of stomachs from catfish within Big Warm Spring failed to identify the presence of any springfish or other prey items. The Service replies that predation by channel catfish on other similar desert fishes has been well documented (Stevens 1959, Bell 1959, Minckley 1973, Busbee 1968, Miller 1966, Jerald and Brown 1971).

The Duckwater Tribe also commented that "existing habitat on the reservation is being maintained and protected adequately to insure survival." The Service replies that recent actions by the Tribe resulted in severe channelization and alteration of the Little Warm Spring's system, until then the most pristine springfish habitat within Railroad Valley. These types of actions, in fact, resulted in alterations occurring at several springfish habitats and are identified in the proposed rule as some of the primary threats to the species' continued survival. The biology professor from the University of Nevada, in his comment letter, referenced the habitat alteration of Little Warm Spring and noted that "recent drainage of the marsh system connected to the spring has severely decimated the population."

Nye County asked if the Service was "positive the springfish does not occur in any other area in the world" and whether the Desert Fishes Council is, in fact, a "convenient cover" for Service-initiated petitions. The Service replies that the Desert Fishes Council is an international organization composed of approximately 400 individuals including professional biologists from many colleges and universities; State wildlife agencies; Federal agencies such as the Bureau of Reclamation, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service, and the National Park Service; private conservation organizations; and interested private citizens. The Council petitioned the Service to list the Railroad Valley springfish; the Service did not initiate the petition process, nor did it use the Council as a "cover" to begin the procedure for listing this species. The Service has reviewed, and concurs with, scientific literature accepted by ichthylogists, fishery managers, and other scientists, as correctly identifying the Railroad Valley springfish as a unique species endemic to a limited number of habitats within Railroad Valley, Nye County, Nevada. No scientific information has ever been presented to the contrary.

During the public hearing, one individual raised the issue of conflict of interest if Fish and Wildlife Service biologists working on the proposed listing of the springfish were also members of the Desert Fishes Council, the petitioning organization. Several Service biologists, including some associated with this final rule, are members of the Desert Fishes Council. However, no Fish and Wildlife Service biologist participated in any way in the decision made by the Council's executive committee to petition for the listing of the springfish. The Service's biologists have participated in Council meetings only in a general way through the preparation and presentation of various scientific papers and through other scientific activities appropriate for general membership in a professional society given only a general involvement by Service employees in the Desert Fishes Council's activities. The Service concludes that there has been no conflict of interest under these circumstances for this rulemaking.

Nevada Fish Growers, Inc., stated that the "record of action" by the Nevada Department of Wildlife invalidated the Service's conclusion that listing is necessary to protect the species because of the inadequacy of existing regulatory mechanisms. The Service replies that protection of the springfish under a "protected" classification by the Nevada Department of Wildlife prohibits taking without a scientific collecting permit, but does not afford any habitat protection. Furthermore, no management or recovery plan exists or is planned for this species. Listing would provide greater habitat protection, mandate development or a recovery plan, and also provide the opportunity for ESA Section 6 funds to be utilized by the Nevada Department of Wildlife for identified recovery actions.

The Nevada Division of State Parks (NDSP) supported the proposed listing as being in the best interest of the citizens of Nevada. NDSP stated that the Duckwater area is listed in the Nevada Natural Heritage Program, a program designed to identify and preserve areas which contain the "best representative examples of Nevada's natural heritage including plants, animals, and geologic formations, as well as scenic and scientific areas." Other letters from the biology professor, Toiyabe Chapter of the Sierra Club, Desert Fishes Council,

IUCN, and the graduate student supported the proposal because of the springfish's vulnerability to identified threats of habitat alteration, ground water depletion, and introduced species.

The Nevada Department of Wildlife (NDW) and the Nevada Executive Office commented that monitoring of springfish populations and implementation of measures to enhance the species' status should be undertaken in lieu of listing. The Service recognizes the value of population surveys and has discussed this with NDW and presented proposals to the Duckwater Shoshone Indian Tribe. Such estimates have not occurred, partially because access to Big and Little Warm Springs on the Duckwater Reservation was denied Service biologists by the Tribal Council. The Service does not believe, however, that specific information regarding population size is a prerequisite to competently analyze the present status of this springfish.
This status is well presented in information which shows that the species has undergone severe declines in several of its habitats, and that there are serious threats to the livelihood of each population posed by competition and predation by exotic species, habitat alteration, and/or ground water depletion.

Nye County, the Duckwater Shoshone Indian Tribe, and the Nevada State Lands Division questioned whether livestock grazing had impacted any spring areas and commented that any detrimental effects of grazing on spring habitats could be controlled in some way other than listing. The Service replies that although grazing does not currently appear to be a problem at Big or Little Warm Springs, livestock continues to have a major impact on the habitat at North Spring and its outflow, a portion of which is on public land. The Service recognizes that overgrazing around the springs and outflow would be controlled by management practices that do not require listing in order to be accomplished. However, listing is necessary to address the primary threats of habitat alteration, ground water pumping, and introduction of exotic species.

Nye County and the Nevada State Lands Division commented that the identified threat of ground water pumping was not justified because the Nevada State Engineer controls use of the ground water resource. The Service replies that it recognizes the jurisdiction of the State Engineer and his regulatory authority to prevent ground water removal in excess of natural recharge for a basin. However, the possibility that pumping may result in local "cones of depression" in ground water levels, consequently affecting spring discharge, is recognized by the State Engineer's well spacing requirements for ground water pumps, such as anticipated in Desert Land Entry and Carey Act applications to the Bureau of Land Management (BLM).

Despite the controls exercised by the State Engineer, local spring failure or decreased discharge due to ground water depletion has been documented in such areas as Ash Meadows and the Pahrump Valley in southern Nevada. Discharge of Big Spring at Locke's Ranch has decreased from 1,500 gallons per minute (gpm) to 520 gpm, a decrease of 65 percent since drilling of a nearby flowing well (Mifflin 1968).

Evidence of the influence this may have on adjacent spring discharge is well presented in the State Engineer's comment letter (Nevada Division of Water Resources) stating that although "ground water depletion is not occurring at the present time . . . there may be some lowering of the ground water table or depletion in localized areas due to a concentration of pumping." The potential for localized, detrimental effects of ground water pumping in Railroad Valley is recognized since the letter also states that the State Engineer has received a large number of applications to appropriate ground water in Railroad Valley. This comment letter goes on to state that "these applications, if allowed, could possibly have some effect on the habitat of the Railroad Valley springfish." Similarly, the BLM's Environmental Assessment for Classification of Agricultural Lands in Northern Railroad Valley (BLM 1984) recognizes the possibility that "for Locke's Station area, it is uncertain what the minimum long-term average discharge can be without adversely affecting the wildlife habitat . . . a moderate impact could be adverse."

The Nevada Division of State Lands also commented that the proposed listing and designation of critical habitat could lead to public land withdrawals to prevent ground water extraction, and could decrease values of the limited private lands in the area. The Service replies that the designation of critical habitat is not anticipated to require the withdrawal of any public lands. Apart from critical habitat, however, the Act does not permit the Service to consider the impacts posed by a proposed listing to a particular economic activity.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the Railroad Valley springfish should be classified as a threatened species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424) were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in Section 4(a)(1). These factors and their application to the Railroad Valley springfish (*Crenichthys nevadae*) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* All of the habitats occupied by the Railroad Valley springfish have been altered by human activities. Some of these activities have resulted in greater population declines than others; all have, however, concomitantly reduced the total habitat and population throughout the species' range. Activities planned for the future also threaten habitats and populations.

In the spring of 1984, the outflow channel from Little Warm Spring was channelized and its bordering marsh dried and burned to modify and improve diversions to nearby agricultural lands. Population surveys have not been conducted since this alteration; however, research conducted in many stream environments throughout North America show that channelization decreases the size and biomass of fish populations, and changes aquatic species' composition (Menzel and Fierstine 1976, Griswold *et al.* 1978). This indicates the existing springfish population is likely to be much smaller than that existing prior to channelization. Prior to this action, habitat in Little Warm Spring was the most stable environment occupied by the springfish. Springfish habitat in the channel was approximately 400 yards long, 2 yards wide, and 1 yard deep, lightly vegetated, and bordered by deeply recessed undercut banks supporting mature marsh vegetation. Since channelization, this quality habitat is approximately 20 yards long and 1 yard wide.

Alterations at Big Warm Spring have been both physical and biological. Physically, the habitat has been reduced by alterations occurring in both the north and south outflow channels. Available habitat in the north channel was reduced from an estimated 0.27 acre (a channel 0.38 mile long) to 0.16 acres (a channel 0.21 mile long) by installing a delivery pipe diverting the entire flow carried by this channel. The south

outflow channel has been altered by construction of facilities for channel catfish aquaculture. These facilities, located approximately 0.38 mile downstream from the springpool, initially consisted of plastic-lined raceways placed in the stream channel. Observations made shortly after this construction sighted no springfish either in or downstream from this area (Sada fieldnotes 1980, 1981, 1983). It is doubtful that construction of this facility eliminated the springfish; the piscivorous food habits of channel catfish make it more likely that disappearance of the springfish resulted from catfish predation (Miller 1966). J.E. Williams (pers. comm. 1982) stated that the greatest concentration of springfish in the Big Warm Spring system prior to construction of this facility was located at the site of the facility. Location and design of facility raceways has changed since initial construction. They are now concrete and located off-channel. Efforts to control entrance of catfish into the spring system have been unsuccessful, and numerous 12-inch to 15-inch individuals reportedly reside throughout the system (Sada fieldnotes 1983, Vinyard pers. comm. 1984). Observations made since 1979 note a continual decline in this springfish population. Hardy (1979) recorded the presence of a large springfish population. Sada (fieldnotes 1981, 1983) recorded the decline of this population and Vinyard (pers. comm. 1984) reported the virtual elimination of the springfish in this spring. This decline is believed to be largely attributable to the introduction of channel catfish and guppies. During 1983 and 1984, Nevada Department of Wildlife personnel noted springfish only in portions of the spring outflow. Estimates of population size were not made at this time. No comparison of the population before and after introduction of catfish resulted from these observations. The impacts of exotic species on this springfish are discussed further in the section entitled "Disease or Predation."

Springfish habitat in the outflow channel from Big Spring at Locke's Ranch was reduced by an estimated 10 percent (to 0.1 acre) during the recent construction of diversion canals directing springflow away from good quality habitat and into narrow, steeply-sloped channels and a plastic-lined pool. The impact of this action on this springfish population was great not only because occupied habitat was decreased, but because high water temperatures eliminate the use of much of the upstream aquatic habitat for springfish reproduction. Diversion removed water from downstream areas where water temperature had cooled adequately to permit spawning and placed it into poor quality habitats. Although 90 percent of occupied habitat remains, excessive water temperatures and poor quality habitat combine to support a much smaller portion of spawning habitat. Spawning habitat has been reduced approximately 20 percent (J.E. Williams pers. comm. 1983).

Other habitats at Locke's Ranch (North, Reynolds, and Hay Corral Springs) are small (discharging between 200 and 425 gallons per minute or gpm) and presently impacted mostly by overgrazing. This activity is not known to eliminate springfish populations; however, numerous investigations show how overgrazing degrades the quality of aquatic habitats (BLM 1975, Platts 1982).

Future viability of discharge from springs occupied by Railroad Valley springfish is questionable. Mifflin (1968) reported that Big Spring has decreased from 1500 gpm to 520 gpm because of the drilling of a nearby flowing well. Decreases in discharge for Hay Corral Spring have also been recorded over the past several decades (Mifflin 1968). The BLM is presently considering releasing land in northern Railroad Valley through its Desert Land Entry program. Hydrology reports, prepared to analyze the impact of this release and the resulting utilization of ground water for agriculture, state that there is a potential for a moderate to extreme impact on discharge from springs at Locke's Ranch.

The species occurs in three spring habitats outside of its historic distribution. Two of these habitats, Chimney Spring and Hot Creek, are located within the pluvial Lake Railroad basin, and an unnamed spring at Sodaville, Mineral County, Nevada, is located approximately 200 miles west of Railroad Valley. Little security is afforded these populations. Chimney Spring is located on public domain lands approximately six miles south of Locke's Ranch. It supports a sizable population, established in 1978, in artificial pools. However, varying hydrologic conditions influence spring discharge to the extent that the population was extirpated during the summer of 1981. The population was reestablished upon resumption of spring discharge.

The population in Hot Creek was established by transplant from populations existing at Lockes Ranch during the past several years. Recent surveys record the population as sizable and doing well in waters diverted for agricultural irrigation (Pedretti *et al.* 1984). The population occurs only on private land.

Railroad Valley springfish were introduced into a small thermal spring at Sodaville by Nevada Department of Wildlife personnel during 1947 (La Rivers 1962). This small spring (50 gpm) is located on private land where it is frequently disturbed by channelization activities intended to increase the efficiency of water movement. This water is used for recreation and culinary purposes.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* There is no indication that the Railroad Valley springfish is overutilized for any of these purposes.

C. *Disease or predation.* The development of a catfish farming operation at Big Warm Spring in 1982 has permitted the introduction of channel catfish (*Ictalurus punctatus*) into this spring. Operation of the catfish farm adjacent to Big Warm Spring has permitted introduction of predaceous channel catfish into the spring and its outflow, which could result in the total loss of Railroad Valley springfish in Big Warm Spring. A naturally steep gradient apparently prevents the movement of channel catfish from the Big Warm Spring outflow into Little Warm Spring, which is located approximately one mile away. Channel catfish are opportunistic feeders and are known to prey on fishes (Stevens 1959, Bell 1959, Minckley, 1973, Busbee 1968). In the upper Gila River in Arizona, catfish were a significant predator on young razorback suckers (Paul Marsh, Assistant Professor for Research, Arizona State University, pers. comm., November 1984).

D. *The inadequacy of existing regulatory mechanisms.* The State of Nevada lists the Railroad Valley springfish as a protected species. This classification by the Nevada Department of Wildlife prohibits taking without a scientific collecting permit. However, no protection of the habitat is included in such a designation and no management or recovery plan exists for this species.

E. *Other natural or manmade factors affecting its continued existence.* Guppies (*Poecilia reticulata*) have become established in Big Warm Spring and appear to have almost eliminated Railroad Valley springfish from the springpool area. Guppies compete with the Railroad Valley springfish for habitat and food resources. Establishment of exotic fishes in numerous aquatic habitats of the southwestern United States often results in the elimination or severe decrease of native fish populations (Deacon *et al.* 1964; Hubbs and Deacon 1964; Williams and Wilde 1981; Schoenherr 1981).

Exotic fishes are increasing in Nevada waters, especially in spring systems in the southern portion of the state (Courtenay and Williams 1982; Courtenay and Deacon 1983; Deacon and Williams 1984).

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list the Railroad Valley springfish as threatened with critical habitat. Threatened status is appropriate because of the restricted and reduced range of the species, and because of the threats to the fish and its remaining habitat. If this species is not protected pursuant to the Endangered Species Act, it could reasonably be expected to become endangered within the foreseeable future and thus not listing would be a violation of the Act's intent. Since the species is still extant in several locations and the threats to the species are generally localized, the species is not currently in danger of extinction and thus endangered status would not be appropriate at this time. An explanation of the critical habitat designation is presented in the "Critical Habitat" section of this rule.

Critical Habitat

Critical habitat, as defined by section 3 of the Act means: (i) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection, and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Section 4(a)(3) of the Act requires that critical habitat be designated to the maximum extent prudent and determinable concurrently with the determination that a species is endangered or threatened. Critical habitat is being designated for the Railroad Valley springfish. It includes six springs within the native range of the species, their outflow pools, associated streams and marshes, and a 50-foot riparian zone around the springs, their outflow pools, and associated streams and marshes located in two areas of northeastern Nye County, Nevada. The riparian zone is necessary to protect and maintain the physical and chemical characteristics, such as temperature, clear water, pH, etc., of the aquatic environment. The Service believes that the riparian area is essential for the conservation of the Railroad Valley springfish and it is, therefore, included as critical habitat. The designated critical habitat is located in the Duckwater area (Big Warm and Little Warm Springs) and Lockes Ranch area (Big, North, Hay Corral, and Reynolds Springs).

The area designated does not include the entire habitat of this species. Railroad Valley springfish occur in marginal habitat in the outflow creek of Big Warm Spring downstream from the designated critical habitat. Also, no critical habitat is designated for the introduced populations near Sodaville in Mineral County, Nevada, and in Chimney Springs and Hot Creek in Nye County, Nevada.

Section 4(b)(8) requires, for any proposed or final regulation that designates critical habitat, a brief description and evaluation of those activities (public or private) which may adversely modify such habitat or may be affected by such designation. Any activity lessening spring flows or significantly altering the natural outflow channels and temperature regimes in springs inhabited by the Railroad Valley springfish could adversely impact its critical habitat. Such activities include, but are not limited to, excessive ground water pumping, impoundment, and water diversion. Any activity extensively altering the channel morphology in these springs could adversely impact the critical habitat. Such activities include, but are not limited to, channelization, grazing and other watershed disturbances that result in excessive sedimentation, impoundment, deprivation of substrate source, and riparian destruction. Any activity which would significantly alter the water chemistry in these springs could adversely impact the critical habitat. Such activities include, but are not limited to, release of chemical or biological pollutants into the waters at a point source or by dispersed release.

Federal agencies which might be planning to construct, fund, authorize, or license projects in the future that could adversely impact the critical habitat of the Railroad Valley springfish include the Bureau of Land Management (BLM) and the Bureau of Indian Affairs (BIA).

The only known activities of BLM that might affect the proposed critical habitat of the Railroad Valley springfish are leasing of public lands near North Spring for cattle grazing and leasing for geothermal and oil and gas exploration. Currently, cattle graze extensively in a marshy area along the outflow of North Spring. This marshy area is inhabited by springfish where they are subjected to excessive silt loads, trampling, increased turbidity, and water pollution by the presence of cattle. Virtually all public land in Railroad Valley is leased for oil and gas, including the land around North Spring, although there has been no activity within several miles of the critical habitat area and none is foreseen.

Activities of BIA that might be affected by the designation of critical habitat include funding and permitting of programs proposed by the Duckwater Shoshone Tribe that might affect the outflows of Big and Little Warm Springs and that could thus render these habitats unsuitable for the springfish.

Section 4(b)(2) of the Act requires the Service to consider economic and other impacts of designating a particular area as critical habitat. The Service has carefully considered all information obtained during the comment period before proceeding with the critical habitat designation. An economic analysis was accordingly prepared, which determined that the critical habitat designation, as defined in the proposed rule, did not bring forth any significant economic or other impacts to warrant consideration of adjusting the boundaries of the proposed critical habitat designation.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402 and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(2)

requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Possible Federal involvement with respect to the Railroad Valley springfish was discussed in the above "Critical Habitat" section.

The Act and implementing regulations found at 50 CFR 17.21 and 17.31 set forth a series of prohibitions and exceptions that generally apply to all threatened wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that had been taken illegally. Certain exceptions would apply to agents of the Service and State conservation agencies. General regulations governing the issuance of permits to carry out otherwise prohibited activities involving threatened wildlife species under certain circumstances are set out at 50 CFR 17.32.

The Secretary has discretion under section 4(d) of the Act to issue such special regulations as are necessary and advisable for the conservation of a threatened species. The springfish is threatened primarily by habitat disturbance or alteration, not by intentional, direct taking of the species or by commercialization. Given this fact, and the fact that the State regulates direct taking of the species through the requirement of State collecting permits, the Service has concluded that the State's collection permit system is adequate to protect the species from excessive taking, so long as such takes are limited to: educational purposes, scientific purposes, the enhancement of propagation or survival of the species, zoological exhibition, and other conservation purposes consistent with the Endangered Species Act. Therefore, the special rule allows take to occur for the above-stated purposes without the need for a Federal permit if a State collection permit is obtained and all other State wildlife conservation laws and regulations are statisfied. It should be recognized that any activities involving the taking of this species not otherwise enumerated in the special rule are prohibited. Without this special rule all of the prohibitions under 50 CFR 17.31 would apply. The Service believes that this special rule will allow for more efficient management of the species, thereby facilitating its conservation. For these reasons, the Service has concluded that this regulatory action is necessary and advisable for the conservation of the Railroad Valley springfish.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Regulatory Flexibility Act and Executive Order 12291

The Department of the Interior has determined that designation of critical habitat for this species will not constitute a major action under Executive Order 12291 and certifies that this designation will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C 601 *et seq.*). The Department of the Interior has determined that, although the critical habitat designation as defined in the proposal may affect or be affected by some BLM and BIA activities, the proposed rule did not bring forth any significant economic or other impacts to warrant consideration of adjusting the boundaries of the critical habitat designation. The critical habitat designation is not expected to affect privately-funded or implemented activities on private lands or Indian Reservation lands. This rule contains no information collection or recordkeeping requirements as defined by the Paperwork Reduction Act of 1980. These determinations are based on a Determination of Effects that is available from the Regional Director, U.S. Fish and Wildlife Service, Suite 1692, Lloyd 500 Building, 500 NE. Multnomah Street, Portland, Oregon 97232

Literature Cited

Bell, R. 1959. The fishery of San Vicente Reservoir, San Diego County, California. California Dept. Fish and Game, Inland Fish. Report No. 59–12, 62 pp.

Bureau of Land Management, USDI. 1975. Effects of livestock grazing on wildlife, watershed, recreation, and other resource values in Nevada.

Busbee, R.L. 1968. Piscivorous activities of the channel catfish. Prog. Fish. Cult. 30(1):32–38.

Bureau of Land Management, USDI. 10984. Environmental assessment for classification of agricultural lands in northern Railroad Valley. Ely and Battle Mountain District Offices, Nevada. 31 pp. and appendices.

Courtenay, W.R. and J.E. Deacon. 1982. Status of introduced fishes in certain spring systems in southern Nevada. Great Basin Nat. 42(3):361–366.

Courtenay, W.R. and J.E. Deacon. 1983. Fish introductions in the American southwest: A case history of Rogers Spring, Nevada. Southwest. Nat. 28(2):221–224.

Deacon, J.E., C. Hubbs, and B.J. Zahuranec. 1964. Some effects of introduced fishes on the native fish fauna of southern Nevada. Southwest. Nat. 12:31–44.

Deacon, J.E. and J.E. Williams. 1984. Annotated list of the fishes of Nevada. Proc. Biol. Soc. Washington. 97(1):103–118.

Griswold, B.L., C. Edwards, L. Woods, and E. Weber. 1978. Some effects of stream channelization on fish populations, macroinvertebrates, and fishing in Ohio and Indiana. U.S. FWS, Washington, DC FWS/OBS–77/46:64 pp.

Hardy, T. 1979. The Inter-Basin Area report. U.S. FWS contract No. 14–16–001–6319–FS, amendment No. 4.

Hubbs, C. 1932. Studies of the fishes of the order Cyprinodontes: XII. A new genus related to *Empetrichthys*. Univ. Michigan Museum Zool. Occ. Pap. 252:1–5.

Hubbs, C. and J.E. Deacon. 1964. Additional introduction of tropical fishes into southern Nevada. Southwest. Nat. 9:249–251.

Jerald, A. and B.E. Brown. 1971. Food of the channel catfish *(Ictalurus punctatus)* in a southern Great Plains Reservoir. Amer., Midl. Nat. 86(1):110–115.

La Rivers, I. 1962. Fishes and fisheries of Nevada. Nevada State Fish and Game Comm. 782 pp.

Menzel, B.W. and H.L. Fierstine. 1976. A study of effects of stream channelization and bank stabilization of warmwater sport fish in Iowa: subproject No. 5. Effects of long reach stream channelization on distribution and abundance of fishes. U.S. Fish and Wildl. Serv., Washington, DC FWS/OBS–76/15: 75 pp.

Mifflin, M.D. 1968. Delineation of ground water flow systems in Nevada. Desert Research Institute Technical Report Series H–W. Pub. 4:89 and appendix Table 4.

Miller, E.E. 1966. Channel catfish. Pages 440–463 in A. Calhoun (Ed.), Inland fisheries management. State of California Resources Agency, Dept. of Fish and Game. 546 pp.

Minckley, W.L. 1973. Fishes of Arizona. Arizona Game and Fish Dept. Phoenix, Arizona 177–179.

Pedretti, J.W., T.M. Baugh, and J.E. Deacon. 1984. Population status and distribution of *Gila* complex in Hot Creek Valley, Hot Creek Canyon, and Little Fish Lake Valley. Unpub. Report, Endangered Fishes Research Cent., Dept. Biol. Sciences, University Nevada, Las Vegas.

Platts, W.S. 1982. Livestock and riparian-fishery interactions: what are the facts. Trans. 47th N. Amer. Wildl. Nat. Res. Conference, 1982:507:515.

Schoenherr, A.A. 1981. The role of competition in the replacement of native fishes by introduced species. Pages 173–203 in R.J. Naiman and D.L. Soltz (Eds.), Fishes in North American Deserts. John Wiley and Sons, New York.

Stevens, R. 1959. The white and channel catfishes of the Santee-Cooper reservoir and tailrace sanctuary. 13th Annual Conference S.E. Assoc. Game and Fish Comm. Proc., pp. 203–219.

Williams, C.D. 1984. Life history of the Railroad Valley springfish, *Crenichthys nevadae*, Hubbs (Cyprinodontidae) of east-central Nevada. M.S. thesis manuscript. Sacramento State University.

Williams, C.D. and J.E. Williams. 1981. Distribution and status of native fishes of the Railroad Valley system, Nevada. California Nevada Wildlife Trans. 48–51.

Williams, J.E. and G.R. Wilde. 1981. Taxonomic status and morphology of isolated populations of the White River springfish, *Crenichthys baileyi* (Cyprinodontidae). Southwest. Nat. 25:485–503.

Author

The author of this rule is Dr. Randy McNatt, U.S. Fish and Wildlife Service, Great Basin Complex, 4600 Kietzke Lane, Building C, Reno, Nevada 89502 (702/784–5227 or FTS 470–5227).

List of Subjects in 50 CFR Part 17

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

Regulations Promulgation

PART 17—[AMENDED]

Accordingly Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Amend § 17.11(h) by adding the following, in alphabetical order under "Fishes," to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
FISHES							
Springfish, Railroad Valley	*Crenichthys nevadae*	U.S.A. (NV)	Entire	T	224	17.95(e)	17.44(n)

3. Add the following as special rules to § 17.44.

§ 17.44 Special rules—fishes.

* * * * *

(n) Railroad Valley springfish *(Crenichthys nevadae).*

(1) No person shall take the species, except in accordance with applicable State fish and wildlife conservation laws and regulations in the following instances: for educational purposes, scientific purposes, the enhancement of propagation or survival of the species, zoological exhibition, and other conservation purposes consistent with the Act.

(2) Any violation of applicable State fish and wildlife conservation laws or regulations with respect to the taking of this species will also be a violation of the Endangered Species Act.

(3) No person shall possess, sell, deliver, carry, transport, ship, import, or export, by any means whatsoever, any such species taken in violation of these regulations or in violation of applicable State fish and wildlife conservation laws or regulations.

(4) It is unlawful for any person to attempt to commit, solicit another to commit, or cause to be committed, any offense defined in paragraphs (n)(1) through (n)(3) of this section.

* * * * *

4. Amend § 17.95(e) by adding critical habitat of the Railroad Valley springfish as follows: (The position of this entry under Section 17.95(e) will follow the same sequence as the species occurs in § 17.11).

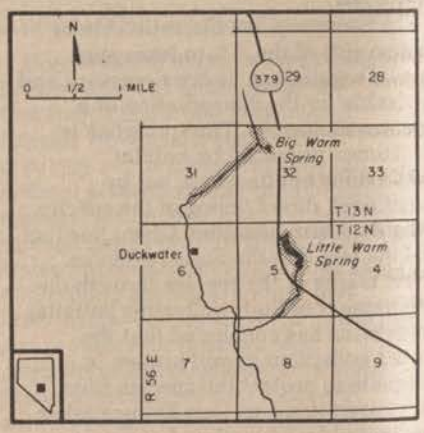
§ 17.95 Critical habitat—fish and wildlife.

(e) * * *

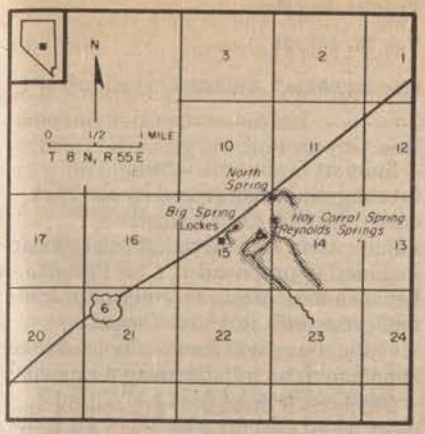
* * * * *

Railroad Valley Springfish *(Crenichthys nevadae)*

1. Nevada, Nye County, Duckwater area. Big Warm Spring and its outflow pools, streams, and marshes and a 50 foot riparian zone around the spring, outflow pools, streams, and marshes in T13N, R56E, NE¼ Sec. 31, SE¼ Sec. 31, NW¼ Sec. 32. Little Warm Spring and its outflow pools, streams, and marshes, and a 50-foot riparian zone around the spring, outflow pools, streams, and marshes in T12N, R56E, Sec. 5.



1. Nevada, Nye County, Lockes Area. North, Hay Corral, Big, and Reynolds Springs and their outflow pools, streams, and marshes, and a 50-foot riparian zone around the springs, outflow pools, streams, and marshes in T8N, R55E, SW¼ Sec. 11, NW¼ Sec. 14, SW¼ Sec. 14, SE¼ Sec. 15, NE¼ Sec. 15, SW¼ Sec. 15.



Known constituent elements for all areas of critical habitat of the Railroad Valley springfish include clear, unpolluted thermal spring waters ranging in temperature from 29° to 36°C in pools; flowing channels; marshy areas with aquatic plants, insects, and mollusks.

* * * * *

Dated: February 28, 1986.

P. Daniel Smith,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-6978 Filed 3-28-86; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 50329-5115]

50 CFR Part 285

Atlantic Tuna Fisheries

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

ACTION: Notice of Incidental longline category closure.

SUMMARY: NOAA issues this notice to close the fishery for Atlantic bluefin tuna conducted by vessels permitted in the Incidental longline category in the area south of 36°00′ N. latitude. Closure of this fishery is necessary because the annual catch quota of 115 short tons (st) for this area will be attained by the effective date. The intent of this action is to insure that the overall U.S. quota for Atlantic bluefin tuna in the Western Atlantic Ocean will not be exceeded.

EFFECTIVE DATES: The Incidental longline category fishery is closed 0001 hours local time, March 29, 1986, through December 31, 1986.

FOR FURTHER INFORMATION CONTACT: William C. Jerome, Jr., 617-281-3600, extension 262, or David S. Crestin, 617-281-3600, extension 253.

SUPPLEMENTARY INFORMATION: Regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971-971h) regulating the take of Atlantic bluefin tuna by persons and vessels subject to U.S. jurisdiction were published in the **Federal Register** on October 25, 1985 (50 FR 43396).

Section 285.22(f)(1) of the regulations provides for an annual quota of 145 short tons (st) of Atlantic bluefin tuna to be taken by vessels permitted in the Incidental longline category in the regulatory area. Of this amount, no more than 115 st may be taken in the area south of 36°00′ N. latitude. The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), is required under § 285.20(b)(1) to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the total catch of Atlantic bluefin tuna will equal any quota under § 285.22. The Assistant Administrator, further, is required under § 285.20(b)(1) to prohibit the fishing for, or retention of, Atlantic bluefin tuna by the type of vessels subject to the quotas. The Assistant Administrator has determined, based on the reported catch of Atlantic bluefin tuna of 100 st, and the recent catch rate, that the annual quota of Atlantic bluefin tuna allocated to vessels permitted in the Incidental longline category fishing south of 36°00′ N. latitude will be attained by the effective date. Fishing for and retention of any Atlantic bluefin tuna by these vessels in this area must create at 0001 hours, local time, on March 29, 1986.

Vessels permitted in the Incidental longline category fishing north of 36°00′ N. latitude may continue to fish for and retain Atlantic bluefin tuna until the total annual quota of 145 st is achieved.

Notice of this action has been mailed to all Atlantic bluefin tuna dealers and vessel owners holding a valid vessel permit for this fishery.

Other Matters

This action is taken under the authority of 50 CFR 285.20, and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 285

Fisheries, Penalties, Reporting and recordkeeping requirements.

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

Dated: March 26, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 86-7058 Filed 3-26-86; 4:48 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 51, No. 61
Monday, March 31, 1986

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 982 and 999

Filberts/Hazelnuts Grown in Oregon and Washington; Filbert Imports; Grade Requirements for Domestic and Imported Shelled Filberts

Correction

In FR Doc. 86-5177, beginning on page 8201 in the issue of Monday, March 10, 1986 make the following correction:

On page 8201, in the third column, in the last full paragraph, in the tenth line, "not been" should read "now been".

FARM CREDIT ADMINISTRATION

12 CFR Parts 622 and 623

Rules of Practice and Procedure; Practice Before the Farm Credit Administration

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA), by the Farm Credit Administration Board (FCA Board), publishes for comment proposed regulations to be designated as 12 CFR Parts 622 and 623. The proposed 12 CFR Part 622 would establish rules of practice and procedure applicable to formal and informal hearings held before the FCA, and to formal investigations conducted under the Farm Credit Act of 1971, as amended (12 U.S.C. 2001, et seq.) (Act). The proposed 12 CFR Part 623 would prescribe rules with regard to persons who may practice before the FCA and the circumstances under which such persons may be suspended or debarred from practice before the FCA.

DATE: Written comments must be received on or before April 30, 1986.

ADDRESS: Submit any comments in writing to Donald E. Wilkinson, Acting Chairman, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090. Copies of all communications received will be available for examination by interested parties in the Office of Congressional and Public Affairs, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT: Kathleen M. Mullarkey, or Nancy E. Lynch, Office of the General Counsel, (703) 883-4020, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Va 22102-5090.

SUPPLEMENTARY INFORMATION: The proposed regulation in Part 622, entitled "Rules of Practice and Procedure", would implement expansions in the FCA's regulatory and adjudicatory authority made by the Farm Credit Amendments Act of 1985, Pub. L. 99-205 (Amendments). The proposed regulation is divided into Subparts A through D. Subpart A prescribes detailed rules of practice and procedure that will be followed by the FCA in formal hearings. However, in considering any particular matter to which Subpart A would be generally applicable, reference should also be made to specific requirements of practice and procedure that may be contained in the Act or the rules found in other Subparts of 12 CFR Part 622, which special requirements are controlling. The purpose of Subpart A is to state clear procedures that comply with due process concerns of the Administrative Procedure Act (5 U.S.C. 554-557). The Federal Rules of Civil Procedure have also been considered and to some extent incorporated in the proposed regulations.

Subpart B implements sections 5.32 and 5.33 of the Act and sets forth rules and procedures for the assessment of a civil money penalty against a System institution or an individual for violation of a final cease and desist order.

Subpart C implements section 5.29 of the Act and prescribes procedures for informal hearings applicable to the immediate suspension, prohibition, or removal of an individual where certain crimes are charged or proven. It should be noted that where a suspension or removal of a director or officer is proposed under section 5.28 of the Act, a formal hearing will be conducted, and the presiding officer will certify the record to the FCA Board for a determination in accordance with the procedures prescribed in Subpart A of proposed Part 622.

Subpart D governs formal investigations conducted by the FCA under the Act. Even though no adjudication is involved, these rules are included in proposed 12 CFR Part 622 because they prescribe rules of practice and procedure and such formal investigations will frequently lead to or supplement an adjudicatory proceeding.

Subparts B through D are relatively brief. They generally set forth the scope of the particular proceeding involved and the nature of any notice or order that might be served on an institution or individual, and incorporate procedural requirements contained in the Act. The detailed rules of practice and procedure set forth in Subpart A cover such items as answer to notices of charges, the filing and service of papers, the designation of a presiding officer and the conduct of formal hearings, access to agency process by parties afforded a hearing, various time requirements, and the certification of the hearing record to the FCA Board for decision.

The proposed 12 CFR Part 623 contains regulations related to (1) practice before the FCA generally and at specific administrative proceedings; and (2) the debarment or suspension of persons from that practice. The purpose of these proposed regulations is to enable the FCA to preserve the integrity of its administrative processes by temporarily or permanently suspending from practice before it those persons who misuse those processes or are unfit to practice before the FCA. Any person who intentionally files false information or otherwise engages in unethical, dishonest or unprofessional conduct before the FCA, or who is found to have violated the laws or regulations administered by the FCA, or to be otherwise unfit to practice before the FCA will be subject to the suspension and debarment procedures contained in this proposed Part.

The FCA intends that the scope of proposed Part 623, and, therefore the meaning of "practice", be limited to direct dealing with the FCA and its staff or direct involvement in its administrative processes. Any improper conduct or violation of law not directly involving such dealings or processes will not be redressed under Part 623, but rather will be remedied with the various enforcement tools at the FCA's disposal or by referral to the appropriate bar,

licensing, certifying or law enforcement authorities.

List of Subjects in 12 CFR Part 622

Administrative practice and procedure, Hearing procedures, Ex parte communication.

List of Subjects in 12 CFR Part 623

Administrative practice and procedure.

As stated in the preamble, it is proposed that Chapter VI, Title 12, of the Code of Federal Regulations, be amended as follows:

1. Part 622 is added to 12 CFR Chapter VI to read as follows:

PART 622—RULES OF PRACTICE AND PROCEDURE

Supbart A—Rules Applicable to Formal Hearings

Authority: Secs. 5.9, 5.10, 5.17, 5.25—5.37, Pub. L. 99–205, 99 Stat. 1678.

Subpart A—Rules Applicable to Formal Hearings

§ 622.1 Scope of regulations.

This Subpart prescribes rules of practice and procedure in connection with any formal hearing before the Farm Credit Administration (FCA) that is required by the Farm Credit Act of 1971, as amended (Act) or is ordered for other reasons by the FCA. In connection with any particular matter, reference should also be made to any special requirements of practice and procedure that may be contained in applicable provisions of the Act or the rules adopted by the Farm Credit Administration in Subpart B of this Part, which special requirements are controlling. These rules in Subpart A do not apply to the informal hearings described in Subpart C of this Part, to any other informal hearing that may be ordered by the FCA, or to formal investigations described in Subpart D of this Part.

§ 622.2 Definitions

As used in this part:

(a) "Act" means the Farm Credit Act of 1971, as amended. 12 U.S.C. 2001, *et seq.*

(b) "FCA" means the Farm Credit Administration.

(c) "Board" means the Farm Credit Administration Board.

(d) The terms "institution in the System", "System institution" and "institution" means all institutions enumerated in section 1.2 of the Act, any service organization chartered under Part D of Title IV of the Act, and the Farm Credit System Capital Corporation.

(e) "Party" means the FCA or a person or institution named as a party in any notice that commences a proceeding, or any person or institution who is admitted as a party or who has filed a written request and is entitled as of right to be a party.

(f) "Presiding officer" means an administrative law judge or any FCA employee or other person designated by the Board to conduct a hearing.

(g) "Ex parte communication" means an oral or written communication not on the record with respect to which reasonable prior notice to all parties is not given. It does not include requests for status reports.

§ 622.3 Appearance and practice.

(a) *Appearance before the Board or a presiding officer.*—(1) *By nonattorneys.* An individual may appear in his or her own behalf; a member of a partnership may represent the partnership; a duly authorized officer or other agent of a corporation, trust association or other entity not specifically listed herein may represent the corporation, trust association, or other entity; and a duly authorized officer or employee of any government unit, agency or authority may represent that unit, agency or authority. Any person appearing in a representative capacity shall fill a written notice of appearance with the Board which shall contain evidence of his or her authority to act in such capacity.

(2) *By attorneys.* A party may be represented by an attorney who is a member in good standing of the bar of the highest court of any State, possession, territory, Commonwealth or the District of Columbia, and who has not been suspended or debarred from practice before the FCA in accordance with the provisions of Part 623 of this chapter. Prior to appearing, an attorney representing a person in a proceeding shall file a written notice of appearance with the Board, which shall contain a declaration that he or she is currently qualified as provided by this paragraph (a)(2) and is authorized to represent the party on whose behalf he or she acts.

(3) *Representation of multiple interests.* A person shall not represent more than one party without informing each party of any actual or potential conflict of interest that may be involved in such representation. Such person shall file a statement with the Board indicating that such disclosure has been made. The presiding officer has authority to take protective measures at any stage of a proceeding, including the authority to prohibit multiple representation when deemed appropriate.

(b) *Summary suspension.* Dilatory, obstructionist, egregious, contemptuous, contumacious, or other unethical or improper conduct at any proceeding

before the Board or a presiding officer shall be grounds for exclusion therefrom and suspension for the duration of the proceeding, or other appropriate action by the Board or presiding officer.

§ 622.4 Commencement of proceedings.

Proceedings under this Subpart are commenced by the issuance of a notice by the Board. Such notice shall state the time, place, and nature of the hearing, the name and address of the presiding officer if one has been designated, and a statement of the matters of fact and law constituting the grounds for the hearing. The matters of fact and law alleged in a notice may be amended by the Board at any stage of the proceeding and such amended notice nay require an answer from the party or parties served and may set a new hearing date. A copy of any notice served by the FCA on any System association, director, officer or other person participating in the conduct of the affairs of the association will also be sent to the supervisory bank.

§ 622.5 Answer.

(a) Answer is required. Unless a different period is specified by the Board, a party who does not wish to consent to a final order must file an answer within 20 days after being served with a notice that commences the proceeding. Any subsequent notice which contains amended allegations and by its terms requires an answer must similarly be answered within 20 days.

(b) Requirements of answer; effect of failure to deny. An answer filed under this section shall concisely state any defenses and specifically admit or deny each allegation in the notice. A party who lacks information or knowledge sufficient to form a belief as to the truth of any particular allegation shall so state and this shall have the effect of a denial. Any allegation not denied shall be deemed to be admitted. A party who intends in good faith to deny only a part of or to qualify an allegation shall specify so much of it as is true and shall deny only the remainder.

(c) Admitted allegations. If a party filing an answer under this section elects not to contest any of the allegations of fact set forth in the notice, his or her answer shall consist of a statement that he or she admits all of the allegations to be true. Such answer constitutes a waiver of hearing as to the facts alleged in the notice, and together with the notice will provide a record basis on which the presiding officer shall file with the Board a recommended decision in accordance with 5 U.S.C. § 557. The recommended decision shall be served on the party, who may file exceptions thereto within the time provided in § 622.13.

(d) Effect of failure to answer. Failure of a party to file an answer required by this section within the time provided constitutes a waiver of the party's right to appear and contest the allegations in the notice to the party, to find the facts to be as alleged in the notice and to file with the Board a recommended decision containing such findings and appropriate conclusions. The Board or the presiding officer may, for good cause shown, permit the filing of a delayed answer after the time for filing the answer has expired.

§ 622.6 Opportunity for informal settlement.

Any interested party may at any time submit to the Board for consideration written offers or proposals for settlement of a proceeding, without prejudice to the rights of the parties. No offer or proposal shall be admissible into evidence over the objection of any party in any hearing in connection with such proceeding. The foregoing provisions of this section shall not preclude settlement of any proceeding through the regular adjudicatory process by the filing of an answer as provided in § 622.5(c), or by submission of the case to the presiding officer on a stipulation of facts and an agreed order.

§ 622.7 Conduct of hearings.

(a) Authority of presiding officer. All hearings governed by this Subpart shall be conducted in accordance with the provisions of Chapter 5 of Title 5 of the United States Code. The presiding officer designated by the Board to preside at any such hearing shall have complete charge of the hearing, shall have the duty to conduct it in a fair and impartial manner and shall take all necessary action to avoid delay in the disposition of the proceeding. Such officer shall have all powers necessary to that end, including the following:

(1) To administer oaths and affirmations;

(2) To issue subpenas and subpenas duces tecum, as authorized by law, and to revoke, quash, or modify any such subpena;

(3) To receive relevant evidence and to rule upon the admission of evidence and offers of proof;

(4) To take or cause despositions to be taken;

(5) To regulate the course of the hearing and the conduct of the parties and their counsel;

(6) To hold conferences for the settlement or simplification of issues or for any proper purpose; and

(7) To consider and rule upon, as justice may require, all procedural and other motions appropriate in a proceeding under this Subpart, except that a presiding officer shall not have power to decide any motion to dismiss the proceeding or other motion which results in final determination of the merits of the proceeding. This power rests only with the Board. Without limitation on the foregoing, the presiding officer shall, subject to the provisions of this subpart, have all the authority set forth in 5 U.S.C. § 556(c).

(b) Prehearing conference. The presiding officer may, on his or her own initiative or at the request of any party, direct counsel for all parties to meet with him or her at a specified time and place prior to the hearing, or to submit suggestions to him or her in writing, for the purpose of considering any or all of the following:

(1) Simplification and clarification of the issues;

(2) Stipulations, admissions of fact and of the contents and authenticity of documents;

(3) Matters of which official notice will be taken; and

(4) Such other matters as may aid in the orderly disposition of the proceeding. At the conclusion of such conference(s) the presiding officer shall enter an order which recites the results of the conference. Such order shall include the presiding officer's rulings upon matters considered at the conference, together with appropriate directions, if any, to the parties. Such order shall control the subsequent course of the proceeding, unless modified at the hearing for good cause shown.

(c) Exchange of information. Thirty (30) days prior to the hearing, parties shall exchange a list of the names of witnesses with a general description of their expected testimony, and a list and one copy of all documents or other physical exhibits which will be introduced in evidence in the course of the proceeding.

(d) Attendance at hearings. All hearings shall be private and shall be attended only by the parties, their counsel or authorized representatives, witnesses while testifying, and other persons having an official interest in the proceeding. However, if the Board, in its discretion, after fully considering the views of the party afforded the hearing, determines that a public hearing is necessary to protect the public interest, the Board may in its sole discretion order that the hearing be public.

(e) Transcript of testimony. Hearings shall be recorded. A copy of the

transcript of the testimony taken at any hearing, duly certified by the reporter, together with all exhibits accepted into evidence shall be filed with the presiding officer. The presiding officer shall promptly serve notice upon all parties of such filing. The parties shall make their own arrangements with the person recording the testimony for copies of the testimony and exhibits. The presiding officer shall have authority to correct the record sua sponte with notice to all parties and to rule upon motions to correct the record. In the event the hearing is public, transcripts will be furnished to interested persons upon payment of the cost thereof.

(f) Continuances and changes or extensions of time and changes of place of hearing. Except as otherwise provided by law, the presiding officer may extend time limits prescribed by these rules or by any notice or order issued in the proceedings, may change the time to time, and/or change the location of the hearing. Prior to the appointment of a presiding officer and after the filing of a recommended decision officer and after the filing of a recommended decision pursuant to § 622.12, the Board may grant such extensions or changes. Subject to the approval of the presiding officer. Subject to the approval of the presiding officer, the parties may be stipulation change the time limits specified by these rules or any notice or order issued hereunder.

(g) Closing of hearing. The record of the hearing shal be closed by an announcement to that effect by the presiding officer when the taking of evidence has been concluded. In the discretion of the presiding officer, the record may be closed as of a future date in order to permit the admission into the record, under circumstances determined by the presiding officer, of exhibits to be prepared.

(h) Call for further evidence, oral arguments, briefs, reopening of hearing. The presiding officer may call for the production of further evidence upon any issue, may permit oral argument and submission of briefs at the hearing and, upon appropriate notice, may reopen any hearing at any time prior to the filing of his or her recommended decision. The Board may reopen the record at anytime permitted by law.

(i) Order of procedure. The FCA shall open and close.

(j) Ex parte communications.

(1) No person shall make or knowingly cause to be made an ex parte communication relevant to the merits of the proceeding to the presiding officer or anyone who is or may reasonably be expected to be involved in the decisional process.

(2) No person who is or may reasonably be expected to be involved in the decisional process shall make or knowingly cause to be made an ex parte communication relevant to the merits of the proceeding to any person.

(3) Except as authorized by law, the presiding officer shall not consult anyone on any fact in issue, unless upon notice and opportunity for all parties to participate. The presiding officer shall not be responsible to, or subject to the supervision or direction of, any officer, employee, or agent of the FCA engaged in the performance of investigative or prosecuting functions. An officer, employee or agent engaged in the performance of such functions in any case shall not, in that case or a factually related case, participate or advise in the decision of the presiding officer, except as a witness or counsel in the proceedings, or as otherwise authorized by law.

(4) If an ex parte communication is made or knowingly caused to be made, al such communications, and any responses, shall be placed in the record.

(5) Upon receipt of a communication knowingly made or caused to be made in violation of paragraph (j) of this section, the responsible party may be required to show cause why such party's claim or interest should not be dismissed, denied, or otherwise adversely affected. To the extent consistent with the interests of justice, a knowing violation of paragraph (j) of this section may be grounds for a decision adverse to a party in violation.

(6) The prohibitions against ex parte communications apply from the time a proceeding is noticed for hearing. However, when the person responsible for the communication has knowledge that the proceeding wil be noticed, the prohibitions apply from the time such knowledge is acquired.

§ 622.8 Rules of evidence.

(a) Evidence. Every party shall have the right to present his or her case or defense by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Irrelevant, immaterial or unduly repetitious evidence shall be excluded.

(b) Objections. Objections to the admission or exclusion of evidence shall be in short form, stating the grounds of objection relied upon but no argument thereon shall be permitted, except as ordered, allowed, or requested by the presiding officer. Rulings on such objections and all other matters shall be part of the transcript. Failure to object timely to the admission or exclusion of evidence or to any ruling constitutes a waiver of such objection.

(c) Stipulations. Independently of the orders or rulings issued as provided by § 622.7(b), the parties may stipulate as to any relevant matters of fact or the authenticity of any relevant documents. Such stipulations may be received in evidence at the hearing, and when so received shall be binding on the parties with respect to the matters therein stipulated.

(d) Official notice. All matters officially noticed by the presiding officer shall appear on the record.

§ 622.9 Subpenas.

(a) Issuance. The presiding officer or, in the event he or she is unavailable, the Board may issue subpenas and subpena duces tecum at the request of any party requiring the attendance of witnesses or the production of documents at a designated place. The person seeking the subpena may be required, as a condition precedent to the issuance of the subpena, to show the general relevance and reasonable scope of the testimony or other evidence sought. Where it appears to the presiding officer that a subpena may be unreasonable, oppressive, excessive in scope, unduly burdensome, or delay the proceeding, the presiding officer has discretion to refuse to issue a subpena or to issue it only upon such conditions as fairness requires.

(b) Motions to quash. Any person to whom a subpena is directed may, prior to the time specified therein for compliance but in no event more than 10 days after the date the subpena was served, with notice to the party requesting the subpena, apply to the presiding officer, or in the event he or she is unavailable to the Board, to quash or modify the subpena, accompanying such application with a brief statement of the reasons therefor. The presiding officer may deny the application or, upon notice to the party on whose behalf the subpena was issued and after affording that party an opportunity to reply, may quash or modify the subpena or impose reasonable conditions including, in the case of a subpena duces tecum, a requirement that the party on whose behalf the subpena was issued pay in advance the reasonable cost of copying and transporting the documentary evidence to the designated place.

(c) Service of subpena. A subpena may be served upon the person named therein by personal service or certified mail with a return receipt to the last

known address of the person. The fees for one day's attendance and mileage as specified in paragraph (d) of this section must be tendered at the time of service unless the subpena is issued on behalf of the FCA. If personal service is made by a U.S. marshal, a deputy U.S. marshal, or an employee of the FCA, such service shall be evidenced by the return thereon. If personal service is made by any other person, such person shall sign an affidavit describing the manner in which service is made, and return such affidavit with a copy of the subpena. In case of failure to make service, reasons for the failure shall be stated on the original subpena. The original or a copy of the subpena, bearing or accompanied by the required return, affidavit, statement or return receipt, shall be returned without delay to the presiding officer.

(d) Attendance of witnesses. The attendance of witnesses at a designated place may be required from any place in any State or territory subject to the jurisdiction of the United States. Witnesses who are subpenaed shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Fees required by this paragraph shall be paid by the party upon whose application the subpena is issued.

(e) Production of documents. The production of documents at a designated place may be required from any place in any State or territory subject to the jurisdiction of the United States. In lieu of an original document, a certified or authenticated copy may be produced. However, any party has the right to inspect the original document.

§ 622.10 Depositions.

(a) Application to take deposition. Any party desiring to take the deposition of any person shall make written application to the presiding officer setting forth the name and address of the witness, the subject matter concerning which the witness is expected to testify, its relevance, the time and place of the deposition, and the reasons why such deposition should be taken. The application may include a request that specified documents be produced at the deposition. A copy of the application shall be served on the other parties.

(b) Subpena; notice to other parties. Upon a showing that the testimony or other evidence sought will be material, and the taking of the deposition will not result in any undue burden to the witness or any party or undue delay of the proceedings, the presiding officer may issue a subpena or subpena duces tecum. Notice of the issuance of such subpena shall be served upon all parties at least 10 days in advance of the date set for deposition.

(c) Deposition by notice. The requirements of paragraphs (a) and (b) of this section may be waived by agreement of the parties and the witness whose testimony or documentary evidence is sought. Such agreement shall be embodied in a stipulation which becomes part of the record and may provide for the taking of depositions upon notice without leave of the presiding officer.

(d) Procedure on deposition. Depositions may be taken before any person having the power to administer oaths. Each witness whose testimony is taken by deposition shall be duly sworn before any question is propounded. Examination and cross-examination of deponents may proceed as permitted at the hearing. Objections to questions or documents shall be in short form, stating the grounds relied upon for the objection. Failure to object to questions or evidence is deemed a waiver if the ground of the objection is one which might have been obviated or removed if presented at that time. The questions propounded and the answers thereto, together with all objections made (but not including argument or debate) shall be recorded by or under the direction of the person before whom the deposition is taken. The deposition shall be signed by the witness, unless the parties by stipulation waive the signing or the witness is physically unable to sign, cannot be found, or refuses to sign. The deposition shall also be certified as a true and complete transcript by the person recording the testimony. If the deposition is not signed by the witness, the person recording the testimony shall state this fact and the reason therefor on the record. The person before whom the deposition is taken shall promptly file the transcript and all exhibits with the presiding officer. Interested parties shall make their own arrangements with the person recording the testimony for copies of the testimony and exhibits.

(e) Introduction as evidence. Subject to appropriate rulings by the presiding officer on such objections and answers as were noted at the time the deposition was taken or as would be valid were the witness personally present and testifying at the hearing, the deposition or any part thereof may be received in evidence by the presiding officer in his or her discretion. Only such part of a deposition as is received in evidence at a hearing shall constitute a part of the record upon which a decision may be based.

(f) Payment of fees. Deponents whose depositions are taken and the reporter taking the same shall be entitled to the same fees as are paid for like services in the district courts of the United States, which fees shall be paid by the party upon whose application the deposition is taken.

§ 622.11 Motions.

(a) How made. An application or request for an order or ruling not otherwise specifically provided for in this Subpart, unless made during a hearing, shall be made by written motion supported by a memorandum which concisely states the grounds therefor.

(b) Opposition. Within 10 days after service of any written motion, or within such other period of time as may be fixed by the presiding officer, any party may file a memorandum in opposition thereto. The moving party has no right to reply except as permitted by the presiding officer. The presiding officer has discretion to waive the requirements of this section as to motions for extension of time and may rule upon such motions ex parte.

(c) Oral argument. No oral argument will be heard on motions except as othewise directed by the presiding officer or the Board.

(d) Rulings and orders. Except as otherwise provided in this Subpart, the presiding officer shall rule on all motions and may issue appropriate orders, except that motions may be referred to the Board if the presiding officer is unavailable or determines that such motion should be referred to the Board. Prior to the appointment of a presiding officer and after a recommended decision is filed pursuant to § 622.12, the Board shall rule on motions filed by the parties.

(e) Appeal from rulings on motions. All answers, motions, objections and rulings shall become part of the record. Rulings of a presiding officer on any motion may not be appealed to the Board prior to its consideration of the presiding officer's recommended decision, except by special permission of the Board. However, such rulings shall be considered by the Board in reviewing the record. Requests to the Board for special permission to appeal from a ruling of the presiding officer shall be filed in writing within 5 days of the ruling, and shall briefly state the grounds relied on. The moving party shall immediately serve a copy thereof on every other party to the proceeding who may then respond to such request within 5 days after service.

(f) Continuation of hearing. Unless otherwise ordered by the presiding officer or the Board, the hearing shall

continue pending the determination of any request or motion by the Board.

§ 622.12 Proposed findings and conclusions; recommended decision.

(a) Proposed findings and conclusions by parties. Within 30 days after the hearing transcript has been filed, any party may file proposed findings of fact and conclusions of law. Such proposals shall be supported by citation of such statutues, decisions, and other authorities, and by specific page references to such portions of the record as may be relevant. All such proposals shall become a part of the record.

(b) Recommended decision by presiding officer. Within 30 days after the expiration of time allowed under paragraph (a) of this section, or within such further time as the Board for good cause allows, the presiding officer shall file the entire hearing record, including a recommended decision and findings and conclusions, the transcript, exhibits (including on request of any of the parties any exhibits excluded from evidence or tenders of proof), exceptions, rulings and all briefs and memoranda filed in connection with the hearing. Promptly upon such filing, the presiding officer shall serve a copy of the recommended decision, findings and conclusions upon each party to the proceeding.

(c) Board as presiding officer. In proceedings in which the Board or one or more of its members has presided at the reception of evidence, the presiding officer's recommended decision, findings of fact, and conclusions of law will be omitted. In such proceedings the proposed findings and conclusions, briefs, and other submissions permitted under paragraph (a) of this section shall be filed with the Board for consideration.

§ 622.13 Exceptions.

(a) Filing. Within 15 days after service of the recommended decision of the presiding officer, any party may file exceptions thereto or to any portion thereof, or to the failure of the presiding officer to make any recommendation, finding, or conclusion, or to the admission or exclusion of evidence, or to any other ruling of the presiding officer.

(b) Contents. Each exception shall be supported by a concise argument and by citation of such statutes, decisions and other authorities, and by page references to such portions of the record as may be relevant. If the exception relates to the admission or exclusion of evidence, the substance of the evidence admitted or excluded shall be set forth in the brief with appropriate references to the transcript.

(c) Waiver. Failure of a party to file exceptions to those matters specified in paragraph (a) of this section within the time prescribed shall be a waiver of objection thereto.

§ 622.14 Briefs.

(a) Contents. Any brief filed in a proceeding shall be confined to the particular matters in issue, citing statutes, decisions, and other authorities, and page references to such portions of the record as may be relevant or the recommend decision of the presiding officer.

(b) Reply Briefs. Reply briefs may be filed within 10 days after service of original briefs of opposing parties, and shall be confined to matters in such briefs. Further briefs may be filed only with permission of the presiding officer or the Board with respect to a matter before the Board.

(c) Delayed filing. Briefs not filed on or before the time fixed in this Subpart or by the presiding officer will be received only upon special permission of the Board.

§ 622.15 Oral argument before the Board.

Upon its own initiative or upon written request by any party, the Board, in its discretion, may order the matter to be set down for oral argument before the Board or one or more members thereof. Any request for oral argument by a party filing exceptions shall be made within the time prescribed for filing such exceptions, or by any other party, within the time prescribed for the filing of a reply brief. Oral argument before the Board shall be recorded unless otherwise ordered by the Board.

§ 622.16 Notice of submission to the Board.

Upon the filing of the record with the Board, and upon the expiration of the time for the filing of exceptions and all briefs, including reply briefs or any further briefs permitted by the presiding officer or the Board, and upon the hearing of oral argument by the Board, if ordered by the Board, the Board shall notify the parties in writing that the case has been submitted for final decision.

§ 622.17 Decision of the Board.

Any person who has not engaged in the performance of investigative or prosecuting functions in the case, or in a factually related case, may advise and assist the Board in the consideration of the case. Copies of the decision and order of the Board shall be served upon the parties. A copy of the order will also be sent to the supervisory bank if the order relates to a System association, director, officer, or other person participating in the conduct of the affairs of the association.

§ 622.18 Filing.

(a) Filing. Papers required or permitted to be filed with the Board shall be filed with the Chairman of the Board, FCA, 1501 Farm Credit Drive, McLean, VA 22102-5090 or with the person designated to receive papers for the agency in a proceeding. Papers sent by mail must be postmarked or received within the prescribed time limit for filing. Papers sent by any other means must be received within the prescribed time limit for filing.

(b) Formal requirements. All filed papers shall be printed, typewritten, or otherwise reproduced, and copies shall be clear and legible. The original of all papers filed by a party shall be signed and dated as of the date of execution by the party filing the same, or a duly authorized agent or attorney. The signer's address and telephone number must appear on the original. Counsel for the FCA shall sign the original of all papers filed on behalf of the FCA. All papers filed must name in the heading or on a title page, the parties, the docket number and the subject of the papers.

(c) Copies. Parties shall file an original and three copies of all documents and papers required or permitted to be filed under this Subpart (except the transcript of testimony and exhibits), unless otherwise specifically provided by the Board.

§ 622.19 Service.

(a) Service. Except as otherwise provided in these rules, each party who files papers is responsible for serving a copy thereof upon the presiding officer and upon every other party or the attorney or representative of record of that party. A copy of all papers filed by the presiding officer or the Board, except for the transcript of testimony and exhibits, shall be served upon each of the parties. Service may be by personal service, private delivery service, or by express, certified or regular first-class mail. If a party is not represented, service shall be made at the last known address of the party or an officer thereof as shown on the records of the FCA.

(b) Proof of service. Proof of service of papers filed by a party shall be filed before action is to be taken thereon. The proof shall show the date and manner of service, and may be by written acknowledgement of service, by declaration of the person making service, or by certificate of an attorney or other representative of record. Failure

to make proof of service shall not affect the validity of service. The presiding officer may allow the proof to be amended or supplied, unless to do so would result in material prejudice to a party.

§ 622.20 Documents in proceedings confidential.

Unless otherwise ordered by the Board or required by law, the entire record in any proceeding under this Subpart, including the notice of hearing, transcript, exhibits, proposed findings and conclusions, recommended decision of the presiding officer, exceptions thereto, decision and order of the Board, and any other papers which are filed in connection with the proceedings shall not be made public, and shall be for the confidential use only of the FCA and its staff, the presiding officer, the parties, and other appropriate supervisory authorities.

§ 622.21 Computing time.

(a) General rule. In computing any period of time prescribed or allowed by this Subpart, the date of the act or event from which the designated period of time begins to run is not to be included. The last day so computed shall be included, unless it is a Saturday, Sunday or Federal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday, or Federal holiday. When the period of time prescribed or allowed is 10 days or less, intermediate Saturdays, Sundays, and Federal holidays shall not be included in the computation.

(b) Service by mail. Whenever any party has the right or is required to do some act within the period of time prescribed in this Subpart after the service upon the party of any document or other paper of any kind, and such service is made by mail, three days shall be added to the prescribed period from the date when the matter served is deposited in the United States mail.

§ 622.22 Retained authority.

Nothing in this Part is in derogation of powers of examination and investigation conferred on the FCA by any provision of law.

§§ 622.23 through 622.50 [Reserved]

Subpart B—Rules and Procedures for Assessment and Collection of Civil Money Penalties

§ 622.51 Definitions.

Unless noted otherwise, the definitions set forth in § 622.2 of Subpart A shall apply to this Subpart.

§ 622.52 Purpose and scope.

The rules and procedures specified in this Subpart and in Subpart A are applicable to proceedings by the FCA to assess and collect civil money penalties for a violation of the terms of a final cease-and-desist order issued under sections 5.25 and 5.26 of the Act.

§ 622.53 Notice of assessment of civil money penalty.

(a) Notice of assessment. Civil money penalty proceedings commence with the issuance by the Board of a notice of assessment of civil money penalty. The notice of assessment shall state:

(1) The legal authority for the assessment;

(2) The amount of the civil money penalty being assessed;

(3) The date by which the civil money penalty shall be paid;

(4) The matters of fact or law constituting the grounds for assessment of the civil money penalty;

(5) The right of the institution or person being assessed to a formal hearing to challenge the assessment; and

(6) The time limit to request such a formal hearing.

(b) Service. The notice of assessment may be served upon the institution or person being assessed by personal service or by certified mail with a return receipt to the institution or the person's last known address. Such service constitutes issuance of the notice.

§ 622.54 Prenotice conference.

In the sole discretion of the FCA's General Counsel, the General Counsel may, prior to the issuance by the FCA of a notice of assessment of civil money penalty, advise the affected institution or person that the issuance of a notice of assessment of civil money penalty is being considered and the reasons and authority for the proposed assessment. The General Counsel may provide the institution or person an opportunity to present written materials or request a conference with members of the FCA's staff to show that the penalty should not be assessed or, if assessed, should be reduced in amount.

§ 622.55 Request for formal hearing on assessment.

An institution or person being assessed may request a formal hearing to challenge the assessment of a civil money penalty. The request must be filed in writing, within 10 days of the issuance of the notice of assessment, with the Chairman of the Board, FCA, 1501 Farm Credit Drive, McLean, VA 22102-5090.

§ 622.56 Waiver of hearing; Consent.

(a) Waiver. Failure to request a hearing pursuant to § 622.55 constitutes a waiver of the opportunity of a hearing and the notice of assessment issued pursuant to § 622.53 shall constitute a final and unappealable order.

(b) Consent. Any party afforded a hearing who does not appear at the hearing personally or by a duly authorized representative is deemed to have consented to the issuance of an assessment order.

§ 622.57 Hearing on assessment.

(a) Time and place. An institution or person requesting a hearing shall be informed by order of the Board of the time and place set for hearing.

(b) Answer; procedures. The hearing order may require the person requesting the hearing to file an answer as prescribed in § 622.5 of Subpart A. The procedures of the Administrative Procedure Act (5 U.S.C. 554–557) and Subpart A of these Rules shall apply to the hearing.

§ 622.58 Assessment order.

(a) Consent. In the event of consent of the parties concerned to an assessment, or if, upon the record made at a hearing ordered under this Subpart, the Board finds that the grounds for having assessed the penalty have been established, the Board may issue an order of assessment of civil money penalty. In its assessment order, the Board may reduce the amount of the penalty specified in the notice of assessment.

(b) Effective date and period. An assessment order is effective immediately upon issuance, or upon such other date as may be specified therein, and shall remain effective and enforceable until it is stayed, modified, terminated, or set aside by action of the Board or a reviewing court.

(c) Service. An assessment order may be served by personal service or be certified mail with a return receipt to the institution or to the last known address of the person being assessed. Such service constitutes issuance of the order.

§ 622.59 Relevant considerations.

In determing the amount of the penalty assessed, the Board shall consider the financial resources and good faith of the institution or person charged, the gravity of the violation, any previous violations, and such other matters as justice may require.

§ 622.60 Payment of civil money penalty.

(a) Payment date. The date designated in the notice of assessment for payment

of the civil money penalty will normally be 60 days from the issuance of the notice. If, however, the Board finds, in a specific case, that the purposes of the statute would be better served if the 60-day period is charged, the Board may shorten or lengthen the period or make the civil money penalty payable immediately upon receipt of the notice of assessment. If a timely request for a formal hearing to challenge an assessment of a civil money penalty is filed, payment of the penalty shall not be required unless and until the Board issues a final order of assessment following the hearing. If an assessment order is issued, it will specify the date by which the civil penalty is to be paid or collected.

(b) Method of payment. Checks in payment of civil money penalties should be made payable to the "Farm Credit Administration". Upon collection, the FCA shall forward the amount of the penalty to the Treasury of the United States.

§§ 622.61 through 622.75 [Reserved]

Subpart C—Rules and Procedures Applicable to Suspension or Removal of an Individual Where Certain Crimes are Charged or Proven

§ 622.76 Definitions.

Unless noted otherwise, the definitions set forth in § 622.2 of Subpart A shall apply to this Subpart.

§ 622.77 Purpose and scope.

The rules and procedures set forth in this Subpart apply to informal hearings afforded to any officer, director, or other person participating in the conduct of the affairs of a System institution who has been suspended or removed from office or prohibited from further participation in any manner in the conduct of the institution's affairs by a notice or order issued by the Board upon the grounds set forth in section 5.29 of the Act.

§ 622.78 Suspension, prohibition or removal.

(a) Content. The Board may serve a notice of suspension or prohibition or order of removal upon a director, officer or other person participating in the conduct of the affairs of an institution. A copy of such notice or order shall also be served upon the institution, whereupon the individual concerned shall immediately cease service to the institution or participation in the affairs of the institution. Any notice or order shall indicate the basis for suspension, prohibition, or removal and shall inform the individual of the right to request in writing, within 30 days of being served with such notice or order, an opportunity to show at an informal hearing that continued service to or participation in the conduct of the affairs of the institution does not, or is not likely to, pose a threat to the interests of the institution's shareholders or the investors in Farm Credit System obligations or threaten to impair public confidence in the institution or the Farm Credit System.

(b) Service. A notice or order of suspension, removal or prohibition may be served by personal service or by certified mail with a return receipt to the last known address of the person being served.

§ 622.79 Petition for informal hearing.

(a) Filing. To obtain a hearing, the subject individual must file an original and three copies of a petition with the Board within 30 days of being served with the notice or order.

(b) Content. The petition shall:

(1) state whether the petitioner is requesting termination or modification of the notice or order;

(2) state with particularity how the petitioner intends to show that his or her continued service to or participation in the conduct of the affairs of the institution would not, or is not likely to, pose a threat to the interests of the institution's shareholders or the investors in Farm Credit System obligations or threaten to impair public confidence in the institution or the Farm Credit System;

(3) include a request to present oral testimony or witnesses at the hearing, if the petitioner desires to do so. The request should specify the names of the witnesses and a summary of their expected testimony; and

(4) indicate whether the petitioner desires oral argument or elects to have the matter determined solely on the basis of written submissions.

§ 622.80 Informal hearing.

(a) Time and place. Upon receipt of a timely petition for hearing, the Board shall notify the petitioner of the time and place fixed for hearing and shall designate the Chairman or one or more FCA employees to preside ("designated FCA representative"). The hearing shall be scheduled to be held no later than 30 days from the date a petition for hearing is received unless the time is extended at the request of the petitioner.

(b) Appearance. A petitioner may appear personally or through counsel to submit relevant written materials and oral argument. An attorney is subject to all the requirements and limitations imposed on attorneys in § 622.3 of Subpart A. A representative(s) of the FCA's Office of General Counsel may participate in the hearing to the extent such representative deems appropriate.

(c) Written material. Any written material the petitioner wishes to have considered must be submitted to the designated FCA representative at least 10 days prior to the date of the hearing.

(d) Oral testimony. Oral testimony may be presented only if expressly permitted by the Board in the notice of hearing. The designated FCA representative may ask questions of any witness.

(e) Transcripts. Oral testimony, if any, and oral argument shall be recorded. A copy of the transcript shall be filed with the designated FCA representative, who shall have authority to correct the record sua sponte upon notice, or upon the motion of the petitioner or the representative of the FCA Office of General Counsel. The designated FCA representative shall promptly serve notice upon the petitioner of such filing. The petitioner shall make arrangments with the person recording the testimony or argument for copies of the transcript.

(f) Closing of record. Upon the request of the petitioner or representative of the FCA Office of General Counsel, the record shall remain open for a period of 5 business days following the hearing, during which time additional submissions for the record may be made. Thereafter, the record shall be closed.

(g) Rules of evidence and procedure. Neither the formal rules of evidence nor the adjudicative procedures of the Administrative Procedure Act (5 U.S.C. 554–557) or Subpart A of these Rules shall apply to the informal hearing ordered under this Subpart unless the Board orders that they apply in whole or in part.

§ 622.81 Default.

If the subject individual fails to file a petition for a hearing, or fails to appear at a hearing, either in person or by an attorney, or fails to submit a written argument where oral argument has been waived, the notice shall remain in effect until the information, indictment, or complaint is finally disposed of and the order shall remain in effect until terminated by the Board.

§ 622.82 Decision of the Board.

(a) Recommended decision. Within 30 days of the hearing, the designated FCA representative shall make a recommendation with findings and conclusions to the Board concerning the notice or order of suspension, removal, or prohibition.

(b) Final decision. Within 60 days of the hearing, the Board shall notify the subject individual whether the suspension or removal from office, or prohibition from participation in any manner in the affairs of the institution, will be continued, terminated, or otherwise modified. The Board's final decision, if adverse to the individual, shall contain a statement of the basis therefore. The Board may satisfy this requirement where it adopts the recommended decision of the designated FCA representative.

(c) Guilt not an issue. In deciding upon any suspension, or prohibition by ge dp1:a31mr2.032notice, the ultimate question of the guilt or innocence of the individual with respect to the criminal charge which is outstanding will not be considered. A finding of not guilty or other disposition of the charge shall not preclude the Board from thereafter instituting removal proceedings pursuant to section 5.28 of the Act.

(d) Effective period. A removal or prohibition by order remains in effect until terminated by the Board. A suspension of prohbition by notice remains in effect until the criminal charge is finally disposed of or until terminated by the Board.

(e) Reconsideration. A suspended or removed individual may petition the Board to reconsider the decision any time after the expiration of a 12-month period from the date of the decision, but no petition for reconsideration may be made within 12 months of a previous petition. A petition shall state with particularity the relief sought and the grounds therefor and may be accompanied by a supporting memorandum and any other documentation the petitioner wishes to have considered. No hearing need be granted on the petition for reconsideration.

§§ 622.83-622.100 [Reserved]

Subpart D—Rules and Procedures Applicable To Formal Investigations

§ 622.101 Definitions.

Unless noted otherwise, the definitions set forth in § 622.2 of Subpart A shall apply to this Subpart.

§ 622.102 Scope.

The rules in this Subpart apply to formal investigations initiated by order of the Board and pertain to the exercise of powers specified in section 5.37 of the Act. These rules do not restrict or in any way affect the authority of the FCA, including but not limited to the power enumerated in section 5.37 of the Act, to conduct examinations of System institutions.

§ 622.103 Formal investigations are confidential.

Information or documents obtained or testimony recorded in the course of a formal investigation shall be confidential and shall be disclosed only in accordance with the provisions of 12 CFR Part 602.

§ 622.104 Order to conduct formal investigation.

A formal investigation begins with the issuance of an order by the Board. The order shall designate the person or persons who will conduct the investigation, issue, revoke, quash or modify subpenas and subpenas duces tecum, take or cause to be taken depositions, administer oaths, and receive affirmations as to any matter under investigation by the FCA. Upon application and for good cause shown, the Board may limit, modify, or withdraw the order at any stage of the proceedings.

§ 622.105 Conduct of investigation.

(a) Review of order. Any person who is compelled or requested to furnish testimony, documentary evidence, or other information with respect to any matter under formal investigation shall upon request be shown the order initiating such investigation.

(b) Right to counsel. Any person who, in a formal investigation, is compelled to appear and testify or who appears and testifies by request or permission of the Board may be accompanied, represented, and advised by counsel. The right to be accompanied, represented, and advised by counsel shall mean the right of a person testifying to have an attorney present at all times while testifying and to have this attorney:

(1) advise such person before, during and after the conclusion of testimony,

(2) question such person briefly at the conclusion of testimony to clarify any of the answers given, and

(3) make summary notes during the testimony solely for the use of such person.

(c) Appearance. The provisions of § 622.3 are applicable to this Subpart.

(d) Exclusion.

(1) Any person who has given or will give testimony, and counsel representing such person, may be excluded from the taking of testimony of any other witness in the discretion of the designated FCA representative conducting the investigation.

(2) The designated FCA representative conducting the investigation shall report to the Board any instances where any person has been guilty of dilatory, obstructionist, egregious, contemptuous, contumacious or other unethical or imporper conduct during th course of the proceeding or any other instance involving a violation of these rules. The Board may thereupon take such action as the circumstances may warrant, including exclusion of the offending individual or individuals from particpation in the proceedings.

§ 622.106 Service of subpena and payment of witness fees.

(a) Service. A subpena may be served upon the person named therein by personal service or certified mail with a return receipt to the last known address of the person. Witnesses who are subpenaed shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. The fees and mileage need not be tendered at the time a subpena is served.

(b) Motions to quash. Any person to whom a subpena is directed may, prior to the time specified therein for compliance, but in no event more than 5 days after the date of service of such subpena, apply to the FCA representative authorized in the order, or if unavailable to the Board, to quash or modify such subpena, accompanying such application with a brief statement of the reasons therefor. The FCA representative, or the Board, may:

(1) Deny the application;

(2) Quash or revoke the subpena;

(3) Modify the subpena; or

(4) Condition the granting of the application on such terms as the FCA representative or the Board, determines, in his, her, or its discretion, to be just, reasonable, and proper.

§622.107 Transcripts.

Transcripts, if any, of investigative proceedings shall be recorded by any means authorized by the designated FCA representative conducting the investigation. A person who has given testimony in an investigative proceeding (or counsel for such person) upon proper identification shall have the right to inspect the transcript of the person's testimony but may not obtain a copy if the FCA's representative conducting the investigation has cause to believe that the contents should not be disclosed.

2. Part 623 is added to 12 CFR Chapter VI to read as follows:

PART 623—PRACTICE BEFORE THE FARM CREDIT ADMINISTRATION

Sec.

Sec.
623.5 Reinstatement.
623.6 Duty to file information concerning adverse judicial or administrative action.
623.7 Proceeding under this part.

Authority: Secs. 5.9, 5.10, and 5.17, Pub. L. 99-205, 99 Stat. 1678.

§ 623.1 Scope of Part.

This Part prescribes rules with regard to persons who may practice before the Farm Credit Administration and the circumstances under which attorneys, accountants, appraisers, or other persons may be suspended or debarred, either temporarily or permanently, from practicing before the Farm Credit Administration. In connection with any particular matter, reference also should be made to any special requirements of procedure and practice that may be contained in the particular statute involved or the rules and forms adopted by the Farm Credit Administration thereunder, which special requirements are controlling. In addition to any suspension hereunder, a person may be excluded from further participation in a particular adjudicative proceeding in accordance with § 622.3 or in a formal investigation in accordance with § 622.105.

§ 623.2 Definitions.

As used in this part:

(a) "FCA" means the Farm Credit Administration.

(b) "Board" means the Farm Credit Administration Board.

(c) "Act" means the Farm Credit Act of 1971, as amended. 12 U.S.C. 2001, et seq.

(d) The terms "institution in the System", "System institution" and "institution" mean all institutions enumerated in section 1.2 of the Act, any service organization chartered under Part D of Title IV of the Act, and the Farm Credit Capital Corporation.

(e) The term "presiding officer" includes the Board, one or more members thereof, FCA employees, or an administrative law judge. As used in this part, the term shall be construed to refer to whichever of the above-identified individuals presides at a hearing or other proceeding, except as otherwise specified in the text;

(f) The term "attorney" means any person who is a member in good standing of the bar of the highest court of any State, possession, territory, Commonwealth or the District of Columbia;

(g) The term "practice" means transacting any business with the FCA, including but not limited to:

(1) The representation of another person at any adjudicatory, investigatory, removal or rulemaking proceeding conducted before the FCA or a presiding officer;

(2) The preparation or certification of any statement, opinion, report of financial condition and performance, financial statement, appraisal report, audit report, or other document or report by any attorney, accountant, appraiser or other person which is filed with or submitted to the FCA, with such person's consent or knowledge in connection with any filing with the FCA;

(3) A presentation to the FCA or a presiding officer at a conference or meeting relating to an institution's or person's rights, privileges or liabilities under the laws administered by the FCA and rules and regulations promulgated thereunder;

(4) Any business correspondence or communication with the FCA or a presiding officer; and

(5) The transaction of any other business with the FCA on behalf of another, in the capacity of an attorney, accountant, appraiser, licensed expert or any other capacity.

§ 623.3 Who may practice.

(a) By nonattorneys—(1) An individual may appear on his or her own behalf; a member of a partnership may represent the partnership; a bona fide and duly authorized officer or other designated representative of a corporation, trust, association or other entity not specifically listed herein may represent the corporation, trust, association or other entity; and an authorized officer or other designated representative of any government unit, agency or authority may represent that unit, agency or authority.

(2) Any accountant, appraiser or licensed expert may practice before the FCA in a professional capacity.

(b) By attorneys. Any entity noted in paragraph (a) of this section may be represented in any proceeding or other matter before the FCA by an attorney.

(c) Any person transacting business with the FCA in a representative capacity may be required to show evidence of his or her authority to act in such capacity and certification of credentials.

§ 623.4 Suspension and debarment.

(a) Grounds. The Board may censure any person practicing before the FCA or may deny, temporarily or permanently, the privilege of any person to practice before the FCA is such person is found by the Board, after notice of and opportunity for hearing in the matter,

(1) Not to possess the requisite qualifications to represent others,

(2) To be lacking in character or professional integrity,

(3) To have engaged in any dilatory, obstructionist, egregious, contemptuous, contumacious or other unethical or improper conduct before FCA, or

(4) To have willfully violated, or willfully aided and abetted the violation of, any provision of the laws administered by the FCA or the rules and regulations promulgated thereunder.

(b) Automatic suspensions

(1) Any person who, after being licensed as a professional or expert by any competent authority, has been convicted by a Federal or State court of a felony, or of a misdemeanor involving moral turpitude, personal dishonesty or breach of trust, shall be suspended automatically from practicing before the FCA without a hearing.

(2) Any accountant, appraiser or licensed expert whose license to practice has been revoked in any State, possession, territory, Commonwealth or the District of Columbia, or who has been suspended or otherwise barred from practice before any Federal or State regulatory authority, shall be suspended automatically from practicing before the FCA without a hearing.

(3) Any attorney who has been suspended or disbarred by a court of the United States or in any State, possession, territory, Commonwealth or the District of Columbia, shall be suspended automatically from practicing before the FCA without a hearing.

(4) A conviction (including a judgment or order on a plea of nolo contendere), revocation, suspension or disbarment under paragraphs (b)(1)(2) and (3) of this section shall be deemed to have occurred when the convicting, revoking, suspending or disbarring agency or tribunal enters its judgment or order, regardless of whether an appeal is pending or could be taken.

(5) For purposes of this section, it shall be irrelevant that any attorney, accountant, appraiser or licensed expert who has been suspended, disbarred or otherwise disqualified from practice before a court, regulatory authority, or in a jurisdiction continues in professional good standing before other courts, regulatory authorities, or in other jurisdictions.

(c) Temporary suspension.

(1) The Board, with due regard to the public interest and without preliminary hearing, by order, may temporarily suspend any person from appearing or practicing before it who by name, has been:

(i) Permanently enjoined (whether by consent, default or summry judgment or after trial) by any court of competent jurisdiction or by the Board in a final administrative order, by reason of his or

her misconduct in any action brought by the FCA based upon violations of, or aiding and abetting the violation of any provision of any law that is administered by the FCA or of any rule or regulation promulgated thereunder; or

(ii) Found by any court of competent jurisdiction (whether by consent, default, upon summary judgment or after hearing) or in any administrative proceeding in which the FCA is a complainant and he or she is a party, to have willfully committed, caused or aided or abetted a violation of any provision of any law that is administered by the FCA, or of any rule of regulation promulgated thereunder.

(2) Any order of temporary suspension shall become effective when served by certified mail with a return receipt directed to the last know business or residential address of the person involved. No order of temporary suspension shall be entered by the Board pursuant to paragraph (c)(1) of this section more than 3 months after the final judgment or order entered in a judicial or administrative proceeding described in paragraph (c)(1)(i) or (ii) of this section has become effective and all review or appeal procedures have been completed or are no longer available.

(3) Any person temporarily suspended from appearing and practicing before the FCA in accordance with paragraph (c)(1) may, within 30 days after service upon him or her of the order of temporary suspension, petition the Board to lift such suspension. If no petition is received by the Board within 30 days, the suspension shall become permanent.

(4) Within 30 days after the filing of a petition in accordance with paragraph (c)(3) of this section, the Board shall either lift the temporary suspension or set the matter down for hearing at a time and place to be designated by the Board, or both. After opportunity for hearing, the Board may censure the petitioner or may suspend the petitioner from appearing or practicing before the FCA temporarily or permanently. In every case in which the temporary suspension has not been lifted, the hearing and any other action taken pursuant to this paragraph shall be expedited by the Board in order to ensure the petitioner's right to address the allegations against him or her.

(5) In any hearing held on a petition filed in accordance with paragraph (c)(3) of this section, a showing that the petitioner has been enjoined or has been found to have committed, caused or aided or abetted violations as described in paragraph (c)(1) of this section, without more, may be a basis for suspension or debarment; that showing having been made, the burden shall then be on the petitioner to show why he or she should not be censured or be temporarily or permanently suspended or debarred. A petitioner will not be permitted to contest any findings against him or her or any admissions made by him or her in the judicial or administrative proceedings upon which the proposed censure, suspension or debarment is based. A petitioner who has consented to the entry of a permanent injunction or order as described in paragraph (c)(1)(i) of this section, without admitting the facts set forth in the complaint, shall nevertheless be presumed for all purposes under this section to have been enjoined or ordered by reason of the misconduct alleged in the complaint.

§ 623.5 Reinstatement.

(a) Any person who is suspended from practicing before the FCA under § 623.4(a) or (c) of this part may file an application for reinstatement at any time. Denial of the privilege of practicing before the FCA shall continue unless and until the applicant has been reinstated by order of the Board for good cause shown.

(b) Any person suspended under § 623.4(b) shall be reinstated by the Board, upon appropriate application, if all of the grounds for application of the provisions of that paragraph subsequently are removed by a reversal of the conviction or termination of the suspension, disbarment or revocation. An application for reinstatement on any other grounds by any person suspended under § 623.4(b) may be filed at any time. Such application shall state with particularity the relief desired and the grounds therefor and shall include supporting evidence, when available. The applicant shall be accorded an opportunity for an informal hearing in the matter, unless the applicant has waived a hearing in the application and, instead, has elected to have the matter determined on the basis of written submissions. Such hearing shall utilize the procedures established in Part 622, Subpart C. However, such suspension shall continue unless and until the applicant has been reinstated by order of the Board for good cause shown.

§ 623.6 Duty to file information concerning adverse judicial or administrative action.

Any person appearing or practicing before the FCA who has been or is the subject to a conviction, suspension, debarment, license revocation, injunction or other finding of the kind described in § 623.4 (b) or (c) of this Part in an action not instituted by the FCA shall promptly file a copy of the relevant order, judgment or decree with the Board together with any related opinion or statement of the agency or tribunal involved. Any person who fails to so file a copy of the order, judgment or decree within 30 days after the later of the entry of the order, judgment or decree, or the date such person initiates practice before the FCA, for that reason alone may be disqualified from practicing before the FCA until such time as the appropriate filing shall be made, but neither the filing of these documents nor the failute of a person to file them shall in any way impair the operation of any other provision of this Part.

§ 623.7 Proceeding under this Part.

(a) Rules. All hearings required or permitted to be held under paragraphs (a) and (c) of § 623.4 of this Part shall be held before a presiding officer utilizing the procedures established in the rules of practice and procedure under Part 622, Subpart A.

(b) Closed hearings. All hearings held under this Part shall be closed to the public unless the Board on its own motion or upon the request of a party otherwise directs.

(c) Collateral proceedings. Any proceeding brought under any section of this Part shall not preclude a proceeding under any other section of this Part or any other Part of the FCA's regulations.

Donald E. Wilkinson,

Acting Chairman.

[FR Doc. 86-6800 Filed 3-28-86; 8:45 am]

BILLING CODE 6705-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-ASW-27]

Airworthiness Directives; Garlick Helicopter et al.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would provide a one-time inspection on the tail rotor grip assembly used on Model UH-1A, UH-1B, UH-1E, UH-1F, UH-1L, and TH-1L helicopters (modified by California Department of Forestry; Garlick Helicopters; Hawkins and Powers Aviation, Inc.; International Helicopters, Inc.; Lenair Corporation; Pilot Personnel International, Inc.; Smith Helicopters; and Wilco Aviation). The

proposed AD is needed to preclude possible failure of the tail rotor hub assembly and possible loss of the helicopter.

DATE: Comments must be received on or before May 16, 1986.

ADDRESSES: Comments on the proposal may be mailed in duplicate to: Office of the Regional Counsel, FAA, Southwest Region, P.O. Box 1689, Fort Worth, Texas 76101, or delivered in duplicate to: Office of the Regional Counsel, FAA, Southwest Region, Room 158, Building 3B, 4400 Blue Mound Road, Forth Worth, Texas 76106. Comments delivered must be marked: Docket No. 85–ASW–27. Comments may be inspected in Room 158, Building 3B, Office of the Regional Counsel, Southwest Region, between 8 a.m. and 4 p.m., weekdays, except Federal holidays.

An applicable service instruction, Bell Helicopter Textron, Inc. (BHTI), Service Letter No. 204B–86/205A–68, for the BHTI Model 204B and 205A/A1 helicopters, may be obtained from Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, Texas 76101.

A copy of the service instruction is contained in the Rules Docket, Office of the Regional Counsel, FAA, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Henry, Helicopter Certification Branch, ASW–170, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone (817) 877–2595.

SUPPLEMENTARY INFORMATION: 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 will be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket, Office of the Regional Counsel, 4400 Blue Mound Road, Fort Worth, Texas, for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 85–ASW–27." The postcard will be date/time stamped and returned to the commenter.

The FAA informed by U.S. Army Aviation System Command Message 012030Z, May 85, that the Army had ordered the reduction in service life of tail rotor grip assemblies on Military UH–1 series helicopters from 500 to 300 hours. The BHTI Part Number (P/N) 204–011–728–19 grip assemblies have experienced corrosion pitting in the thread areas as a result of moisture in the grip cavities leading to eventual cracking and ultimate failure of the grip assemblies. Cracking has occured in eight grip assemblies on UH–1 series helicopters with four grip assemblies having less than 400 hours' time in service. The P/N 204–011–728–19 grip assembly, with 500-hour service life, is also used on civilian 204B and 205A–1 series helicopters. Their failure rate is much lower than the military as a result of strict compliance with BHTI Service Letter No. 204B–86/205A–68, dated February 12, 1971, which directs sealing of the hub assembly to keep out moisture and provides for continued compliance with the 500-hour service life.

Although Service Letter No. 204B–86/205A–68 does not state that it is applicable to UH–1 series helicopters, it is the intent of this AD to apply the instructions and procedures of the service letter to UH–1 series helicopters. Mandatory application of Service Letter No. 204B–86/205A–68 instead of Service Engineering Memo No. UH–05–07–1 to UH–1 series helicopters will ensure that an important second purging of the grips is done following initial ground run after inspection and sealing of the grips.

Since this condition is likely to exist on surplus Military UH–1 and TH–1 series helicopters of the same military design, the AD would require an inspection of the tail rotor grip assembly to check for corrosion pitting. Compliance with BHTI Service Letter No. 204B–86/205A–68 will be required on new assemblies installed after the effective date of this AD. The BHTI service letter will be incorporated by reference in the final rule.

The FAA has determined that this proposed regulation involves approximately 160 aircraft, and it is estimated that the one-time cost of compliance is less than $66,000. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" udner DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

PART 39—[AMENDED]

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 FAR 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 AD:

CALIFORNIA DEPARTMENT OF FORESTRY; GARLICK HELICOPTERS; HAWKINS AND POWERS AVIATION, INC.; INTERNATIONAL HELICOPTERS, INC.; LENAIR CORPORATION; PILOT PERSONNEL INTERNATIONAL, INC.; SMITH HELICOPTERS; AND WILCO AVIATION: Applies to Model UH–1A, UH–1B, UH–1E, UH–1F, UH–1L, and TH–1L helicopters modified by California Department of Forestry; Garlick Helicopters; Hawkins and Powers Aviation, Inc.; International Helicopters, Inc.; Lenair Corporation; Pilot Personnel International, Inc.; Smith Helicopters; and Wilco Aviation certified in any category that have tail rotor grip assembly P/N 204–011–728–19 installed.

Compliance is required as indicated, unless already accomplished.

To prevent failure of the tail rotor, accomplish the following:

(a) Remove and inspect, in accordance with paragraphs (b) and (c), tail rotor grip assemblies, BHTI P/N 204–011–728–19, within 30 days or 50 hours' time in service, whichever comes first after the effective date of this AD.

(b) Inspect the internal bore and thread area for corrision, scratches, nicks, and sharp dents, as detailed by the repair limits in the appropriate maintenance manual. If damage exceeds these limits, replace with a serviceable part before further flight. Reinstall the grip assemblies if repair limits are not exceeded.

(c) Seal the hub assembly in accordance with paragraphs 1 through 3 of BHTI Service No. 204B–86/205A–68, dated February 12, 1971, during grip replacement and each time

the tail rotor hub is disassembled for any reason.

(d) An alternate method of compliance which provides an equivalent level of safety with the AD may be used when approved by the Manager, Helicopter Certification Branch, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106.

Issued in Fort Worth, Texas, on March 14, 1986.

Don P. Watson,

Acting Director, Southwest Region.

[FR Doc. 86-6937 Filed 3-28-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-ANE-50]

Airworthiness Directives; Detroit Diesel Allison (Allison Gas Turbine Division)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking (NPRM).

SUMMARY: This document withdraws an NPRM which proposed the adoption of an airworthiness directive (AD) to mandate compliance with either of two Allison service bulletins concerning the thrust sensitive switch assembly utilized in the autofeather system. The first, Commercial Engine Alert Bulletin CEB-A-73-82, required modification of the thrust sensitive switch assembly by replacing the two microswitches contained in each assembly with improved microswitches. The other, Commercial Engine Bulletin CEB-73-84 (which was subsequently revised to become alert bulletin CEB-A-73-84), required replacement of the thrust sensitive switch assembly with a different model which incorporates a single carbon contact switch instead of two microswitches. Before that NPRM became a final rule, it became apparent that the first compliance action option for the proposed AD, the modification specified in CEB-A-73-82, did not improve airworthiness. Accordingly, the NPRM is withdrawn. Another NPRM is being considered which will propose compliance with CEB-A-73-84 only.

DATES: Effective March 31, 1986.

FOR FURTHER INFORMATION CONTACT: Ty Krolicki, Chicago Aircraft Certification Office, ACE-140C, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018; telephone (312) 694-7032.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring modification or replacement of certain thrust sensitive switch assemblies utilzed on the reduction gear assemblies on Allison Model 501-D13, -D13A, -D13D, and -D13H turboprop engines was published in the **Federal Register** on January 17, 1983 (48 FR 1981). Comments were requested from the public.

The proposal resulted from a determination that the thrust sensitive switches incorporated in these assembles were subject to malfunction. Failure of a thrust sensitive switch can result in either a electrical short circuit to ground which opens a circuit breaker rendering the system inoperative or in contact being made internally causing autofeather. The NPRM proposed mandatory compliance with either of two Allison service bulletins. The first, Commercial Engine Alert Bulletin CEB-A-37-82, required modification of the thrust sensitive switch assemble by replacing the two microswitches contained in each assembly with improved microswitches. The other, Commercial Engine Bulletin CEB-73-84) (which was subsequently revised to become alert bulletin CEB-A-73-84), required replacement of the thrust sensitive switch assembly with a different model which incorporated a single carbon contract switch instead of two microswitches.

Before the NPRM became a final rule, it became apparent that the modification specified in CEB-A-73-82 did not improve airworthiness. Allison reported 43 rejections of the "improved" microswitches in the period between October 1981 and October 1983. Accordingly, the NPRM was held in abeyance while the situation was analyzed. Allison published CEB-A-73-85 to require a daily static autofeather electrical system check to ensure operational airworthiness until the problem was resolved. Extensive experience obtained in operation of T56 series engines, the military counterpart of the civilian 501 series engine, which utilize the same carbon contact switch as specified in CEB-A-73-84, shows that it improves reliability by a factor of at least ten, compared to the microswitch specified in CEB-A-73-82. Therefore, the FAA withdraws NPRM of Rules Docket No. 82-ANE-50. The intention is to publish another NPRM which will propose to mandate compliance with CEB-A-73-84 as the sole compliance action.

The proposal being withdrawn received one comment. However, since it had no bearing on the withdrawal action, it will be treated as a comment to the coming NPRM on this matter and addressed in the AD development process.

Conclusion

Since this action only withdraws an NPRM, it may be made effective in less than 30 days. It is neither a proposed nor final rule, and, therefore, is not covered under Executive Order 12291, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Withdrawal of this NPRM constitutes only such action and does not preclude the FAA from issuing another notice or commit the FAA to any course of action in the future.

List of Subjects in 14 CFR 39

Engines, Air transportation, Aircraft, and Aviation safety.

The Withdrawal

Pursuant to the authority delegated to me, the proposed AD, Rules Docket No. 82-ANE-50, published in the **Federal Register** on January 17, 1983, (48 FR 1981), is hereby withdrawn.

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.85.

Issued in Burlington, Massachusetts, on March 19, 1986.

Clyde M. DeHart,

Acting Director, New England Region.

[FR Doc. 86-6938 Filed 3-28-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-NM-13-AD]

Airworthiness Directives; Boeing Model 727 and 727-100 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 supersede an existing AD that requires inspection, and repair, if necessary, of the wing center section front spar on certain Boeing Model 727 airplanes. Since issuance of the AD, there have been reports of cracking in areas adjacent to those required to be inspected, and cracking in areas previously repaired. This notice proposes to expand the area that must be inspected, eliminate one inspection procedure referenced in the AD, and require reinspection of areas previously repaired in accordance with that procedure.

DATE: Comments must be received on or before May 23, 1986.

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. 86–NM–13–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. The 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. Stanton R. Wood, Airframe Branch, ANM–120S; telephone (206) 431–2924. 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. 86–NM–13–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion: AD 70–15–15, Amendment 39–3417, was issued March 30, 1979, to require inspection of the wing center section front spar web from LBL 50.64 to RBL 50.64 for fatigue cracks. If a small crack is detected, it is required to be closely monitored until the web is modified in accordance with the service bulletin. If a large crack or multiple cracks are detected, the web must be modified before further flight.

Since the issuance of AD 70–15–15, there have been five reported cases of cracks in the wing center section front spar web adjacent to the stringers at LBL 58.64 and RBL 58.64 (an area not required to be inspected by AD 70–15–15). Also, web cracks have been detected in airplanes that had over 20,000 landings prior to incorporation of the back-to-back stiffener modification, referenced in paragraph D.1. of AD 70–15–15. The stiffener modification is specified in the AD as terminating action for the required inspections.

Boeing has recently issued Service Bulletin Number 727–57–107, Revision 5, dated December 13, 1985, which describes inspections and repair of the wing center section front spar web adjacent to the stringers at LBL 58.64 and RBL 58.64.

Since these conditions are likely to exist or develop on other airplanes of this type design, an AD is proposed that would supersede AD 70–15–15 to require additional inspections of the wing center section front spar web adjacent to the stringers at LBL 58.64 and RBL 58.64, and repair, as necessary. Further, airplanes that had accumulated over 20,000 landings prior to the installation of the back-to-back stiffener modification must be inspected for cracks in the web between stringers at LBL 58.64 and RBL 58.64, and repaired, as necessary.

It is estimated that 130 airplanes would be affected by this AD, that it would take approximately 24 manhours 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 $124,800.

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 727 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 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 adding the following new airworthiness directive:

Boeing: Applies to all Model 727 and 727–100 series airplanes listed in Boeing Service Bulletin Number 727–57–107, Revision 5, dated December 13, 1985, certificated in any category. To detect cracks in the wing center section front spar web between Left Buttock Line (LBL) 58.64 and Right Buttock Line (RBL) 58.64, accomplish the following, unless already accomplished:

A. Prior to the accumulation of 15,000 landings, or within the next 500 landings after the effective date of this AD, whichever occurs later, unless accomplished within the last 500 landings prior to the effective date of this AD, visually inspect the wing center section for cracks in accordance with Figure 1 of Boeing Service Bulletin 727–57–107, Revision 5, dated December 13, 1985, or later FAA-approved revisions. If no cracks are detected, repeat the visual inspection at intervals not to exceed 1,000 landings.

B. If a single crack less than two inches in length is detected on either side of BBL 0.0, before further flight, the crack must be stop-drilled at each end in accordance with the Boeing 727 Structural Repair Manual (SRM) and visually reinspected at intervals not to exceed 10 landings for crack growth beyond the stop holes. If crack growth occurs beyond any stop hole, accomplish the procedures required by paragraph C. or D. of this AD.

C. If a single crack between two and five inches in length is detected on either side of BBL 0.0, before further flight, the crack must be stop-drilled at each end in accordance with the Boeing 727 SRM and the crack must be repaired in accordance with Boeing Drawing Number 69–62491–2. Visually reinspect the affected area at intervals not to exceed 200 landings for crack growth beyond any stop hole. If crack growth occurs beyond any stop hole, accomplish the procedures required by paragraph D., below.

D. If any crack greater than five inches is detected, or if more than one crack on either side of BBL 0.0 is detected, they must be stop-driled in accordance with the Boeing 727 SRM and modified in accordance with paragraph E. of this AD.

E. To terminate the repetitive inspection requirements of paragraph A., B., C., and F. of

Instructions of Boeing Service Bulletin 727-57-107, Revision 5, or later FAA-approved revision; or

2. Accomplish the interim modification described in Part I.E. of the Accomplishment Instructions of Boeing Service Bulletin 727-57-107, Revision 5, or later FAA-approved revision. Prior to the accumulation of 12,000 landings after the incorporation of the interim modification, eddy current inspect the fastener and any stop holes for crack growth, remove the fatigued metal, stop-drill any new cracks in accordance with the Boeing 727 SRM, and incorporate the terminating modification in accordance with Part I.E. of the Accomplishment Instructions of Boeing Service Bulletin 727-57-107, Revision 5, or later FAA-approved revision.

F. Airplanes modified by installing angles back-to-back with existing stiffeners, that had accumulated 20,000 landings prior to the accomplishment of that modification, must be inspected within 1,000 landings after the effective date of this AD in accordance with Figure 1 of Boeing Service Bulletin 727-57-107, Revision 5, or later FAA-approved revision. If cracks are found, before further flight, stop-drill in accordance with the Boeing 727 SRM and modify in accordance with paragraph E. of this AD. If no cracks are found, reinspect thereafter at intervals not to exceed 1,000 landings.

G. An alternate means of compliance which provides an acceptable level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

H. 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.

All persons affected by this proposal who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124-2207. These documents 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.

This supersedes AD 70-15-15, Amendment 39-1048, as amended by Amendments 39-1188 and 39-3417.

Issued in Seattle, Washington, on March 24, 1986.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-6943 Filed 3-28-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 86-AWA-6]

Proposed Alteration of VOR Federal Airways, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign Federal Airways V-194, V-198 and V-477 to support new Standard Terminal Arrival Routes (STAR's) to both Houston Intercontinental and Hobby Airports and provide for increased traffic capacity. Additionally, it is proposed to extend V-556 from Scholes to Sabine Pass, TX, for the enhancement of flight planning/filing and air traffic control service.

DATE: Comments must be received on or before May 15, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Southwest Region, Attention: Manager, Air Traffic Division, Docket No. 86-AWA-6, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

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

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

FOR FURTHER INFORMATION CONTACT: Mr. Brent A. Fernald, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8626.

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. 86-AWA-6." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC, 20591, or by calling (202) 426-8058. 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 Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to realign VOR Federal Airways V-477 between Humble and Leona VORTAC's end V-194 and V-198 between Hobby and Sabine Pass VORTAC's to support new STAR's to both Houston Intercontinental and Hobby Airports. These changes will result in increased traffic capacity through better segregation of arrival/departure traffic in the Houston area and a more even distribution of controller workload. Additionally, extension of V-556 from Scholes to Sabine Pass is proposed to enhance flight planning/filing and air traffic control service. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to

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

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

The Proposed Amendment

PART 71

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

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

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

§ 71.123 [Amended]

2. § 71.123 is amended as follows:

V-194 [Amended]

By removing the words "INT Hobby 091° and Sabine Pass, TX, 265° radials; Sabine Pass" and substituting the words "Sabine Pass, TX"

V-198 [Amended]

By removing the words "INT Hobby 091° and Sabine Pass, TX, 265° radials; Sabine Pass" and substituting the words "Sabine Pass, TX"

V-477 [Revised]

From Humble, TX, via INT Humble 349°T(341°M) and Leona, TX, 139°T(131°M) radials; Leona; to Scurry, TX.

V-556 [Amended]

By removing the words "to Scholes" and by substituting the words "Scholes; to Sabine Pass, TX"

Issued in Washington, DC, on March 24, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-6940 Filed 3-28-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 86-ASO-8]

Proposed Alteration of Transition Area, New Bern, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to increase the size of the New Bern, North Carolina, transition area to accommodate a new instrument approach procedure which has been developed to serve Simmons-Nott Airport. This action will lower the base of controlled airspace, southwest of the airport, from 1,200 to 700 feet above the surface. This additional controlled airspace is required for protection of Instrument Flight Rules (IFR) aeronautical activities.

DATE: Comments must be received on or before: May 15, 1986.

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. 86-ASO-8." 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 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) which will alter the New Bern, North Carolina, transition area by designating additional controlled airspace southwest of Simmons-Nott Airport. This airspace is required to support IFR aeronautical activities in the New Bern area. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in FAA Order 7400.6B January 2, 1986.

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

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

List of Subjects in 14 CFR Part 71

Aviation Safety, 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:

Part 71—[Amended]

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

Authority: 49 United States Code 1348(a), 1354(a), 1510; Executive Order 10854; 49 United States Code 106(g) (Revised Public Law 97-449, January 12, 1983); [14 CFR 11.65]; 49 CFR 1.47.

§ 71.181 [Amended]

2. By amending § 71.181 as follows:

New Bern, NC—[Amended]

By adding at the end of the present description the following words ". . . ; within 4.5 miles southeast and 6.5 miles northwest of the Simmons-Nott localizer southwest course, extending from the 6.5-mile radius area to 12.5 miles southwest of the outer marker . . . . "

Issued in East Point, Georgia, on March 20, 1986.

James L. Wright,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 86-6942 Filed 3-28-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 75

[Airspace Docket No. 86-AWA-9]

Proposed Alteration of VOR Federal Airway V-77 and Jet Route J-21—OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign a segment of Jet Route J-21 between Will Rogers, OK, and Wichita, KS, and to realign a segment of Federal Airway V-77 between Will Rogers and Pioneer, OK. The Wichita very high frequency omni-directional radio range and tactical air navigational aid (VORTAC) has been relocated. These changes would enhance flight planning and provide additional flexibility for maneuvering traffic and permit more expeditious handling of aircraft in the Oklahoma City terminal area.

DATE: Comments must be received on or before May 15, 1986.

ADDRESS: Send comments on the proposal in triplicate to: Director, FAA, Central Region, Attention: Manager, Air Traffic Division, Docket No. 86-AWA-9, Federal Aviation Administration, 601 East 12th Street, Federal Building, Kansas City, MO 64106.

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

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

FOR FURTHER INFORMATION CONTRACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 426-8626.

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 proposals. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals. 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. 86-AWA-9." 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 proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice of this NPRM. Persons interested in being 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 Proposals

The FAA is considering amendments to Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) to amend the descriptions of VOR Federal Airway V-77 and Jet Route J-21 located in the vicinity of Oklahoma City, OK. The Wichita, KS, VORTAC has been relocated and this action realigns V-77 and J-21 which would facilitate procedural requirements for flights proceeding through the airspace assigned to the Oklahoma City Airport traffic control tower's airspace and permit additional flexibility for maneuvering departure and arrival traffic. Sections 71.123 and 75.100 of Parts 71 and 75 of the Federal Aviation Regulations were republished in Handbook 7400.6B dated January 2, 1986.

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

List of Subjects in 14 CFR Part 71 and 75

Aviation safety, Jet routes and VOR Federal Airways.

The Proposed Amendments

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Parts

71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) as follows:

PART 71—[AMENDED]

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

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

§71.123 [Amended]

2. Section 71.123 is amended as follows:

V–77 [Amended]

By removing the words "Will Rogers; Pioneer, OK;" and substituting the words "Will Roger; INT Will Rogers 002°T(355°M) and Pioneer, OK, 201°(192°M) radials; Pioneer;"

PART 75—[AMENDED]

3. The authority citation for Part 75 continues to read as follows:

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

4. Section 75.100 is amended as follows:

J–21 [Amended]

By removing the words "Pioneer, OK;"

Issued in Washington, DC, on March 24, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86–6941 Filed 3–28–86; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 425

Regulatory Flexibility Act Review of the Trade Regulation Rule for Use of Negative Option Plans by Sellers in Commerce

AGENCY: Federal Trade Commission.

ACTION: Request for comments.

SUMMARY: In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) and a published Plan for Periodic Review of Commission Rules, (46 FR 35118 (1981)), the Federal Trade Commission is soliciting comments and data on whether the Trade Regulation Rule for Use of Negative Option Plans by Sellers in Commerce (Negative Option Rule) has had a significant economic impact on a substantial number of small entities and if it has, whether the rule should be amended to minimize any significant economic impact on small entities.

DATE: Comments and data must be received on or before May 30, 1986.

ADDRESS: Comments and data should be sent to Secretary, Federal Trade Commission, Washington, DC 20580. Submissions should be marked "Negative Option RFA Comments".

FOR FURTHER INFORMATION CONTACT: Lewis Franke, Attorney, Federal Trade Commission, 6th and Pennsylvania Ave. NW, Washington, DC 20580. Tel (202) 376–2891.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act requires the Federal Trade Commission to conduct a periodic review of rules issued by the Commission which have or will have a significant economic impact upon a substantial number of small entities.

The Negative Option Rule was promulgated by the Commission on February 15, 1973 and became effective on June 7, 1974. (38 FR 4896 (1973)).

The Rule requires sellers who use negative option plans to comply with certain requirements with respect to their promotional materials, the sending and return of merchandise, and cancellation of memberships. A negative option plan refers to a plan under which a seller periodically sends to subscribers of the plan an announcement which identifies the merchandise the seller intends to send to subscribers and subscribers are later billed for the merchandise unless the subscriber, by a specified date, instructs the seller not to send the merchandise.

Specifically, the Rule requires sellers who use negative option plans to disclose in their promotional materials the material terms of the plan. The Rule further requires sellers to mail to the subscriber an announcement, identifying the selected merchandise and a form that the subscriber may use to instruct the seller not to send the merchandise. Finally, the Rule sets forth the conditions under which the seller must guarantee postage for return of any unwanted merchanidse sent to the subscriber that the subscriber instructed the seller not to send and the conditions under which the seller is required to cancel the subscriber's membership in the plan.

The Rule was promulgated by the Commission because: (1) Consumers, when agreeing to participate in negative option plans, lacked information about the plans to their detriment, (2) consumers were given inadequate time to respond to negative option cards, (3) consumers were receiving unordered merchandise, (4) negative option sellers failed to honor proper cancellation notices, and (5) consumers were dunned for unordered merchandise.

The objective of this periodic review is to determine whether any part of the Rule has had a significant economic impact on a substantial number of small entities and, if so, whether any such impact can be reduced consistent with the objectives of the Rule.

For the purposes of this review the Commission poses the following questions for public comment. It is requested that the factual data (e.g., economic and accounting information, statistical analysis, surveys, studies, etc.) upon which submitted comments are based be included with these comments.

(1) Has the Rule had a significant economic impact (costs and/or benefits) on a substantial number of small entities? Please describe the details of any such significant negative and/or positive economic impact.

(2) Is there a continued need for the Rule?

(3)(a) What burdens, if any, does compliance with any specific part of the Rule place on small entities?

(b) (1) Section 425.1(b)(1)(ii) of the Rule requires the seller to credit returned merchandise when the form indicating the consumer does not want the selection is postmarked at least 3 days prior to the return date. What burdens, if any, does compliance with this Section impose on small entities?

(2) Would increasing the 3-day period lessen significantly any burden may exist?

(3) If so what time period is appropriate?

(c) (1) What burdens, if any, does compliance with § 425.1(b)(3), requiring the seller to ship introductory or bonus merchandise within 4 weeks after receipt of an order, impose on small entities?

(2) Would lengthening the time period specified in the Rule and/or allowing a seller to lengthen it if a longer interval is specified in the contract lessen significantly any burden to small entities that may exist?

(3) If so, what time period is appropriate?

(4) What changes, if any, should be made to the Rule to minimize the economic impact on small entities?

(5) To what extent does the Rule overlap, duplicate, or conflict with other federal, state and local governmental rules?

(6) Have technology, economic conditions, or other factors changed in the area affected by the Rule since its promulgation in 1973 and, if so, what

effect do these changes have on the Rule or those covered by it?

List of Subjects in 16 CFR Part 425

Federal Trade Commission, Trade practices, Advertising.

By Direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 86-6958 Filed 3-28-86; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 455

Trade Regulation Rule; Sale of Used Motor Vehicles

AGENCY: Federal Trade Commission.

ACTION: Request for public comment on petitions by automobile leasing companies. .

SUMMARY: The Federal Trade Commission seeks public comment on the petitions filed by automotive leasing companies for exceptions from the trade regulation rule concerning the sale of used motoer vehicles (the "used Car Rule" or the "Rule"), 16 CFR Part 455. The petitions have been filed with the Commission pursuant to section 18(g) of the Federal Trade Commission Act, 15 U.S.C. 57a(g).

DATE: Written comments will be accepted until May 30, 1986.

ADDRESS: Written comments should be addressed to: Office of the Secretary, Federal Trade Commission, 6th and Pennsylvania Avenue NW., Washington, DC 20580. Comments should be captioned: "Omnibus Proceeding on Petitions for Exemption from the Used Car Rule—FTC File No. 215–54."

Copies of the petitions can be examined at the Public Reference Room, Room 130, Federal Trade Commission, 6th and Pennsylvania Avenue NW., Washington, DC 20580, 202/523–3598.

FOR FURTHER INFORMATION CONTACT: Lee J. Plave (202/376–2805), Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Introduction

Sixty-one automobile leasing companies have petitioned the Commission, pursuant to section 18(g) of the FTC Act, 15 U.S.C. 57a(g), for exemptions from the Commission's Trade Regulation Rule Concerning the Sale of Used Motor Vehicles (the "Used Car Rule" or the "Rule"), 16 CFR Part 455. The petitions, which are essentially identical,[1] seek exemptions for those sales to consumers that result from (a) the consignment of vehicles to auctions, (b) the use of repossession lots, and (c)the solicitation of bids from dealers. The petitions also seek exemptions for sales made by third party sales agents "in a different part of the country." In addition, a separate petition for exemption was filed by Alamo Rent-A-Car, Inc., of Fort Lauderdale, Florida ("Alamo").[2]

The Used Car Rule is primarily intended to prevent and discourage oral misrepresentations and unfair omissions of material facts by used car dealers concerning warranty coverage. The Rule requires dealers to clearly disclose warranty information to consumers by means of a window sticker, called the "Buyers Guide." The Rule also requires dealers to include certain additional disclosures on the Buyers Guide, including: A suggestion that consumers ask the dealer if a pre-purchase inspection is permitted, a warning against reliance on spoken promises that are not confirmed in writing, and a list of fourteen major systems of an automobile and some of the problems that may occur in these systems in used vehicles.

Section 455.2(a) of the Used Car Rule requires that a Buyers Guide be filled in and displayed on a used vehicle before a "dealer," or any agent or employee of a "dealer," offers that vehicle for sale to a "consumer." The Rule defines "dealer" in § 455.1(d)(3) to include, with certain exceptions, "any person or business which sells or offers for sale a used vehicle after selling or offering for sale five (5) or more used vehicles in the previous twelve months." Section 455.1(d)(4) defines "consumer" to mean "any person who is not a used vehicle dealer."

Sales of vehicles by automobile leasing companies are often not covered by the Used Car Rule. After a lease is terminated, an automobile leasing company may dispose of the vehicle by selling it to the vehicle's leasee, to an employee of the lessee, or to a buyer procured by the lessee. These sales are not covered by the Used Car Rule becaue the definition of "dealer" in § 455.1(d)(3) excludes "a lessor selling a leased vehicle by or to that vehicle's lessee or to an employee of the lessee."[3] The exclusions from the definition of "dealer" were intended "to remove from the scope of the Rule used car sales where the absence of a retail sales environment substantially diminishes the risk of the deceptive practives * * * found to be characteristic of used car sales presentations."[4] In addition, § 455.2(a) of the Rule requires the dealer to prepare and display a Buyers Guide when offering a vehicle for sale to *consumer.* Therefore, a leasing company offering to sell a vehicle *only* to a *used vehicle dealer* would not be required to prepare and display a Buyers Guide for that vehicle.

II. Description of the Petitions

The petitioners assert that the exclusions set forth in § 455.1(d)(3) fail to remove from the Rule's scope certain sales involving vehicles that, although ultimately sold to consumers, are not intended to be sold to consumers and are not sold in a retail environment. Such sales include those made through auctions and repossession lots, as well as those resulting from the solicitation of bids from dealers.[5] In addition, the petitioners state that other vehicles are being sold to consumers in a retail

[1] Counsel for the National Vehicle Leasing Association (the "NVLA") has informed the Commission's staff that the NVLA has drafted and distributed a form for automobile leasing companies to use as the basis for their petitions. A memorandum summarizing staff's conversation with counsel for the NVLA has been placed on the public record and is identified as Document 103–2 in FTC File No. 215–54.

A typical petition consists simply of the form circulated by the NVLA, with the blanks filled in. The petitions have also been placed on the public record and appear as Documents 102–2 through 102–62 in FTC No. 215–54.

Staff sent a letter to each petitioner confirming receipt of its petitions and informing the petitioners that the pendency of the petition does not stay the applicability of the Used Car Rule as it pertains to the petitioner, pursuant to section 18(g)(3) of the Federal Trade Commission Act, 15 U.S.C. 57a(g)(3). Copies of these letters have been placed on the public record and are identified as Documents 103–3 through 103–6 in FTC No. 215–54.

[2] This petition has been placed on the public record and is identified as Document 100–1 in FTC File 215–54. Staff sent a letter to counsel for Alamo confirming receipt of the petition and stating that under section 18(g)(3) of the FTC Act, 15 U.S.C. 57a(g)(3), the pendency of the petition before the Commission does not stay the applicability of the Used Car Rule as it pertains to Alamo. This letter has been placed on the public record and is identified as Document 102–1 in FTC file 215–54.

[3] The Statement of Basis and Purpose for the Used Car Rule, 49 FR 45692 (1984), explains that the definition of the term dealer "specifically excludes" not only "a lessor selling leased vehicles to the vehicle's lessee" but also a lessor selling a leased vehicle to "a buyer procured by the vehicle's lessee." *Id.* at 45708.

[4] *Id.*

[5] Petition at 2.

environment, but are being disposed of in a manner that gives the petitioners "no means to assure compliance" with the requirements of the Rule.[6] These vehicles are those that are sold with the help of certain third party sales agents.[7]

More specifically, the petitioners allege that when they consign vehicles to auctions or use repossession lots, they do so with the intent or expectation that sales to wholesale purchasers will result. Nevertheless, as the petitioners point out, the resulting transactions may be "within the scope" of the Used Car Rule because a person who is not a "dealer" may purchase a vehicle at the auction or repossession lot. The petitioners state that they also seek to dispose of vehicles by soliciting bids from dealers, and that the dealers sometimes inform friends about the availability of a particular vehicle. These friends, who are not "dealers," may then ask to submit bids themselves, which, the petitioners note, brings the transaction within the ambit of the Used Car Rule.

Finally, the petitioners contend that they should not be subject to liability in the event that certain of their third party sales agents fail to comply with the Rule. According to the petitioners, an automobile leasing company will sometimes "seek the assistance of a third party sales agent in a different part of the country because a vehicle is located there at the time it comes off lease."[8] The petitioners assert that in such situations they have "no means to assure compliance" with the Used Car Rule. They argue that since the sales agents are considered "dealers" under the Rule and, hence, have their own duty to comply, "there is no logical reason" to impose liability on the petitioners as well.

III. Standard of Review

Under Section 18(g) of the FTC Act

Under section 18(g) of the FTC Act, the Commission may exempt a person or class from all or part of a trade regulations rule if the Commission finds that application of the rule "is not necessary to prevent the unfair or deceptive act or practice to which the rule relates." 15 U.S.C. 57a(g)(2). In reviewing a section 18(g) petition for exemption from the Franchise Rule (16 CFR Part 436), the Commission set forth the following as factors to be reviewed:

(1) Whether, and to what extent, any of the unfair or deceptive acts and practices the rule is designed to prevent have been committed by the person or class seeking exemption; (2) Whether, and to what extent, there would be a realistic potential for the occurrence of such abuses after an exemption were granted; (3) Whether there are identifiable factors, such as structural or operational characteristics, which sufficiently differentiate the person or class seeking exemption from others covered by the rule to explain the absence, if that is the case, of significant past abuses which the rule is designed to remedy, and to make it unlikely that the person or class would engage in such abuses in the future; (4) Whether these or other special characteristics would minimize the risk or abuse, mitigate its impact, or otherwise make applicability of the rule unnecessary; and (5) If an exemption is warranted, the proper definition of the class of persons sharing the characteristics that make applicability of the rule unnecessary.[9]

IV. Conclusions

A. Public Comment Period

The Commission is initiating a proceeding to determine whether to grant exemptions pursuant to section 18(g) of the FTC Act, 15 U.S.C. 57a(g), and is requesting public comment on the petitions for a period of 60 days.

B. Questions for Public Comment

To assist the Commission in making its decision on the merits of the petitions, public comment is elicited on the petitions generally and specifically on the questions set forth below.

The Commission seeks information regarding the number of consumers who purchase vehicles in various settings, the incidence of deceptive practices involving these consumers, or the degree to which these consumers may not need the information provided by the Buyers Guide. Similarly, the Commission also seeks information regarding the number of instances in which the petitioners offer vehicles for sale *only* to dealers. Under § 55.2(a) of the Rule, dealers are not required to prepare and display a Buyers Guide unless the vehicle is *also* offered for sale to a consumer. The Commission encourages commenters to support their conclusions with any factual material that they may have.

(1) What is the general practice that leasing companies follow when seeking to dispose of vehicles after the lease period has expired?

Information is sought as to the specific methods that leasing companies employ when disposing of previously leased vehicles. *For example*, how many such vehicles are disposed of through: (a) Consignments to auctions; (b) repossession lots; (c) solicitations of bids; (d) consignments to local third party sales agents (within 100 miles of the lessor's place of business); (e) consignments to distant third party sales agents (over 100 miles from the lessor's place of business); (f) direct sales to consumers by the leasing companies themselves; and (g) direct sale to the lessee, an employee of the lessee, or to a buyer procured by the lessee?

(2) For *each* of the different methods of sale listed in the Question above, indicate whether or not they are open to consumers.

(3) (a) For *each* of the different methods of sale listed in Question 1, what percentage of each particular sales method are open to consumers? (b) For *each* method of sale that is open to consumers, what percentage of cars that are sold are actually sold to consumers?

(4) What number and what percentage of previously leased vehicles are offered for sale *only* to other dealers?

(5) When automobile leasing companies offer vehicles for sale to consumers using the methods of sale listed in Question 1, above, how are the consumers provided with information about warranty coverage or disclaimers of implied warranties?

(6) Is it substantially more difficult for an automobile leasing company to assure compliance with the Rule when a vehicle is sold through a sales agent located in a different part of the country than when a vehicle is sold through a *local* sales agent?

(7) Would the use of indemnification clauses, "hold harmless agreements," or other contractual devices provide an automobile leasing company with sufficient protection from liability for agents' failure to comply with the Rule?

By direction of the Commission.

Emily H. Rock,

Secretary.

List of Subjects in 16 CFR Part 455

Used cars, Trade practices.

[FR Doc. 86-6960 Filed 3-28-86; 8:45 am]

BILLING CODE 6750-01-M

[6] *Id.*

[7] Alamo contends that it should be exempt because most of its previously leased vehicles are disposed of through private sales in which consumer bids are not solicited, although such bids are apparently accepted. Alamo notes that its vehicle sales invoice states that the vehicle is sold on an "as is" basis.

[8] Petition at 2.

[9] 46 FR 11830, 11831 (1981).

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Public Comment and Opportunity for Public Hearing on a Modification to the Kentucky Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Proposed rule and reopening of comment period.

SUMMARY: OSMRE is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of certain program amendments submitted by the Commonwealth of Kentucky as a modification to the Kentucky permanent regulatory program (hereinafter referred to as to Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments pertain to coal processing plants, and the definition of "experimental practice."

OSMRE is also reopening the comment period on a number of amended Kentucky rules that have been previously announced for public comment and hearing and for which Kentucky has subsequently submitted modifications (October 25, 1985 (50 FR 43413) and October 31, 1985 (50 FR 45431)). These amendments relate to experimental practices mining, prime farmland, variances for delay in contemporaneous reclamation in combined surface and underground mining operations, protection of underground mining, general hydrology requirements, diversions, and backfilling and regrading.

This notice sets forth the times and locations that the Kentucky program and the proposed amendments are available for public inspection, the comment period during which interested persons may submit written comments on the proposed program elements, and the procedures that will be followed regarding the public hearing.

DATES: Written comments not received on or before April 30, 1986 will not necessarily be considered.

If requested, a public hearing on the proposed amendments concerning coal processing plants and the definition of "experimental practice" will be held on [April 25, 1986] beginning at 10:00 a.m. at the location shown below under "Addresses."

ADDRESSES: Written comments should be mailed or hand delivered to: W. Hord Tipton, Director, Lexington Field Office, Office of Surface Mining, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504.

If a public hearing is held its location will be at: The Harley Hotel, 2143 North Broadway, Lexington, Kentucky 40505.

FOR FURTHER INFORMATION CONTACT: W. Hord Tipton, Director, Lexington Field Office, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504; Telephone: (606) 233-7327.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Availability of Copies

Copies of the Kentucky program, the proposed modifications to the program, a listing of any scheduled public meetings and all written comments received in response to this notice will be available for review at the OSMRE Offices and the Office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Lexington Field Office, Office of Surface Mining, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504.

Office of Surface Mining Reclamation and Enforcement, Room 5315A, 1100 L Street NW., Washington, DC 20240

Bureau of Surface Mining Reclamation and Enforcement, Capitol Plaza Tower, Third Floor, Frankfort, Kentucky 40601.

Pursuant to 30 CFR 732.17(h)(2)(ii), each requestor may receive, free of charge, one single copy of the proposed amendment by contacting OSMRE's Lexington Field Office listed under "Addresses."

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanation in support of the commenter's recommendations. Comments received after the time indicated under **"DATES"** or at locations other than the Lexington, Kentucky Field Office will not necessarily be considered and included in the Administrative Record for the final rulemaking.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **"FOR FURTHER INFORMATION CONTACT"** by the close of business ten working days before the date of the hearing. If no one requests to comment at the public hearing, the hearing will not be held.

If one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Submission of written statements at the time of the hearing is requested and will greatly assist the transcriber. Submissions of written statements in advance of the hearing will allow OSMRE officials to prepare appropriate questions. Hearing topics will be confined to those amendments which have not been previously announced for public comment and hearing. These are the amendments related to coal processing plants and the definition of "experimental practice."

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment, have been heard.

Public Meeting

Persons wishing to meet with OSMRE representatives to discuss the proposed amendments may request a meeting at the OSMRE office listed in **ADDRESSES** by contacting the person listed under **"FOR FURTHER INFORMATION CONTACT."**

All such meetings are open to the public and if possible, notices of meetings will be posted in advance in the Administrative Record. A written summary of each public meeting will be made a part of the Administrative Record.

II. Background on the Kentucky State Program

On December 30, 1981, Kentucky resubmitted its proposed regulatory program to OSMRE. On April 13, 1982, the Secretary approved the program subject to the correction of 12 minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the May 18, 1982 **Federal Register** (47 FR 21404-21435). Information pertinent to the general background on the Kentucky State program, including the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Kentucky program can be found in the May 18, 1982 **Federal Register** notice. Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 917.11, 30 CFR 917.15, 30 CFR 917.16 and 30 CFR 917.17.

III. Submission of Program Amendments

On February 7, 1986, Kentucky submitted proposed amendments to its program along with modifications to previously submitted amendments (Administrative Record No. KY–691). The modifications would revise amendments which were announced for public comment in the **Federal Register** on October 25, 1985 (50 FR 43413) and October 31, 1985 (50 FR 45431).

The new amendments which are being announced for public comment and public hearing concern coal processing plants and the definition of "experimental practice." The rules for coal processing plants are found in 405 KAR 7:020, definitions, 405 KAR 8:050, Section 8, permitting requirements for coal processing plants not located within the permit area of a specified mine, and 405 KAR 20:070, performance standards for offsite coal processing plants. The proposed rules are nearly identical to emergency rules 405 KAR 7:020E, 405 KAR 8:050E an 405 KAR 20:070E which were submitted for OSMRE approval on December 3, 1985. One exception is the addition of the word "screening" in the definition of "coal processing plant" at 405 KAR 7:020. Another difference is the deletion of language that established an applicability date of the emergency amendments. For a discussion of the content of the rules, see the **Federal Register** notice announcing receipt of the emergency rules (January 14, 1986, 51 FR 1517). OSMRE will be announcing its decision on the emergency rules in a separate rulemaking to be published in the **Federal Register**. The amendment concerning the definition of "experimental practice" at 405 KAR 7:020 proposes to delete that definition.

In order to solicit public comment on the mofications to the previously announced amendments OSMRE is reopening the public comment period on the following amendments, for a period of 30 days.

Amendments dated Setember 16, 1985, concerning Kentucky's general hydrology requirements at 405 KAR 16:060 and 18:060 were announced for public comment and hearing in the October 25, 1985 **Federal Register** (50 FR 43413). The public comment period closed November 25, 1985. The public hearing scheduled for November 19, 1985, was not held because no one requested an opportunity to testify. The amendments were modified slightly in the February 7, 1986 submission.

Amendments dated August 30, 1985, were announced for public comment and hearing in the October 31, 1985 **Federal Register** (50 FR 45431). The amendments pertain to experimental practices, permitting requirements, diversions, backfilling and grading, subsidence and prime farmland. Affected sections of the Kentucky rules are 405 KAR 7:060, 405 KAR 8:030, 405 KAR 8:040, 405 KAR 8:050, 405 KAR 16:010, 405 KAR 16:080, 405 KAR 16:190, 405 KAR 18:010, 405 KAR 18:080, 405 KAR 18:190, 405 KAR 18:210, 405 KAR 20:040 and a guidance document for revegetation on prime farmland. The public comment period for these amendments ended December 2, 1985. The public hearing scheduled for November 25, 1985, was not held because no one requested an opportunity to testify. In a letter dated December 13, 1985, (Administrative Record No. KY–682) Kentucky withdrew from consideration 405 KAR 18:010. In that letter Kentucky also requested a delay of consideration on amended rules 405 KAR 8:040 Section 26 and 405 KAR 18:210. The remaining rules in the August 30, 1985 package were modified in Kentucky's February 7, 1986, submission of new and modified amendments. The February 7, 1986 letter also added three more guidance documents for consideration entitled: "Soil Conservation Service Kentucky Standard and Specifications for Land Restoration, Currently Mined Prime Farmland," "Estimated Crop Yields on Prime Farmland Soils in Western Kentucky Coalfields" and "Estimated Crop Yields on Prime Farmland Soils in Eastern Kentucky Coalfields." These documents are referenced in the amendment language.

Therefore, the Director, OSMRE, is seeking public comments on the adequacy of the proposed program amendments. Comments should specifically address the issue of whether the proposed amendments are in accordance with SMCRA and no less effective than its implementing regulations.

IV. Additional Determination

1. Compliance With the National Environmental Policy Act:

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Executive Order No. 12291 and the Regulatory Flexibility Act

On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, for this acton OSMRE is exempt from the requirement to prepare a Regulatory Impact Analysis and this action does not require regulatory by OMB.

The Department of the Interior has determined that this rule would not have significant economic effect on a substantal number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requiremts established by SMCRA and the Federal rules would be met by the State.

List of Subjects in 30 CFR Part 917

Coal mining, Intergovernmental relations, Surface mining, Undergound mining.

Dated: March 31, 1986.

James W. Workman,

Deputy Director, Operations and Technical Services

[FR Doc. 86–6897 Filed 3–28–86; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–86–05]

Marine Event; Elizabeth River, Virginia, Independence Day Celebration

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The Coast Guard is considering a proposal that would establish special local regulations for Independence Day Celebration Fireworks. This celebration will be held on the Elizabeth River, adjacent to the Waterside complex between the downtown areas of Norfolk and Portsmouth, Virginia. It will consist of a fireworks display from barges commencing at approximately 9:30 p.m. and ending at approximately 10:00 p.m. on July 4, 1986. These special local regulations are considered necessary to control vessel traffic within the immediate vicinity of the celebration due to the confined nature of the waterway and the expected congestion at the time of the fireworks. The intended effect will be to restrict general navigation in the Town Point Reach section of the Elizabeth River for the safety of the spectators.

DATE: Comments must be received on or before May 15, 1986.

ADDRESSES: Comments should be hand-delivered or mailed to: Commander (bb), Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Virginia 23704–5004. Comments and materials referenced in this notice are available for examination and duplication in Room 209, Federal Building, 431 Crawford Street, Portsmouth, Virginia. Office hours are between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Billy J. Stephenson, Chief, Boating Affairs Branch, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004 (804–398–6204).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD 05–86–05) and the specific section of the proposal to which their comments apply, and give reasons for each comment.

The regulations may be changed in light of comments received.

All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this notice are Mr. Billy J. Stephenson, project officer, Chief, Boating Affairs Branch, Fifth Coast Guard District, and LT. Wade Mitchell, project attorney, Fifth Coast Guard District Legal Office.

Discussion of Proposed Regulation

The following organizations are jointly sponsoring this celebration.

1. Norfolk Festevents, Inc.
2. City of Portsmouth.

Tugs from the Norfolk Shipbuilding and Drydock Corporation will maneuver two barges to be used for launching the fireworks. The waterway will be closed during the fireworks display. Since the waterway will not be closed for extended periods, commercial traffic should not be severely disrupted. These regulations will be effective from 7:00 p.m. until 11:00 pm. on July 4, 1986. In case of inclement weather, the event will be postponed, and the regulations will be effective from 7:00 p.m. until 11:00 p.m. on July 5, 1986.

If the event is postponed, the Patrol Commander will issue a Broadcast Notice to Mariners.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). Because there will be no major disruption of commercial marine traffic, the economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water).

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 to Title 33, Code of Federal Regulations as follows:

Part 100—[Amended]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Section 100.35–0505 is revised to read as follows:

§ 100.35–0505 Elizabeth River, Norfolk, Virginia.

(a) *Regulated Area.* The waters of the Elizabeth River and its branches from shore to shore, bounded to the northwest by a line drawn over the Midtown Tunnel, located in the Port Norfolk Reach section of the Elizabeth River between Pinners Point at latitude 36°51'26.0" North, longitude 76°18'59.0" West and the northeast shore of the Elizabeth River at latitude 36°51'39.5" North longitude 76°18'36.5" West, to the south by a line drawn over the Downtown Tunnel, located in the Lower Reach section of the Elizabeth River, between the western shore of the Southern Branch of the Elizabeth River in Portsmouth, Virginia at latitude 36°49'57.0" North, longitude 76°17'46.0" West, and the eastern shore at latitude 36°49'56.5" North, longitude 76°17'34.5" West, and to the southeast by the Berkley Bridge which crosses the Eastern Branch of the Elizabeth River between Berkley at latitude 36°50'21.5" North, longitude 76°17'14.5" West and Norfolk at latitude 36°50'35.0" North, longitude 76°17'10.0" West.

(b) *Special Local Regulations.*

(1) Except for participants in the Elizabeth River Independence Day Celebration, or persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the above area.

(2) The operator of any vessel in the immediate vicinity of this area shall:

(a) Stop his vessel immediately upon being directed to do so by any Coast Guard officer or petty officer on board a vessel displaying a Coast Guard ensign, or

(b) Proceed as directed by any Coast Guard officer or petty officer on board a vessel displaying a Coast Guard Ensign.

(c) The Coast Guard Patrol Commander is a commissioned officer of the Coast Guard who has been designated by the Commander, Fifth Coast Guard District and will be stationed on the patrol vessel.

Dated: March 17, 1986.

James C. Irwin,

Rear Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 86–7014 Filed 3–28–86; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 100

[CGD 05–86–04]

Marine Event; Elizabeth River, Power Boat Races

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The Coast Guard is considering a proposal that would establish special local regulations for the City of Portsmouth Power Boat Races.This event will be held on the Elizabeth River, adjacent to "Waterside" between the Norfolk and Portsmouth downtown areas. It will consist outboard powered boats 13 to 19 feet in length racing a triangular course at the junction of the eastern and southern branches of the Elizabeth River. The races will commence at approximately 1:00 pm and end at approximately 5:00 pm July 27, 1986. These special local regulations are considered necessary to control vessel traffic within the immediate vicinity of the event due to the confined nature of the waterway and the expected congestion at the time of the event. The intended effect will be to restrict general navigation in the Town Point Reach section of the Elizabeth River for the

safety of the spectators and participants in the event.

DATE: Comments must be received on or before May 15, 1986.

ADDRESSES: Comments should be hand-delivered or mailed to: Commander (bb), Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Virginia 23704–5004. Comments and materials referenced in this notice are available for examination and duplication in Room 209, Federal Building, 431 Crawford Street, Portsmouth, Virginia. Office hours are between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Billy J. Stephenson, Chief, Boating Affairs Branch, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, (804–398–6204).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD 05–86–04) and the specific section of the proposal to which their comments apply, and give reasons for each comment.

The regulations may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this notice are Mr. Billy J. Stephenson, project officer, Chief, Boating Affairs Branch, Fifth Coast Guard District, and Lt. Wade Mitchell, project attorney, Fifth Coast Guard District Legal Office.

Discussion of Proposed Regulation

The following organizations are jointly sponsoring the Elizabeth River Power Boat Race:

1. Norfolk Festevents, Inc.
2. City of Portsmouth
3. Portsmouth Power Boat Association

The event will consist of six (06) classes of boats running two (02) heats per class. Closure of the waterway for any extended period is not anticipated and thus commercial traffic should not be severely disrupted at any given time. These regulations will become effective at approximately 12:30 pm and terminate at approximately 5:30 pm on July 27, 1986. In case of inclement weather causing the event to be postponed, these regulations will become effective approximately 12:30 pm and terminate at 5:30 pm on July 28, 1986. If the event is postponed, the Patrol Commander will issue a Broadcast Notice to Mariners.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). Because closure of the waterway is not anticipated for any extended period, commercial marine traffic will be inconvenienced only slightly. The economic impact of this proposal is expected to be so minimal, that a full regulatory evaluation is unnecessary. Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33, Code of Federal Regulations as follows:

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Section 100.35–05 is added to read as follows:

§ 100.35–05 Elizabeth River, Norfolk, Virginia.

(a) *Regulated Area.* The waters of the Elizabeth River and its branches from shore to shore, bounded to the northwest by a line drawn over the Midtown Tunnel, located in the Port Norfolk Reach section of the Elizabeth River between Pinners Point at lat. 36°51'26.0" N., long. 76°18'59.0" W. and the northeast shore of the Elizabeth River at lat. 36°51'39.5" N., long. 76°18'36.5" W., to the south by a line drawn over the Downtown Tunnel, located in the Lower Reach section of the Elizabeth River, between the western shore of the Southern Branch of the Elizabeth River in Portsmouth, Virginia at lat. 36°49'57.0" N., long. 76°17'46.0" W., and the eastern shore at lat. 36°49'56.5" N., long. 76°17'34.5" W., and to the southeast by the Berkley Bridge which crosses the Eastern Branch of the Elizabeth River between Berkley at lat. 36°50'21.5" N., long. 76°17'14.5" W. and Norfolk at lat. 36°50'35.0" N., long. 76°17'10.0" W.

(b) *Special Local Regulations.* Except for participants in the Elizabeth River Power Boat Race, or persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the above area between 12:30 pm and 5:30 pm on 27 July 1986 or 12:30 pm and 5:30 pm on 28 July 1986 if the event is postponed due to inclement weather. The operator of any vessel in the immediate vicinity of this area shall:

(1) Stop his vessel immediately upon being directed to do so by any Coast Guard officer or petty officer on board a vessel displaying a Coast Guard ensign, and

(2) Proceed as directed by any Coast Guard officer or petty officer.

(c) Any spectator vessel may anchor outside of the area specified in paragraph (a) of these regulations;

(d) The Coast Guard Patrol Commander is a commissioned officer of the Coast Guard who has been designated by the Commander, Fifth Coast Guard District. The patrol Commander will be stationed on the patrol vessel.

(e) The Coast Guard Patrol Commander has been authorized to stop the race to allow the transit of marine traffic through the regulated area.

(f) These regulations and other applicable laws and regulations shall be enforced by Coast Guard officers and petty officers on board Coast Guard and private vessels displaying the Coast Guard ensign.

Dated: March 5, 1986.

James C. Irwin,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 86–7018 Filed 3–28–86; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 418

[OW-FRL-2991-6]

Fertilizer Manufacturing Point Source Category; Effluent Limitations Guidelines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Changes to public hearing meeting.

SUMMARY: On March 12, 1986, EPA issued a document introducing plans to conduct a Public Hearing (51 FR 8520) on: (1) The proposed amendment to effluent limitations guidelines and standards for the phosphate subcategory of the fertilizer manufacturing point source category; (2) the draft National Pollutant Discharge Elimination System (NPDES) permits prepared by EPA's Region VI office in Dallas, Texas and (3) the draft state permits prepared by the Louisiana Department of Environmental Quality for four Louisiana plants affected [FRL-2981-5].

This document corrects the "April 12, 1986" Public Hearing date and adds additional information about a second meeting.

DATES: Public Hearings will be held on April 10, 1986 in Baton Rouge, Louisiana; and continued on April 11, 1986 in New Orleans, Louisiana.

ADDRESSES: The Public Hearing on April 10, 1986 will be held in the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, Louisiana. On April 11, 1986 the Public Hearing will be continued in the City Chambers, Room 1E04, City Hall, 1300 Perdido, New Orleans, Louisiana.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas E. Fielding (202) 382-7156 for information regarding the public hearings.

SUPPLEMENTARY INFORMATION: On March 12, 1986 EPA announced that a Public Hearing would be held on "April 12, 1986". The Agency is correcting a typographical error in the date from "April 12, 1986" to April 10, 1986. The meeting will be held in the Mineral Board Hearing Room, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, Louisiana, beginning at 1:00 p.m.

Moreover, due to the extensive public interest, the Agency is adding notice of a second Public Hearing to be held on April 11, 1986 beginning at 1:00 p.m. This Hearing will be held in the City Chambers, Room 1E04, City Hall, 1300 Perdido, New Orleans, Louisiana.

Dated: March 19, 1986.

Edwin L. Johnson,

Acting Assistant Administrator, Office of Water.

[FR Doc. 86-6635 Filed 3-28-86; 8:45 am]

BILLING CODE 6560-50-M

46 CFR Parts 159 and 160

[CGD 83-030]

Lifesaving Equipment; Withdrawal of Proposed Rule

AGENCY: Coast Guard, DOT.

ACTION: Withdrawal of proposed rule.

SUMMARY: This notice withdraws proposed rules that would substitute independent laboratory inspection for Coast Guard factory inspection of approved inflatable liferafts, lifeboats including disengaging apparatus and hand propelling gear, lifeboat davits and winches. Independent laboratory inspection is a way for the Coast Guard to determine that approved equipment meets Coast Guard requirements, while reducing the commitment of Coast Guard resources to these functions. Although substitution of Coast Guard inspection with independent laboratory inspection for some lifesaving equipment is still being considered, rules for this procedure will now be proposed under other regulatory projects.

DATE: The proposed rule is withdrawn on March 31, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Markle, Office of Merchant Marine Safety (G-MVI-3), Room 1404, U.S. Coast Guard Headquarters, 2100 Second St. SW., Washington, DC 20593, (202) 426-1444. Normal office hours are between 7:30 a.m. and 4:00 p.m., Monday through Friday, except Holidays. .

SUPPLEMENTARY INFORMATION: On September 27, 1984, the Coast Guard published a notice of proposed rulemaking (NPRM) in the **Federal Register** (49 FR 38151) that proposed procedures for approval of inflatable liferafts, lifeboats including disengaging apparatus and hand propelling gear, lifeboat davits, and winches, using independent laboratories to conduct pre-approval and production testing and inspection. A public hearing on this proposal was held at Coast Guard Headquarters in Washington, DC on February 19, 1985. This hearing was announced in the **Federal Register** of January 31, 1985 (50 FR 4544). The comment period was subsequently extended in a notice of April 25, 1985 (50 FR 16318).

Several of the comments suggested that this project be combined with one that would revise the specification regulations for approved lifesaving equipment to meet the new international requirements of the 1983 Amendments to the Safety of Life at Sea Convention, 1974 (adopted by the Maritime Safety Committee of IMO at its forty-eighth session on June 17, 1983 by Resolution MSC.6(48)). This project was announced in an ANPRM published on December 31,1984 (49 FR 50745). Since both projects are running concurrently and involve revisions to the same subparts of Title 46, CFR, Chapter I, it has been determined that combining the projects would simplify the regulatory process for both the Coast Guard and the public. Therefore, further proposals for independent laboratory inspection of certain lifesaving equipment will appear under the following Coast Guard dockets:

a. CGD 84-069h for inflatible liferafts.

b. CGD 84-069d for lifeboats including disengaging apparatus and had propelling gear.

c. CGD 84-069j for lifeboat davits and winches.

In consideration of the foregoing, the notice of proposed rulemaking published at 49 FR 38151, September 27, 1984, Coast Guard Docket CGD 83-030, is hereby withdraw.

Dated: March 26, 1986.

J.W. Kime,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 86-7033 Filed 3-28-86; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 630

[Docket No. 60350-6050]

Fishery Conservation and Management; Foreign Fishing; Atlantic Swordfish Fishery

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

ACTION: Proposed rule.

SUMMARY: NOAA issues and requests comments on this proposed rule to implement portions of the Fishery Management Plan for the Atlantic Swordfish Fishery (FMP) previously disapproved. The proposed rule would (1) prohibit imports during a domestic closure, (2) prohibit nighttime longlining during a closure, (3) establish a data collection program to monitor and refine the FMP, and (4) prohibit the use and possession at sea of drift entanglement nets. The intended effect of these regulations is to maintain high landings in the form of larger fish that are preferred in the market, prevent growth overfishing, provide a buffer against

possible recruitment overfishing, obtain the information necessary to monitor the fishery and refine the management regime, and minimize the impacts of foreign fishing on the domestic swordfish.

DATE: Comments must be received on or before April 15, 1986.

ADDRESS: Comments on the proposed rule and requests for copies of the resubmittal package should be sent to Donald W. Geagan, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Donald W. Geagan, 813–983–3722.

SUPPLEMENTARY INFORMATION: The South Atlantic Fishery Management Council (Council) prepared the FMP in cooperation with the Caribbean, Gulf of Mexico, Mid-Atlantic, and New England Fishery Management Councils (Councils). The original FMP, on behalf of the other Councils, has resubmitted the disapproved measures. A notice of availability of the revised FMP was published in the **Federal Register** on March 21, 1986 (51 FR 9869). These proposed regulations would implement the resubmitted measures. Background information on the Atlantic Swordfish FMP was published on Friday, May 31, 1985, (50 FR 23159) and is not repeated here. The proposed regulations and supporting rationale are being reproduced substantially as received from the Council for purposes of eliciting public comments.

A. Prohibition on Importation of Swordfish Harvested From the Western North Atlantic During the Variable Seasonal Closure (VSC)

This measure was disapproved because it was felt that the cost and regulatory impacts had not been evaluated in relation to the anticipated benefits.

Countries landing swordfish from the Western North Atlantic include Canada, Japan, Cuba, Korea, Venezuela, Taiwan, and Spain. Countries from which fresh swordfish have been imported into the United States during 1983–84 include Canada, the Cayman Islands, the Netherlands Antilles, Chile, Brazil, Uruguay, Norway, Greece, Thailand, the Phillippines, Taiwan, Japan, and Senegal. In addition, frozen swordfish have been imported from Mexico, Peru, Spain, and Korea.

Restricting imports during a closure is critical to the effectiveness of the FMP. If a closure merely results in a shift in catch and effort from domestic to foreign vessels, there will be no benefits to the stock or the fishery. If a closure creates a market void that is filled by foreign-caught swordfish from the Western North Atlantic, then the effectiveness of the closure is eliminated. It is critical that foreign nations fishing (or with the potential to fish) the Western North Atlantic stock of swordfish not be given the incentive to harvest from this stock during a domestic closure. Restricting imports of swordfish from the Western North Atlantic stock during the closure period will accomplish this. An additional period of import restrictions following the re-opening of the domestic fishery is provided to allow domestic fishermen the opportunity to make one average-length trip (10 days). This again is to ensure that the closures have the desired effect of reducing swordfish mortality during the closure, not merely shifting it to foreign vessels. Without this additional period of import prohibition, the market could be flooded with foreign-caught swordfish as soon as the closure ended. These fish would have been caught during the domestic closure, thus neutralizing the effectiveness of the VSC. The import prohibition during a closure and for a period equal to an average-length domestic trip following a closure will discourage increased fishing effort on Western North Atlantic swordfish by foreign vessels when domestic vessels cannot supply the market. It will also prevent the market from being glutted with imported fish immediately following the closure which would depress the price to domestic fishermen, reducing their ability to recover their lost income.

The Councils recognize that it will be difficult to determine where swordfish were caught, thus complicating enforcement. It is the intent of the Councils that the burden of establishing the area of capture to be on the exporting nation. A paper trail would have to accompany imported swordfish during a closure to establish that they came from another stock. It is also the intent of the Councils to prohibit the importation of swordfish from anywhere in the Western North Atlantic whenever any domestic closure is in effect. Since area closures do not overlap entirely, an import prohibition which applies only to the area adjacent to the closed area would be extremely difficult to enforce. Foreign longline vessels which roam widely could not possibly know where individual fish were caught (i.e. whether or not in an area adjacent to a closed area). Thus, enforcement would be impossible and such an import prohibition would, in effect, last only as long as the shortest domestic closure. This would not accomplish the objectives of this management measure.

Therefore, the prohibition on importation of swordfish harvested from the Western North Atlantic during the VSC is resubmitted as modified to apply to swordfish caught anywhere in the Western North Atlantic whenever any domestic closure is in effect and for a period equal to an average-length trip (10 days) following reopening of the domestic fishery.

The impact on individual countries of an October 20–December 31 closure is given below. Only those countries presumed to have been harvesting Western North Atlantic swordfish are included.

Country	Pounds	Value	Percent of total value affected	Percent of a country's total U.S. swordfish exports affected [1]
Canada	119,127	$302,996	46.6	23.1
Taiwan	103,413	154,496	23.7	7.2
Japan	74,317	193,668	29.7	13.6
Korea	900	1,078	0.2	43.3
Total	297,757	652,238	100.2	.....

[1] Based on value.

B. Prohibition of nighttime Longlining During the Variable Season Closure

This measure was rejected as it applied to foreign tuna longliners because it was determined to be inconsistent with NOAA General Counsel Opinion 82 (failure to provide reasonable opportunity to fish for tuna). The Councils believe that the obligation to provide a reasonable opportunity to fish for tuna does not imply an obligation to insure that such operations are profitable. All that the Councils can be reasonably expected to do is apply regulations deemed necessary for conservation of the stock as even-handedly as possible. Foreign fishermen are given exactly the same opportunity to fish for tuna as domestic boats. While it may be true that being limited to daylight hours has more of an impact on foreigners because of their larger size vessels and greater operating expenses it is also true for the same reasons that they have many more options than domestic fishermen. Should they find this regulation too restrictive, they have the ability to fish outside the fishery conservation zone (FCZ). The smaller size of many domestic vessels does not allow them this same opportunity.

The proposed regulation prohibiting nighttime longlining during a closure is

for the specific purpose of preventing swordfish mortality while *allowing* tuna fishing. There are no regulations contained in this FMP of fishing methods which do not have a significant swordfish bycatch. Thus, purse seine, bait boat, and daytime longlining are all permitted during a closure. These methods are used successfully in many other parts of the world to catch tuna and would appear to provide a reasonable opportunity to fish for tuna.

C. Cap on the Incidental Catch of Swordfish by the Foreign Longline and Squid Trawl Fisheries

These measures were rejected because it was determined that the costs and benefits of these measures had not been adequately evaluated. It was felt that the benefits to the swordfish stock and domestic swordfish fishermen were insufficiently documented to justify the potential adverse impacts of restricting the foreign squid trawl fishery. Further, it was felt that the foreign longline incidental catch of swordfish has been reduced to minimal levels in recent years.

The Councils have reconsidered these measures, and are basically in agreement with the Director, Southeast Region, NMFS (Regional Director). With the decrease in total allowable level of foreign fishing (TALFF) for squid, and the change to a joint venture fishery, the Councils recognize that the regulatory burden of the management measure probably exceeds the incidental benefits to the swordfish stock or fishery. The Councils also recognize the substantial reduction in the foreign longline bycatch in recent years and again concur with the Regional Director that the regulatory burden is not presently justified by the relatively small gains for the swordfish fishery.

Therefore, the cap on the incidental catch of swordfish by the foreign squid trawl fishery is proposed to be held in reserve. However, it is the Councils' intent that if the swordfish bycatch of the foreign squid fishery exceeds 1,833 fish (estimated bycatch in 1982), the fishery would be closed for the remainder of the year.

The foreign longline bycatch has been reduced from 1,136 swordfish in 1982 to 402 swordfish in 1984. Because of this, the Councils do not believe that regulatory action is required at this time. Therefore, the cap on the foreign longline bycatch is proposed to be held in reserve. It is the Councils' intent that if the bycatch exceeds 1,136, or 1–½ percent of the previous year's domestic harvest, whichever is the lesser amount in a calendar year, the fishery would be closed for the remainder of that year.

D. Area Closure to Foreign Longliners Having an Incidental Swordfish Catch in the Atlantic FCZ From Key West to Cape Lookout to 100 Miles, From June 1 to September 30

This measure was approved September 28, 1983, but not implemented as an amendment to the Preliminary Management Plan for Atlantic Billfishes and Sharks (PMP). The rationale for implementing this closure as given in the PMP is to reduce conflicts between foreign and domestic fleets and to make additional billfishes available for domestic fishermen while allowing the foreign tuna longline fleet a reasonable opportunity to fish for tunas. The Councils recognize that there has been very little foreign fishing activity in this area in recent years. However, the potential for the situation to reverse itself still exists. The rationale for not implementing this area closure was contained in 47 FR 33722 (August 4, 1982), stating on page 33729: "The seasonal closure in Atlantic Area I does not need to be implemented at this time because there has been very little Japanese tuna fishing in the Atlantic FCZ south of Cape Lookout. However, should U.S. commercial and recreational fishing activities be adversely affected by an unanticipated increase in foreign tuna fishing, whether a result of local seasonal abundance of tunas or a significant shift in fishing effort from other areas within the FCZ, this measure could be implemented promptly."

The Councils recognize the inherent validity of the above statement and therefore proposed that the Area I closure be held in reserve. However, terms such as "very little Japanese tuna fishing", "adversely affected", "unanticipated increase", and "implemented promptly," must be quantified.

The Councils have clarified this issue by expressing their intent that the Area I closure would be implemented when the number of documented gear conflicts exceeds 39 (The number of Area II gear conflicts reported in 1981 which presumably triggered implementation of that closure). Implementation of the Area I closure may be considered at a lesser number of gear conflicts if the nature and severity of conflicts is such that the Councils deem it appropriate.

A gear conflicts means any incident at sea involving one or more fishing vessels:

(1) In which one fishing vessel or its gear comes into contact with another vessel or the gear of another vessel and

(2) Which results in the loss of, or damage to, a fishing vessel, fishing gear, or catch.

A gear conflict may also involve the preemption of fishing grounds used by domestic fishermen by aggregations of foreign vessels with sets of longline or other fishing gear in such close proximity that it results in demonstrated reductions in the domestic vessels' operating efficiency and productivity.

E. Mandatory Data Collection Using Onboard Observers on Boats Using Drift Entanglement Nets

This measure was disapproved because it was deemed too costly and burdensome. In addition, there were questions about liability and insurance that had not been resolved. While the Councils feel that this measure is the most objective way of addressing the controversy associated with this gear, they recognize that there will not be onboard observers on these vessels in the foreseeable future. Therefore, this measure is *not* being resubmitted. Instead, the measure is modified as follows:

No vessel may fish for, possess, or land swordfish with any type of gillnet or entanglement net aboard the vessel.

The purpose of the onboard observer program was to allow evaluation of the highly controversial drift entanglement nets. The Councils were generally in agreement that this gear should be prohibited from the fishery because they felt that it posed a threat to endangered species, marine mammals, and non-target fish species. The Councils were advised by NMFS that there was insufficient evidence to prohibit the gear. In lieu of a prohibition, the Councils requested a mandatory data collection program designed to obtain the information required to evaluate the gear. The mandatory reporting request under Section 303(e) of MFCMA contains the rationale for the original request and is available at the above address.

All possible avenues to obtain the information necessary to evaluate this gear have been exhausted. The chronology of events in the NMFS efforts to place observers aboard these vessels is a part of the resubmittal document and is available at the above address. With the disapproval of this data request, and in the absence of any other mechanism yet identified to obtain the necessary information, and with the well-documented high billfish and marine mammal catches experienced when this gear is used in the Pacific, the Councils felt that the only prudent alternative remaining was to ban the use of the gear. Background information on the use of pelagic drift entanglement nets and documentation of their impacts

can be found in a document compiled by the South Atlantic Council, January 1986. Copies of this document are available at the NMFS regional offices and at each Atlantic coast regional fishery management council office.

F. Mandatory Data Collection Using Onboard Technicians

This measure was disapproved because it was determined to be inconsistent with national standard 7 and because of questions about liability insurance. The request is to establish a mandatory data collection program utilizing onboard technicians. We anticipate that the same insurance liability agreements as used in other NMFS observer programs would be employed.

The purpose of the onboard technician program is to collect hard swordfish body parts for age analysis, determine the sex of individual fish, collect data on size selectivity of gear and fishing methods, determine survival rates of hooked fish, and document the incidental catch.

This information is needed to evaluate and/or refine the FMP. To date, no alternative to onboard technicians has yet been identified that will collect all the necessary data. The issue was again discussed at the meeting of the Joint Scientific and Statistical Committee (SSC) of the South Atlantic and Gulf Councils on August 26, 1985, and the Committee unanimously reconfirmed the necessity for onboard technicians.

The proposed level of coverage (3 percent) will require approximately 952 sea days every other year. In the off years, the sampling level will be reduced by one half to 476 sea days. The average onboard sampling requirement will thus be 714 sea days per year. At an estimated cost of $150–$200 per day at sea, the onboard technician program will cost $107,100–$142,800 per year. The present value of the swordfish fishery is at least $25,000,000 at dockside. The cost of the technician program is no more than 0.4–0.6 percent of the value of the fishery. Considering that there is no other way to collect the necessary data, and considering that this program will also collect data essential for developing and/or monitoring billfish and shark FMPs and will also obtain information useful to the International Commission for the Conservation of Atlantic Tunas, the Councils do not feel that the proposed data collection program violates national standard 7. The original justification contained in the FMP is included in the resubmittal document to provide additional rationale and justification and is available at the above address.

G. Mandatory Logbooks To Collect Catch and Effort Data

The collection of effort data is considered essential to improve understanding of the status of the stock of swordfish. Recognizing this, mandatory logbooks were recommended by the Scientific Sub-Committee of the Swordfish Working Panel, and unanimously by the SSCs of the South Atlantic and Gulf Councils. The full Swordfish Working Panel has also recommended the use of logbooks.

There have been 323 swordfish permits issued to date in 1986. The amount of data necessary to define effort is minimal and is routinely recorded by swordfish vessel captains. Thus, the proposed requirement of maintaining such a logbook is not believed to be burdensome. Therefore, effective January 1, 1987, mandatory logbooks would be required of all permitted swordfish fishermen. Logbooks would be provided when permits are issued. These logbooks should be maintained on a real-time basis and all entries provided to NMFS monthly. Future permits may be denied if logbooks are not properly maintained and the data provided as required.

These logbooks would specifically obtain data on effort by area and catch per unit of effort. It is the feeling of the Councils and of most fishermen that logbooks to collect effort and catch data are not a burden to maintain. With all the potential problems associated with determining an adequate sub sample and ensuring that the sample is not biased, and recognizing there will always be uncertainties in the data thus obtained, it was felt that it would be most efficient and equitable if all permitted swordfish vessels were required to maintain logbooks. Because of the extreme mobility of the longline fleet and the difficulty of notifying vessels when they have been selected to maintain a logbook, coverage of less than 100 percent of the vessels would be extremely difficult to administer. Since there are presently fewer than 350 permitted vessels, an unbiased sample might not be possible. Because of the small number of vessels involved, the cost of the logbooks would be nominal.

Consultation With Other Councils

The provision requiring approval of all five Councils to amend or change the FMP was disapproved, and the South Atlantic Council was designated the responsible Council. It was also required that the Council provide for thorough consultation with each of the affected Councils.

The Swordfish Working Panel would serve as the major means of providing this consultation. The composition of this Working Panel will be as specified in the FMP with the addition of a representative from the State Department and a representative from the Office of Management and Budget (OMB). Adjustments to the VSC, as well as other adjustments, would be through recommendations by the Working Panel. The Working Panel would make their recommendations to the Committee Chairmen from each Council, who would take these recommendations to their respective Councils for consideration. Each Council would have 45-days to forward comments to the South Atlantic Council. If no comment is received from a Council within that 45-day period, it would be assumed that the Council has no comment to make regarding the matters recommended by the Working Panel. The South Atlantic Council would consider all comments and make a final determination based on consideration of these comments and the recommendations of the Working Panel.

Classification

Section 304(b)(3)(B) of the Magnuson Act, as amended, requires the Secretary of Commerce (Secretary), after partial disapproval of a plan, to publish regulations proposed by a Council upon receipt of a revised plan and its proposed regulations. At this time, the Secretary has not determined that the revised plan this rule would implement is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making that determination, will take into account the information, views, and comments received during the comment period.

The Councils prepared an environmental impact statement for this FMP; a notice of availability was published on August 9, 1985 (50 FR 32306).

The Administrator, NOAA, determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. The Council prepare a regulatory impact review which may be obtained from the Council at the address above.

This proposed rule is exempt from the procedures of Executive Order 12291, under section 8(a)(2) of that order, because of the deadline imposed under the Magnuson Act, as amended by Pub. L. 97–453. The proposed rule is being reported to the Director of OMB with an explanation of why it is not possible to follow procedures of the order.

The Council prepared an initial regulatory flexibility analysis as part of the regulatory impact review which decribes the effects this rule will have on on small entities. If adopted, the proposed rule could have a significant effect on small entities. You may obtain a copy of this analysis from the Council at the address above.

The rule contains a collection of information requirement subject to the Paperwork Reduction Act (PRA). A request to collect this information has been submitted to the OMB for review under section 3504(h) of the PRA. Comments should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for NOAA.

The Councils determined that this rule would be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of all the affected States. This determination was submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act. The State agencies agreed with this determination.

List of Subjects

50 CFR Part 611

Fisheries, Foreign relations, Reporting and recordkeeping requirements.

50 CFR Part 630

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 26, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR Part 611 and 50 CFR Part 630 are proposed to be amended as follows:

PART 611—[AMENDED]

1. The authority citation for 50 CFR Parts 611 and 630 continues to read as follows:

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

2. Section 611.61 is amended by adding new paragraphs (b) (4) and (5) and (g) to read as follows:

§ 611.61 Atlantic billfish and sharks fishery.

* * * * *

(b) * * *

(4) Area I. [Reserved]

(5) Fishing with pelagic longlines is restricted to the hours 0500–1800, local time, in an area during the seasonal closure for that area as specified at § 630.21.

* * * * *

(g) Swordfish incidental catch limits for the longline fishery and squid trawl fishery. [Reserved]

PART 630—[AMENDED]

3. In Part 630, the table of contents is amended by adding under Subpart B a new section designation to read as follows:

Subpart B—Management Measures

* * * * *

630.25 Import restrictions.

4. Section 630.2 is amended by adding a definition for "Gear conflict" in alphabetical order to read as follows:

§ 630.2 Definitions.

* * * * *

Gear conflict means:

(a) Any incident at sea involving one or more fishing vessels in which one fishing vessel or its gear comes into contact with another vessel or the gear of another vessel, and which results in the loss of, or damage to, a fishing vessel, fishing gear, or catch.

(b) The preemption of fishing grounds used by domestic fishermen by aggregations of foreign vessels with sets of longline or other fishing gear in close proximity that results in demonstrated reductions in the domestic vessels' operating efficiency and productivity.

* * * * *

5. Section 630.5 is amended by designating the existing paragraph as (a) and adding new paragraphs (b) and (c) to read as follows:

§ 630.5 Reporting requirements.

* * * * *

(b) The owner or operator of a vessel of the United States who has a permit issued under § 630.4 to fish for or land swordfish with gear other than rod and reel in the Atlantic, Gulf of Mexico, and Caribbean, and is selected by the Center Director, must—

(1) Advise the Center Director or his designee by telephone 10 days in advance of each trip of the following:

(i) Departure information (port, dock, date, and time), and

(ii) Expected landing information (port, dock, and date);

(2) Accommodate a NMFS technician aboard;

(3) Provide for embarkment and disembarkment of the technician as determined by the Center Director or his designee; and

(4) Make available to the technician harvested swordfish and body parts for the collection of information relative to

(i) Length,

(ii) Sex, and

(iii) Anal and dorsal fins and heads.

(c) Effective January 1, 1987, owners or operators of vessels of the United States who have been issued a permit under § 630.4 must maintain a daily fishing record on forms provided by the Center Director. These forms must be submitted to the Center Director on a monthly basis. The following information must be included on the forms:

(1) Date of set;

(2) Vessel name;

(3) Federal permit number;

(4) Set location (latitude and longitude);

(5) Miles of gear per set;

(6) Number of hooks per set;

(7) Number of hooks between floats;

(8) Number of lights or lightsticks per set;

(9) Length of gangions (leader) used;

(10) Length of drop lines from floats;

(11) Sea surface temperature;

(12) Number of fish retained (for each species listed on the form);

(13) Number of fish discarded (for each species listed on the form); and

(14) Signature of captain.

6. Section 630.7 is amended by removing the word "or" at the end of paragraph (16); changing the period at the end of paragraph (a)(17) to a semicolon; and adding new paragraphs (18), (19), and (20) to read as follows:

§ 630.7 Prohibitions.

(a) * * *

(18) Refuse to accept and make appropriate accommodations for a technician as specified in § 630.5(b);

(19) Import swordfish from the Western North Atlantic swordfish stock during the time periods specified in § 630.25(a) except as provided for at § 630.25(b); or

(20) Fish for, possess, or land swordfish gillnets or any other entanglement net aboard a vessel.

* * * * *

7. Section 630.21 is amended by adding a new paragraph (c) to read as follows:

§ 630.21 Seasonal closures.

* * * * *

(c) *Adjustments.*

(1) The VSC will be reviewed annually to determine the need for adjustment to respond to new stock assessment data, to specific fishery practices, and to correct size composition of catch by month.

(2) On or about May 1 of each year the Councils will recommend to the Regional Director the modifications to

the VSC to be implemented. If the Regional Director, after receiving the recommended modifications from the Councils, concludes that such modifications are consistent with the objectives of the FMP, the Magnuson Act, and other applicable law, the Regional Director will recommend on or about May 15 of each year that the Secretary publish a preliminary notice of any modifications to the VSC in the **Federal Register**. The public may comment on the modifications for 15 days after the date of publication. After consideration of public comments the Secretary will publish a final notice in the **Federal Register** of any changes in the modifications to the VSC.

8. Section 630.23 is amended by designating the introductory text as paragraph (a), redesignating paragraphs (a), (b), and (c) as paragraphs (a), (1), (2), and (3) respectively; and adding a new paragraph (b) to read as follows:

§ 630.23 Gear limitations.

* * * * *

(b) Vessels may not fish for, possess, or land swordfish with any type of gillnet or entanglement net aboard.

8. A new § 630.25 is added to read as follows:

§ 630.25 Import restrictions.

(a) The importation of swordfish from the Western North Atlantic swordfish stock harvested in areas other than U.S. waters (described in § 630.21) during the VSC is not allowed in the:

(1) New England and Mid-Atlantic area during the VSC and for 10 days following the end of a closure of the area;

(2) South Atlantic area during the VSC and for 10 days following the end of a closure of the area;

(3) Florida East Coast area during the VSC and for 10 days following the end of a closure of the area;

(4) Gulf of Mexico area during the VSC and for 10 days following the end of a closure of the area; and

(5) Caribbean area during the VSC and for 10 days following the end of a closure of the area.

(b) These import restrictions do not apply to swordfish that are accompanied by a certificate of eligibility from the country of origin indicating that such fish were (1) harvested by harpoon from the Western North Atlantic swordfish stocks and exceed 125 pounds dressed weight; or (2) harvested from other than the Western North Atlantic swordfish stocks.

[FR Doc. 86-6970 Filed 3-26-86; 12:19 pm]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 51, No. 61
Monday, March 31, 1986

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.

COMMISSION ON CIVIL RIGHTS

Idaho 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 Idaho Advisory Committee to the Commission will convene at 8:30 a.m. and adjourn at 5:00 p.m. on April 11, 1986, at the Tribal Business Center Complex, Dome Room, Fort Hall Indian Reservation, Fort Hall, Idaho. This will be a factfinding meeting on Indian school dropouts.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Michael Orme or Susan McDuffie, Director of the Northwestern Regional Office at (206) 442–1246, (TDD 206/442–4744). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 25, 1986.

Ann Goode,

Program Specialist for Regional Programs.

[FR Doc. 86–7021 Filed 3–28–86; 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. an adjourn at 9:00 p.m., on April 17, 1986, at the City-County Building, Room 2560, 200 East Washington Street, Indianapolis, Indiana. The purpose of the meeting is to discuss the Committee's forum on affirmative action in the Indianapolis Police and Fire Departments, as well as monitoring of housing, block grant, and education issues.

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). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 25, 1986.

Yvonne E. Schumacher,

Program Specialist for Regional Programs.

[FR Doc. 86–7022 Filed 3–28–86; 8:45 am]

BILLING CODE 6335–01–M

New Mexico 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 New Mexico Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 4:30 p.m. on Apil 30, 1986, at the Plaza del Sol., Suite 800, 600 2nd Street NW., Albuquerque, New Mexico. The purpose of the meeting is to discuss program plans.

Persons desiring additional informaton, or planning a presentation to the Committee, should contact Committee Chairperson, Vincent Montoya or J. Richard Avena, Director of the Southwestern Regional Office at (512) 229–5570, (TDD 512/229–5580). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 26, 1986.

Yvonne Schumacher,

Program Specialist for Regional Programs.

[FR Doc. 86–7023 Filed 3–28–86; 8:45 am]

BILLING CODE 6335–01–M

Pennsylvania 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 Pennsylvania Advisory Committee to the Commission will convene at 8:30 a.m. and adjourn at 5:30 p.m. on May 5, 1986, at the William J. Green Federal Building, Conference Room 3306, 600 Arch Street, Philadelphia, Pennsylvania. The purpose of the meeting is to conduct a community forum on "New Strategies in Civil Rights," with emphasis on the potential of urban enterprise zones and the role of intermediate institutions.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Murray Friedman or John Binkley, Director of the Mid-Atlantic Regional Office at (202) 523–5264. Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 26, 1986.

Donald Deppe,

Program Specialist for Regional Programs.

[FR Doc. 86–7024 Filed 3–28–86; 8:45 am]

BILLING CODE 6335–01–M

Utah 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 Utah Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 5:00 p.m., on May 16, 1986, at the Hilton High

Rise, Salt Lake City, Utah. The purpose of the meeting is to receive information on pay-equity issues at a community forum.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Wilfred J. Bocage, or William Muldrow, Acting Director of the Rocky Mountain Regional Office at (303) 844–211, (TDD 303/844–3031). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 26, 1986.

Ann Goode,

Program Specialist for Regional Programs.

[FR Doc. 86–7025 Filed 3–28–86; 8:45 am]

BILLING CODE 6335-01-M

Wyoming 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 Subcommittee of the Wyoming Advisory Committee to the Commission will convene on June 6, at 12:00 p.m. to 10:00 p.m. and June 7, at 8:00 a.m. to 3:30 p.m., at the Holiday Inn, 300 West "F" Street, Casper, Wyoming. The purpose of the meeting is to conduct a commuity forum on current civil rights issues in the State.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Donald L. Tolin or William Muldrow, Acting Director of the Rocky Mountain Regional Office at (303) 844–2211, (TDD 303/844–3031). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 26, 1986.

Ann E. Goode,

Program Specialist for Regional Programs.

[FR Doc. 86–7026 Filed 3–28–86; 8:45am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–412–501]

Anhydrous Sodium Metasilicate From the United Kingdom: Postponement of Final Antidumping Duty Determination

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of postponement of Final Antidumping Duty Determination.

SUMMARY: This notice informs the public that we have received a request from the respondents in this investigation to postpone the final determination, as permitted in section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673(a)(2)(A)). Based on this request, we are postponing our final determination as to whether sales of anhydrous sodium metasilicate (ASM) from the United Kingdom (U.K.) have occurred at less than fair value until not later than July 9, 1986.

EFFECTIVE DATE: March 31, 1986.

FOR FURTHER INFORMATION CONTACT: Arthur J. Simonetti or Charles E. Wilson, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone (202) 377–4929 or 377–5288.

SUPPLEMENTARY INFORMATION: On October 10, 1986, we published a notice in the **Federal Register** (50 FR 41920) that we were initiating, under section 732(b) of the Act, (19 U.S.C. 1673a(b)), an antidumping duty investigation to determine whether ASM from the U.K. was being, or was likely to be, sold at less than fair value in the United States. On October 31, 1985, the International Trade Commission determined that there is a reasonable indication that imports of ASM are materially injuring a U.S. industry. On March 3, 1986, we published a preliminary determination of sales at less than fair value with respect to this merchandise (51 FR 7306). The notice stated that if the investigation proceeded normally, we would make our final determination by May 12, 1986. On March 10, 1986, pursuant to section 735(a)(2)(A) of the Act, the respondents requested an extension of the final determination date until not later than 135 days after the date of publication of the preliminary determination. The respondents are qualified to make such a request because they account for virtually all of the exports of the merchandise. If exporters who account for a significant portion of exports of the merchandise under investigation properly request an extension after an affirmative preliminary determination, we are required, absent compelling reasons to the contrary, to grant the request. Accordingly, we are granting the request and postponing our final determination until not later than July 9, 1986.

This notice is published pursuant to section 735(d) of the Act.

The United States International Trade Commission is being advised of this postponement, in accordance with section 735(d) of the Act.

Comments

The antidumping duty public hearing, originally scheduled for April 18, 1986, has been postponed. If requested, a hearing will be held on May 16, 1986, at 10:00 a.m., in room 3708, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. All written views should be filed in accordance with 19 CFR 353.46, in room B099, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230 and in at least 10 copies, not later than May 13, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

March 25, 1986.

[FR Doc. 7043 Filed 3–28–86; 8:45 am]

BILLING CODE 3510-DS-M

[A–351–505]

Antidumping; Malleable Cast Iron Pipe Fittings, Other Than Grooved, From Brazil; Final Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that malleable cast iron pipe fittings, other than grooved (pipe fittings), from Brazil are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination. We have directed the U.S. Customs Service to continue with the suspension of liquidation of all entries of pipe fittings from Brazil as discussed in the section under "Continuation of Suspension of Liquidation." The ITC will determine, within 45 days of the date of this determination, whether these imports are materially injuring, or are threatening material injury to a U.S. industry.

EFFECTIVE DATE: March 31, 1986.

FOR FURTHER INFORMATION CONTACT: Mary J. Jenkins (202–377–1756) or Mary S. Clapp (202–377–1769), Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Final Determination

We have determined that pipe fittings from Brazil are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (19 U.S.C. 1673d) (the Act). The dumping margins range from 0.0 percent to 70 percent, and the weighted-average margin is 5.64 percent.

Case History

On July 31, 1985, we received a petition filed in proper form from the Cast Iron Pipe Fittings Committee on behalf of the domestic producers of pipe fitings. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Brazil are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act (19 U.S.C. 1673) and that these imports are materially injuring, or threatening material injury to a U.S. industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated the investigation on August 20, 1985 (50 FR 34730) and notified the ITC of our action.

On September 16, 1985, the ITC found that there is a reasonable indication that imports of pipe fittings from Brazil are threatening material injury to a U.S. industry (50 FR 38904).

We presented a questionnaire to Fundicao Tupy S.A. (Tupy) on September 16, 1985. We received responses from Tupy and Tupy American Foundry Corporation (TAFCO) on October 31, 1985. Supplemental responses were received on December 9 and 28, 1985 and January 29, 1986.

On January 14, 1986, we published our preliminary determination of sales at less than fair value (51 FR 1544).

On February 17 through February 20, 1986 and March 3, 1986, we verified the response of Tupy and TAFCO.

On February 28, 1986, we held a public hearing.

Scope of Investigation

The products covered under this investigation are malleable cast iron pipe fittings, other than grooved, currently classifiable in the *Tariff Schedules of the United States, Annotated* (TSUSA) under items 610.7000 and 610.7400.

We made comparisons on approximately 95 percent of sales of pipe fittings to the United States during the period of investigation, February 1, 1985 through July 31, 1985.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with foreign market value as specified below.

United States Price

As provided for in section 772(b) of the Act, we based the United States price on purchase price because the pipe fittings were sold to an unrelated purchaser in the United States prior to importation. We made deductions from the c.i.f. prices for ocean freight, marine insurance, foreign inland freight, and brokerage. We added duty drawback to the U.S. prices.

Section 772(d)(1)(C) of the Act requires that indirect taxes imposed upon home market merchandise that have not been collected on exported merchandise by reason of its exportation to the United States, be added to the United States price to the extent that such taxes are added to or included in the price of such or similar merchandise when sold in the country of exportation. Such a tax, the Internal Circulation Tax, is imposed on home market sales, but the rate of this tax varies with the destination of the merchandise in the home market. Therefore, no single tax rate can be applied as an addition to United States price. For our preliminary determination, we deducted this tax as well as the Financial Social Tax and Social Incentive Plan taxes from the home market prices in which they are included. We have continued this methodology for our final calculations.

Foreign Market Value

In accordance with section 773(a)(1)(A) of the Act, we based foreign market value on sales in the home market of such or similar merchandise. We compared identical merchandise where possible. Where no identical merchandise was sold in the home market, we made comparisons using merchandise of the same grade, size and pressure rating. In our preliminary determination, where no identical merchandise was sold in the home market, we compared home market sales of American standard (A.S.) 300-pound pressure rating National Pipe Thread (N.P.T.) pipe fitting with A.S. 150-pound pressure rating N.P.T. pipe fittings sold in the United States and made adjustments for the differences in merchandise based upon production cost differences provided by respondent. We have examined additional technical data on two products sold in the home market that are "similar" to the merchandise under investigation that is sold in the United States. In accordance with section 771(16) of the Act, the Department has determined, based on the technical data examined, that Brazilian standard 150-pound pressure rating pipe fittings sold in the home market should be compared to A.S. 150-pound pressure rating N.P.T. pipe fittings sold in the United States.

Calculation of foreign market value was based on ex-factory packed prices to unrelated purchasers in the home market. We made an adjustment for commissions in the home market up to the amount of the indirect selling expenses for sales in the United States. We made an adjustment for differences in credit costs in the foreign and U.S. markets in accordance with 353.15 of our regulations (19 CFR 353.15). We deducted home market packing costs and added U.S. packing costs.

Respondent claimed an adjustment for interest cost for maintenance of inventory. This adjustment was not granted because these costs were not demonstrated to be directly related to the home market sales of the merchandise under consideration.

We have also disallowed an adjustment to the home market price for a level of trade difference between the United States and the home market sales claimed by Tupy. Tupy has not demonstrated that it has incurred different costs in selling at different levels of trade in the home market.

Where appropriate, we deducted actual discounts from sales of merchandise in the home market.

We made currency conversions from Brazilian cruzeiros to U.S. dollars in accordance with § 353.56(a)(1) of our regulations, using the daily exchange rates certified by the U.S. Federal Reserve Bank.

Verification

As provided for in section 776(a) of the Act, we verified the information provided by the respondents using standard verification procedures, which included on-site inspection of the

merchandise and examination of relevant sales and financial records of the company.

Petitioner's Comments

Comment 1

Petitioner states that the most similar merchandise to that sold in the United States for purposes of determining foreign market value is the Brazilian standard (B.S.) 150-pound pressure pipe fittings sold in the home market. While these pipe fittings are not exactly like the American standard (A.S.) 150-pound pressure pipe fittings sold in the United States, and therefore do not meet the criteria of section 771(16)(A) of the definition of "such or similar merchandise," they are similar merchandise under Section 771(16)(B). As such, they are more similar to the B.S. 150-pound pressure pipe fittings than the A.S. 300-pound pressure pipe fittings which would only qualify as similar merchandise under section 771(16)(C).

DOC Position

The Department has determined that for the purpose of determining foreign market value, the B.S. 150-pound pressure pipe fittings are more similar to the merchandise under investigation than the A.S. 300-pound pressure pipe fittings. We do not, however, agree with petitioner's reasons for arriving at this conclusion. Section 771(16) defines "such or similar merchandise" as merchandise in the first of three categories which satisfactorily meets certain enumerated criteria. None of the products proposed for comparison satisfies the first category, section 771(16)(A), because neither pipefitting is identical to the merchandise under investigation. We therefore looked at section 771(16)(B). Section 771(16)(B) sets forth three criteria. We examined each one separately.

First, the similar merchandise must be produced in the same country and by the same producer as the merchandise which is the subject of the investigation. Both the B.S. 150-pound pressure pipe fittings and the 300-pound pressure pipe fittings satisfy this requirement. Second, the merchandise must be like the merchandise under investigation in component material or materials, and in the purposes for which used. The B.S. 150-pound pressure pipe fittings are made of the same component materials as the A.S. 150-pound pressure pipe fittings sold to the United States. They are used for the exact same purpose—commercial and plumbing applications where temperatures do not exceed 150°F. The A.S. 300-pound pressure pipe fittings are also made of the same component materials as the product under investigation. While they are used, in a broad sense, for the same purpose as the A.S. 150-pound pressure pipe fittings, (*i.e.*, to connect pipes), they are more specifically designed for industrial applications where temperatures exceed 150°F. Third, the similar merchandise must be approximately equal to the merchandise under investigation in commercial value. Each party interprets this third requirement differently. The Department considers both commercial and physical interchangeability in making its determination of "approximately equal in commercial value." The A.S. 150-pound pressure pipe fittings are commercially interchangeable with the B.S. 150-pound pressure pipe fittings. The cost difference is insignificant. However, since the threading of the A.S. pipe fittings are different from that of the B.S. pipe fittings, they are not physically interchangeable. Therefore, the B.S. 150-pound pressure pipe fittings fail to meet the criteria of section 771(16)(B). The A.S. 300-pound pressure pipe fittings are physically interchangeable with the A.S. 150-pound pressure pipe fittings insofar as the 300-pound pressure pipe fittings could be used in place of the 150-pound pressure pipe fittings, though the reverse is not true. The A.S. 300-pound pressure pipe fittings are not, however, commercially interchangeable with the A.S. 150-pound pressure pipe fittings. The cost can be up to six times as great as the cost of A.S. 150-pound pressure pipe fittings. Thus, the A.S. 300-pound pressure pipe fittings also fail to meet the criteria of section 771(16)(B).

We therefore, looked at the criteria of section 771(16)(C). Again, there are three requirements. First, the merchandise must be produced in the same country and by the same person and be of the same general class or kind as the merchandise which is the subject of the investigation. Both the B.S. 150-pound pressure pipe fittings and the A.S. 300-pound pressure pipe fitting fit this requirement. Second, the merchandise must be like the merchandise under investigation in the purpose for which it is used. As we stated above, while both of the fittings in question are used for the same general function as the product under investigation, the B.S. 150-pound pressure pipe fittings serve the indentical purpose as the product under investigation. Third, the Department must determine that the like merchandise may reasonably be compared with the merchandise under investigation. Both of the pipe fittings in question may reasonably be compared with the merchandise under investigation. The Department has, therefore, determined that based on the greateer similarity in purpose of the B.S. 150-pound pressure pipe fittings and the A.S. 150-pound pressure pipe fittings, the B.S. 150-pound pressure pipe fittings are more similar for purposes of determining foreign market value.

Comment 2

Petitioner argues that respondent's claim for average rates for commission paid in the home market should be denied, as they do not bear a direct relationship to the sales which are under consideration.

DOC Position

The Department has verified the actual amount of the Commissions that were paid on the sales under consideration and offset the commissions with selling expenses on sales to the United States as provided for under § 353.15 of our regulations (19 CFR 353.15).

Comment 3

Petitioner contends that an adjustment for differences in credit expenses should not include credit on home market sales because Tupy did not actually incur any credit costs on those sales. Moreover, petitioner asks the Department to deny respondent's claim that a credit adjustment is warranted because the hyperinflationary nature of the Brazilian economy leads respondent to inflate its prices to compensate for delay payment. In petitioner's view, Tupy has not demonstrated that differences in the prices charged in the home and U.S. markets result from differences in inflation on credit costs, as required by section 353.15 of the Department's regulations.

DOC Position

We have made an adjustment to foreign market value reflecting the differing number of days credit was outstanding in the two markets and the differing costs associated with the credit. That Tupy did not discount its home market receivables does not mean that Tupy did not incur credit costs. It is the Department's practice to make an adjustment for differing credit terms regardless of whether the firm chooses to finance the credit through discounting of receivables, short-term borrowing or internal funds (see, *e.g.*, Final Determination of Sales at Less than Fair Value; Color Television Receivers from Korea; 49 FR 7120).

We verified the credit cost Tupy would have incurred had it discounted its home market receivables and used that cost in calculating the adjustment for differences in credit terms. Because the adjustment was made as a credit adjustment, we did not reach the issue of whether the hyperinflationary situation in Brazil leads to differences in prices in the two markets.

Respondent's Comments

Comment 1

Respondent argues that the Department should compare A.S. 150-pound pressure N.P.T. pipe fittings sold in the United States with A.S. 300-pound pressure N.P.T. pipe fittings sold in Brazil. Respondent claims that, although B.S. 150-pound pressure pipe fittings are sold in Brazil, they are different in threading, wall thickness and pound pressure rating. Therefore, they are not mechanically interchangeable with the A.S. 150-pound pressure pipe fittings and have no commercial value in the United States.

DOC Position

See response to petitioner's "Comment 1."

Comment 2

Respondent states that a wide variety of pipe fittings are sold in Brazil. Therefore, it is common that every size fitting is not in stock when an order is received and that order cannot be shipped until the out-of-stock fittings are produced. During the time in which the out-of-stock fittings are produced, Tupy maintains an inventory of other fittings. These warehousing costs represent a significant cost to Tupy in the hyperinflationary Brazilian economy. Respondent argues that since an order cannot be completed until Tupy has on hand all pipe fittings for that order, the warehousing costs are directly related to the sale.

DOC Position

We disagree. Maintaining an inventory is a general cost of doing business and, therefore, is not considered directly related to particular sales. Moreover, Tupy's inventory warehousing costs are figured based on the average inventory turnover for merchandise sold in the home market. These costs may vary on a sale by sale basis depending on the products requested by Tupy's home market customers. Therefore, average inventory costs are not necessarily in accurate measure of possible post-sale inventory costs incurred while out-of-stock fittings are produced.

Comment 3

Respondent claims that an adjustment should be made to foreign market value to reflect the effects of hyperinflation that are built into home market prices.

DOC Position

We have made an adjustment to foreign market value for differing credit expenses in the United States and home markets. While the adjustment is similar in its results to the hyperinflationary adjustment claimed by respondents, it has been made as a credit adjustment. See response to petitioner's comment 3.

Continuation of Suspension of Liquidation

We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of pipe fittings from Brazil that are entered, or withdrawn from warehouse, for consumption, on or after January 14, 1986, the date of publication of our notice of preliminary determination in the **Federal Register**. The U.S. Customs Service shall continue to require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. The bond or cash deposit rate established in the preliminary determination shall remain in effect with respect to entries or withdrawals made prior to the date of publication of this notice in the **Federal Register**. The bond or cash deposit rate for entries or withdrawals made on or after the publication of this notice is 5.64 percent.

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information 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 injury to, a U.S. industry within 45 days of the date of this determination. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If the ITC, however, determines that such injury does exist, we will issue an antidumping duty order directing the U.S. Customs Service to assess an antidumping duty on pipe fittings from Brazil which were entered or withdrawn from warehouse for consumption on or after January 14, 1986, the publication date of the preliminary determination in the **Federal Register**, equal to the amount by which the foreign market value exceeds the U.S. price.

This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673d (d)).

Paul Freedenberg,

Assistant Secretary for Trade Administration.

March 24, 1986.

[FR Doc. 86-7044 Filed 3-28-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-580-507]

Antidumping; Malleable Cast Iron Pipe Fittings, Other Than Grooved, From Korea; Final Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that malleable cast iron pipe fittings, other than grooved (pipe fittings), from Korea are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination. We have directed the U.S. Customs Service to continue with the suspension of liquidation of all entries of pipe fittings from Korea as discussed in the section under "Continuation of Suspension of Liquidation." The ITC will determine, within 45 days of the date of this determination, whether these imports are materially injuring, or are threatening material injury to, a U.S. industry.

EFFECTIVE DATE: March 31, 1986.

FOR FURTHER INFORMATION CONTACT: Kenneth G. Shimabukuro (202-377-5332) or Mary S. Clapp (202-377-1769), Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Final Determination

We have determined that pipe fittings from Korea are being, or are likely to be, sold in the United States at less than fair

value, as provided in section 735 of the Tariff Act of 1930, as amended (19 U.S.C. 1673d) (the Act). The dumping margins range from less than one percent to 93.42 percent, and the weighted-average margin is 12.48 percent.

Case History

On July 31, 1985, we received a petition filed in proper form from the Cast Iron Pipe Fittings Committee on behalf of the domestic producers of pipe fittings. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Korea are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act (19 U.S.C. 1673) and that these imports are materially injuring, or threatening material injury to, a U.S. industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated the investigation on August 20, 1985 (50 FR 34731) and notified the ITC of our action. On September 16, 1985, the ITC found that there is a reasonable indication that imports of pipe fittings from Korea are threatening material injury to a U.S. industry (U.S. ITC Pub. No. 1753, September 1985). We presented a questionnaire to Mijin Metal Industrial Co., Ltd. (Mijin) on September 18, 1985. We received Mijin's response on November 7, 1985.

We published the preliminary determination of sales at less than fair value on January 14, 1986 (51 FR 1546). There were no requests for a hearing.

Scope of Investigation

The products covered under this investigation are malleable cast iron pipe fittings, other than grooved, currently classifiable in the *Tariff Schedules of the United States, Annotated* (TSUSA) under items 610.7000 and 610.7400.

We made comparisons on approximately 88 percent of sales of pipe fittings to the United States during the period of investigation, February 1, 1985 through July 31, 1985.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with foreign market value as specified below.

United States Price

As provided for in section 772(b) of the Act, we based the U.S. price on purchase price because the pipe fittings were sold to unrelated purchasers in the United States prior to importation. We made deductions from the c.i.f. prices for ocean freight, marine insurance, bank handling charges, foreign inland freight, and brokerage.

Foreign Market Value

In accordance with section 773(a)(1)(A) of the Act, we based foreign market value on sales in the home market of such or similar merchandise. We made deductions from the f.o.b. price for inland freight. We made an adjustment for differences in credit costs in the foreign and U.S. markets in accordance with § 353.15 of our regulations (19 CFR 353.15). We deducted home market packing and added the U.S. packing cost.

Verification

As provided for in section 776(a) of the Act, we verified the information provided by the respondent using standard verification procedures, which included on-site inspection and examination of relevant sales and financial records of the company.

Comments

We received no comments on our preliminary determination.

Continuation of Suspension of Liquidation

We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of pipe fittings from Korea that are entered, or withdrawn from warehouse, for consumption, on or after January 14, 1986, the date of publication of our notice of preliminary determination in the Federal Register.

The U.S. Customs Service shall continue to require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the U.S. price. The bond or cash deposit rate established in the preliminary determination shall remain in effect with respect to entries or withdrawals made prior to the date of publication of this notice in the Federal Register. The bond or cash deposit rate for entries or withdrawals made on or after the publication of this notice is 12.48 percent.

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information 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 injury to, a U.S. industry within 45 days of the date of this determination. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If the ITC, however, determines that such injury does exist, we will issue an antidumping duty order directing the U.S. Customs Service to assess an antidumping duty on pipe fittings from Korea which were entered or withdrawn from warehouse for consumption on or after January 14, 1986, the publication date of the preliminary determination in the Federal Register, equal to the amount by which the foreign market value exceeds the U.S. price.

This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673d).

Paul Freedenburg,

Assistant Secretary for Trade Administration.

March 24, 1986.

[FR Doc. 86-7045 Filed 3-28-86; 8:45 am]

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[A-583-507]

Antidumping; Malleable Cast Iron Pipe Fittings, Other Than Grooved, From Taiwan; Final Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that malleable cast iron pipe fittings, other than grooved (pipe fittings), from Taiwan are being, or are likely to be, sold in the United States at less than fair value. We also have determined that critical circumstances do not exist. We have notified the U.S. International Trade Commission (ITC) of our determination. We have directed the U.S. Customs Service to continue with

the suspension of liquidation of all entries of pipe fittings from Taiwan that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margin as described in the "Continuation of Suspension of Liquidation" section of this notice. The ITC will determine, within 45 days of the date of this determination, whether these imports are materially injuring, or are threatening material injury to, a U.S. industry.

EFFECTIVE DATE: March 31, 1986.

FOR FURTHER INFORMATION CONTACT: Kenneth G. Shimabukuro (202–377–5332) or Mary S. Clapp (202–377–1769), Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20330.

Final Determination

We have determined that pipe fittings from Taiwan are being, or are likely to be, sold in the United States at less than fiar value, as provided in section 735(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1673d) (the Act). The dumping margins range from under one percent to 520.65 percent, and the weighted-average margins are shown in the "Continuation of Suspension of Liquidation" section of this notice.

Case history

On July 31, 1985, we received a petition filed in proper form from the Cast Iron Pipe Fittings Committee on behalf of the domestic producers of pipe fittings. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Taiwan are being, or are are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act (19 U.S.C. 1673) and that these imports are materially injuring, or threatening material injury to, a U.S. industry. The petitioners also alleged that sales in the home market were made at prices below the cost of production and that "critical circumstances" exist.

After reviewing the petition we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated the investigation on August 20, 1985 (50 FR 34731) and notified the ITC of our action.

On September 16, 1985, the ITC found that there is a reasonable indication that imports of pipe fittings from Taiwan are threatening material injury to a U.S. industry (ZU.S. ITC Pub. No. 753, September 1985).

We presented questionnaires to San Yang Metal Industrial Co., Ltd. (San Yang), De Ho Metal Industrial Co., Ltd. (De Ho), Tai Yang Metal Industrial Co., Ltd. (Tai Yang), Kwang Yu Foundry Industrial Co., Ltd. (Kwang Yu), and Young Shieng Manufacturing Co., Ltd. (Young Shiegn) on October 4, 1985, since we had information indicating that they accounted for more than 60 percent of the exports to the United States during the period of investigation. Responses were received on November 25, 1985, from De Ho and Tai Yang, on November 26, 1985, from San Yang, and on November 27, 1985, from Kwang Yu. Young Shieng did not respond.

We published the preliminary determination of sales at less than fair value on January 14, 1986 (51 FR 1547). A hearing, requested by petitioner and respondents, was held on February 28, 1986. Arguments raised in the briefs of all parties were considered for the final determination.

Scope of Investigation

The products covered under this investigation are malleable cast iron pipe fittings, other than grooved, currently classifiable in the *Tariff Schedules of the United States, Annotated* (TSUSA) under items 610.7000 and 610.7400.

We made comparisons on approximately 94 percent of sales of pipe fittings to the United States during the period of investigation, February 1, 1985 through July 31, 1985.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the U.S. price with foreign market value as specified below.

United States Price

As provided for in section 772(b) of the Act, for sales by San Yang, De Ho, Kwang Yu, and Tai Yang, we based the U.S. price on purchase price because the pipe fittings were sold to unrelated purchasers in the United States prior to importation. We made deductions from the c.i.f. prices for ocean freight, marine insurance, foreign inland freight, export taxes, and other shipping expenses, as applicable. Duty drawback and tax rebates were added, as applicable, in accordance with § 353.10(d) (ii) and (iii) of our regulations. Since Young Shieng did not respond, we calculated purchase price, as provided in section 772 of the Act, on the basis of offers by manufacturers, as provided in the petition as the best information available. This price represents offers for sale to the United States to unrelated purchasers, reduced by estimated costs of importation, as provided in section 772(d)(2) of the Act.

Foreign Market Value

Petitioner alleged that home market and third country sales were made at prices which were below the cost of production over an extended period of time, in substantial quantities and at prices which do not permit recovery of costs over a reasonable period of time. In order to determine whether the pipe fittings were sold at prices below cost, we compared them to the applicable selling price. We calculated the cost of production on the basis of material and fabrication costs plus general expenses.

Cost data submitted by the respondents, based on average costs per kilogram, were used. Depending on the product mix, average costs accounted for the basic cost variables, such as galvanized, black, union, and non-union types of pipe fittings. An examination of the respondents' cost records at the verification indicated that this method is acceptable for our purposes.

In accordance with section 773(a)(1)(B) of the Act, we examined Kwang Yu's sales to third countries because the quantities sold in the home market were too small to be an adequate basis for determining foreign market value. We selected Canada as the third country by applying the criteria set forth in § 353.5(c) of our regulations. Since there were insufficient sales of such or similar merchandise at prices above cost, we used constructed value in accordance with section 773(a)(2) of the Act. Constructed value was based on the cost of materials and fabrication plus the actual expenses for general expenses, since these were above the statutory minimum, and the statutory minimum eight percent for profit, since the actual profit was below the statutory minimum, plus U.S. packing.

In accordance with section 773(a)(1)(A) of the Act, we based foreign market value for De Ho, Tai Yang and San Yang on sales in the home market since there were sufficient sales at prices above the cost of production.

For San Yang, we made deductions from f.o.b. prices for inland freight and rebates. We made adjustments for differences in credit terms and commissions between the respective markets, in accordance with § 353.15 of our regulations. We also made adjustments for differences in physical characteristics, where appropriate, in

accordance with § 353.16 of our regulations. For one group of merchandise sold to the United States, there were no home market sales of such or similar merchandise. Therefore, we based foreign market value on the constructed value in accordance with section 773(a)(2) of the Act. Constructed value was based on the cost of materials and fabrication plus actual general expenses, since these were above the statutory minimum, and the statutory minimum eight percent for profit, since the actual profit was below the statutory minimum, plus U.S. packing. We made adjustments for differences in credit terms and commissions in accordance with section 773(a)(4)(B) of the Act.

For Tai Yang, we used the f.o.b. prices, deducted inland freight, and made adjustments for differences in credit costs, commissions, and inspection costs in accordance with § 353.15 of our regulations.

For De Ho, we used home market sales, making a deduction from f.o.b. prices for inland freight. We made adjustments for differences in credit costs, commissions, and inspection costs in accordance with § 353.15 of our regulations. "Best information available" was used to determine foreign market value for Young Shieng since it did not respond. We calculated foreign market value based on information provided in the petition. These prices represent offers for sale in the home market to unrelated purchasers, reduced by estimated costs of transportation, as provided in section 773 of the Act.

Petitioner's Comments

Comment 1

Petitioner argues that the Department should not use San Yang's Canadian sales as the basis for foreign market value. Since San Yang had sufficient sales of similar merchandise in the home market, the proper basis for foreign market value is such sales in the home market.

DOC Response

We ascertained at the verification that San Yang had sufficient sales in the home market to provide a basis for foreign market value. We have, therefore, used sales in the home market as a basis for foreign market value for the final determination.

Comment 2

The petitioner argues that the Department should not use Kwang Yu's Canadian sales as the basis for foreign market value, since the bulk of those sales were at prices below the cost of production, and the constructed value is the proper basis for foreign market value.

DOC Response

There were insufficient sales above cost by Kwang Yu in Canada to form a basis for determination of foreign market value. Constructed value, therefore, was used as the basis for foreign market value.

Comment 3

Petitioner argues that San Yang's claimed reduction in cost of production for retirement reserve and extraordinary maintenance expenses should not be allowed.

DOC Response

We have determined that these costs are properly included in the cost of production since they are directly related to production in the period of investigation and therefore have included them in our calculations.

Comment 4

Petitioner argues that since Young Shieng did not respond to the questionnaire, its rate must be based on the best information available, which is the information contained in the petition.

DOC Response

We agree. "Best information available," based on the information in the petition, was used for purposes of determining the less than fair value margin for Young Shieng for this determination.

Respondents' Comments

Comment 1

San Yang argues that the retirement reserve should not be included as a cost of production because San yang neither incurred nor paid any actual retirement expenses during the period of investigation. This reserve is simply an approved mechanism under Taiwanese tax law that allows companies to reduce their tax liability without incurring any corresponding funding obligations or other financial liabilities.

DOC Response

Retirement reserves represent a commitment during the period of investigation to pay future retirement expenses and as such are fringe benefits to workers at the time they are established. Therefore, we included the reserve amount in our calculation of the cost of production.

Comment 2

San Yang argues that the Department should exclude amortized extraordinary maintenance expenses when calculating San Yang's cost of production. Capitalization of these expenses over two years complies fully with generally accepted accounting principles in Taiwan.

DOC Response

The respondent indicated during the verification that these expenses included all maintenance expenditures which do not extend the useful life of the asset. Therefore, these expenditures represent basic maintenance and should be included in the cost of production for the period in which they were incurred.

Comment 3

San Yang argues that the Department should allocate over the entire fiscal year the higher costs incurred in February 1985 because of the ten-day shutdown during the lunar new year holiday.

DOC Response

In the submission the respondent included the cost of the shutdown in the cost of production for February. We were not able to verify the costs associated with the shutdown. Therefore, we are not able to amortize it over one year.

Comment 4

San Yang argues that sales to Canada are the appropriate basis for foreign market value since its home market above-cost sales constituted less than five percent of total third country sales.

DOC Response

Sufficient sales in the home market takes precedence over third country sales as a basis for foreign market value. We determined at the verification that San Yung had sufficient sales in the home market during the period of investigation to form the basis for determining fair value. Therefore, we used home market sales.

Comment 5

Kwang Yu argues that the Department erred in using only cost data for the month of July 1985 for the preliminary determination.

DOC Response

Since Kwang Yu failed to include all cost information in its response, available cost data were used for the preliminary determination. Subsequently, the average costs for the period January through July 1985 were

submitted and verified after the preliminary determination and used for the final determination.

Comment 6

Kwang Yu, De Ho and Tai Yang argue that it is appropriate to use the cost data based on the average cost per kilogram since they do not have production and accounting data for determining cost on a piece basis.

DOC Response

We agree. Based on information developed during the verification, we determined that the records which reflect costs on a weight basis represent the actual costs of the product and have calculated costs accordingly.

Comment 7

De Ho and Tai Yang argue that the Department improperly included in the cost of production certain shipping expenses incurred after the merchandise was packed and ready for shipment.

DOC Response

Such expenses are not part of the cost of production as contemplated by our regulations. If such expenses are erroneously reported as part of the cost of production, they would be removed, unless the nature of the expenses and the exact amounts thereof are not clearly shown. Such expenses were identified at the verification and were not treated as part of cost of production for the final determination.

Comment 8

De Ho and Tai Yang argue that the Department erred in going directly to constructed value when an identical product was not present in the home market.

DOC Response

In the preliminary determination, we went directly to constructed value since we did not have information necessary to determine appropriate comparisons of similar merchandise.

For the final determination in the absence of identical merchandise, sales of similar merchandise were used as the basis for foreign market value, when available.

Comment 9

Young Shieng argues that it should not be punished for not responding to the Department's questionnaire. Young Shieng stated that it decided not to respond because it believes itself to be a negligible supplier to the U.S. market and therefore should not have been required to respond to our questionnaire. Therefore, Young Shieng argues that it should not receive a margin based on best information available but should instead be included in the "all others" category.

DOC Response

The Department sent questionnaires to those companies that, based on the information it had at the time, were the major producers of malleable pipe fittings from Taiwan. The Department cannot allow individual companies to decide whether they are significant producers and therefore are required to respond to the questionnaire. Young Shieng did not, in a timely manner, present the data on the basis of which the Department could amend its request for a response. In such instances, it is Department policy to use the best information available when a company does not respond.

Comment 10

Respondents argue that Young Shieng's margin should not be used in calculating the weighted-average margin for "all others." Other companies should not be penalized for Young Shieng's lack of response.

DOC Response

It has consistently been the practice of the Department that, in an affirmative determination, producers/exporters for whom a separate weighted-average margin has not been calculated will fall within the "all other manufacturers" category. Although a company investigated chose not to respond to our questionnaire, section 776(b) of the Act provides a basis for making a sales at less than fair value determination through the use of the best information available. Therefore, that result, together with the other margins of fair value determined in accordance with the Act's procedures, is appropriately included in the calculation of the overall weighted-average margin for purposes of establishing the "all other" rate.

Verification

As provided for in section 776(a) of the Act, we verified the information provided by the respondent using standard verification procedures, including examination of relevant sales and accounting records of the companies.

Final Negative Determination of Critical Circumstances

The petitioner alleged that imports of pipe fittings from Taiwan present "critical circumstances." Under section 733(e)(1) of the Act, critical circumstances exist when: (1) There is a history of dumping in the United States, or elsewhere, of the class or kind of the merchandise which is the subject of the investigation; or the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise, which is the subject of the investigation, at less than its fair value; and (2) there have been massive imports of the class or kind of merchandise that is the subject of the investigation over a relatively short period.

In determining whether there have been massive imports, we generally consider the following factors: (1) The volume and value of the imports; (2) seasonal trends; and (3) the share of domestic consumption accounted for by the imports.

We analyzed recent trade statistics for the periods immediately preceding and following the filing of the petition. Based on our analysis of the trade data, we have determined that imports of pipe fittings from Taiwan were not massive over a relatively short period.

We, therefore, did not need to consider whether there is a history of dumping of pipe fittings or whether the person by whom, or for whose account, this product was imported knew or should have known that the exporter was selling this product at less than fair value.

We have determined, for the reasons described above, that "critical circumstances" do not exist with respect to pipe fittings from Taiwan.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of pipe fittings from Taiwan that are entered, or withdrawn from warehouse, for consumption, or or after the date of publication of this notice in the **Federal Register**. The U.S. Customs Service shall continue to require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the U.S. price as shown below. This suspension of liquidation will remain in effect until further notice.

Manufacturer/exporter	Weighted-average margin percentage
San Yang	58.57
De Ho	13.12
Tai Yang	37.09
Kwang Yu	7.93
Young Shieng	80.00
All others	44.87

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information 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 injury to, a U.S. industry within 45 days of the date of this determination. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If the ITC, however, determines that such injury does exist, we will issue an antidumping duty order directing the U.S. Customs Service to assess an antidumping duty on pipe fittings from Taiwan which were entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value exceeds the U.S. price.

This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)).

Paul Freedenberg,

Assistant Secretary for Trade Administration.

March 24, 1986.

[FR Doc. 86-7046 Filed 3-28-86; 8:45 am]

BILLING CODE 3510-DS-M

[C577-601]

Countervailing Duty Investigation; Carbon Steel Wire Rod From Malaysia

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Malaysia of carbon steel wire rod, as described in the "Scope of Investigation" section of this notice, receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. If our investigation proceeds normally, we will make our preliminary determination on or before May 28, 1986.

EFFECTIVE DATE: March 31, 1986.

FOR FURTHER INFORMATION CONTACT: Barbara Tillman or Ellie Shea, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-2438 or 377-0184.

SUPPLEMENTARY INFORMATION:

The Petition

On March 4, 1986, we received a petition in proper form from Armco, Inc., Atlantic Steel Co., 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. 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 Malaysia of carbon steel wire rod receive, directly or indirectly, certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act).

Since Malaysia is not a "country under the Agreement" within the meaning of section 710(b) of the Act, sections 303(a)(1) and 303(b) of the Act apply to this investigation. Accordingly, petitioners are not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of the subject merchandise from Malaysia materially injure, or threaten material injury to, a U.S. industry.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether the petition sets forth the allegations necessary for initiation of a countervailing duty investigation, and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on carbon steel wire rod from Malaysia and have found that the petition meets these requirements. Therefore, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Malaysia of carbon steel wire rod, as described in the "Scope of Investigation" section of this notice, receive bounties or grants. If our investigation proceeds normally, we will make our preliminary determination on or before May 28, 1986.

Scope of Investigation

For purposes of this investigation, the term "carbon steel wire rod" covers a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.20 inch in diameter, nor over 0.74 inch in diameter, tempered or not tempered, treated or not treated, not manufactured or partly manufactured, and valued over or under 4 cents per pound. Wire rod is currently classifiable under items 607.14, 607.17, 607.22, and 607.23 of the *Tariff Schedules of the United States.*

Allegations of Bounties or Grants

The petition alleges that manufacturers, producers, or exporters in Malaysia of carbon steel wire rod receive benefits that constitute bounties or grants under the following programs. We are initiating an investigation on the following allegations:

- Export Tax Incentives
  - —A deduction from net taxable income of eight percent of the f.o.b. value of export sales if Malaysian content is more than 50 percent
  - —A deduction from net taxable income of five percent of the f.o.b. value of export sales if Malaysian content is less than 50 percent
  - —A double deduction for expenses related to export promotion
- Accelerated Depreciation Allowance for Exporters
- Short-Term Export Financing
- Tax Holidays
  - —Exemptions from company taxes
  - —Exemptions from development taxes
  - —Exemptions from excess profits tax
  - —Exemptions from taxes on dividends paid out of profits earned during the tax holiday
  - —Additional tax holiday years
  - —a five percent tax credit
- Investment Tax Credits
- Medium- and Long-Term Government Loans
  - —The Malaysian Industrial Development Finance Bhd
  - —The Industrial Development Bank of Malaysia
  - —The Development Bank of Malaysia
  - —The Borneo Development Corporation
  - —The Sabah Development Bank
  - —Other medium- and long-term government credit

With respect to medium- and long-term government loans, petitioners allege that one of the wire rod producers, Malayawata Steel Bhd, has been uncreditworthy since 1983. Information submitted in the petition indicates that Malayawata Steel Bhd

has been incurring losses since at least 1983.

- Government Equity Infusions in Malayawata Steel Bhd for the years 1983–1984

The following programs were found not to be used in the "Final Negative Countervailing Duty Determinations: Certain Textile Mill Products and Apparel from Malaysia" (50 FR 9852). However, we are including them in this investigation to determine whether producers, manufacturers, or exporters in Malaysia of carbon steel wire rod receive countervailable benefits under these programs.

- Export Credit Insurance
- Industrial Building Allowance
- Increased Capital Allowance

This notice is published pursuant to section 702(c)(2) of the Act.

Giblert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

March 24, 1986.

[FR Doc. 86–7047 Filed 3–28–86; 8:45 am]

BILLING CODE 3510-DS-M

[C-796-601]

Countervailing Duty Investigation; Carbon Steel Wire Rod From Zimbabwe

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 manufacturers, producers, or exporters in Zimbabwe of carbon steel wire rod, as described in the "Scope of Investigation" section of this notice, receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. If our investigation proceeds normally, we will make our preliminary determination on or before May 28, 1986.

EFFECTIVE DATE: March 31, 1986.

FOR FURTHER INFORMATION CONTACT: Barbara Tillman or Ellie Shea, Office of Investigations, Import Administration, International Trade administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377–2438 or 377–0184.

SUPPLEMENTARY INFORMATION:

The Petition

On March 4, 1986, we received a petition in proper form from Armco, Inc., Atlantic Steel Co., 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. 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 Zimbabwe of carbon steel wire rod receive, directly or indirectly, certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act).

Since Zimbabwe is not a "country under the Agreement" witin the meaning of section 701(b) of the Act, sections 303(a)(1) and 303(b) of the Act apply to this investigation. Accordingly, petitioners are not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of the subject merchandise from Zimbabwe materially injure, or threaten material injury to, a U.S. industry.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether the petition sets forth the allegations necessary for initiation of a countervailing duty investigation, and whether it contain information reasonably available to the petitioner supporting the allegations. We have examined the petition on carbon steel wire rod from Zimbabwe and have found that the petition meets these requirements. Therefore, we are initiating a countervailing duty investigation to determine whether manufactures, producers, or exporters in Zimbabwe of carbon steel wire rod, as described in the "Scope of Investigation" section of this notice, receive bounties or grants. If our investigation proceeds normally, we will make our preliminary determination on or before May 28, 1986.

Scope of Investigation

For purposes of this investigation, the term "carbon steel wire rod" covers a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.20 inch in diameter, nor over 0.74 inch in diameter, tempered or not tempered, treated or not treated, not manufactured or partly manufactured, and valued over or under 4 cents per pound. Wire rod is currently classifiable under items 607.14, 607.17, 607.22, and 607.23 of the *Tariff Schedules of the United States.*

Allegations of Bounties or Grants

The petition alleges that manufacturers, producers, or exporters in Zimbabwe of carbon steel wire rod received benefits that constitute bounties or grants under the following programs. We are initiating an investigation on the following allegations:

- Export Incentive Scheme
  - —A tax-free payment equal to at least nine percent of the f.o.b. value of qualifying exported goods
  - —Bonus allocations of foreign exchange calculated at the rate of one percent of the f.o.b. value of the exporter's manufactured exports
  - —An additional tax-free payment of five percent of the value of exports within a given period, which are over and above the company's export performance registered for the same period during the previous year
- Export Promotional Assistance, including financial assistance for participation in trade expositions, from the Export Promotion Section of the Ministry of Trade and Commerce
- Regional Tax Incentives
  - —An "investment allowance" of fifteen percent on buildings, machinery, and furniture
  - —A "special initial allowance" of 100 percent, instead of 2.5 percent, on new commercial buildings
- Government Equity Infusions and Other Financial Assistance to Ziscosteel-Zimbabwe Iron & Steel Company Ltd. for the Years 1982–1985
- Training Investment Allowance

This notice is published pursuant to section 702(c)(2) of the Act.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

March 24, 1986.

[FR Doc. 86–7048 Filed 3–28–86; 8:45 am]

BILLING CODE 3510-DS-M

[C-351-408]

Countervailing Duties; Iron Ore Pellets from Brazil; Cancellation of Suspension Agreement

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice of Cancellation of Suspension Agreement and Continuation of Countervailing Duty Investigation.

SUMMARY: On March 22, 1985, the Department of Commerce published in the **Federal Register** an affirmative preliminary determination. On June 10, 1985, the Department published a notice suspending the countervailing duty investigation on iron ore pellets from Brazil.

On December 18, 1985, the Government of Brazil, on behalf of the Companhia Vale do Rio Doce (CVRD), notified the Department of CVRD's withdrawal from the suspension agreement. Therefore, the Agreement is no longer in force and the affirmative preliminary determination published on March 22, 1985, is in effect as of the date of the publication of this notice.

EFFECTIVE DATE: March 31, 1986.

FOR FURTHER INFORMATION CONTACT: Loc Nguyen or Peggy Clarke, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377–0167 or 377–4412.

Case History

On December 20, 1984, we received a petition from the Cleveland Cliffs Iron Company, Oglebay Norton Company, Pickands Mather & Company, and the United Steelworkers of America on behalf of the United States Iron ore pellets industry. In compliance with the filing requirements of § 355.26 of our regulations (19 CFR 355.26), the petition alleged that manufacturers, producers, or exporters in Brazil of iron ore pellets directly or indirectly receive benefits which constitute subsidies within the meaning of section 701 of the Act, and that these imports materially injure or threaten material injury to a U.S. industry.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on January 9, 1985, we initiated such an investigation (50 FR 2322). We stated that we expected to issue a preliminary determination by March 15, 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 February 5, 1985, the ITC determined that there is a reasonable indication that these imports materially injure or threaten material injury to a U.S. industry (50 FR 5286).

We presented a questionnaire concerning the allegations to the Government of Brazil in Washington, DC, on January 25, 1985. On February 27, 1985, we received a response to the questionnaire.

There is only one known producer and exporter in Brazil of iron ore pellets to the United States, Companhia Vale do Rio Doce (CVRD), for which we have received information from the Government of Brazil.

We issued an affirmative preliminary determination on March 22, 1985 (50 FR 11527). The estimated net subsidy was 5.15 percent *ad valorem*.

Our notice of preliminary determination gave interested parties an opportunity to submit oral and written views. We held a public hearing on April 17, 1985. Both petitioners and respondents submitted comments on this proceeding.

On May 29, 1985, the Government of Brazil and the Department of Commerce signed a suspension agreement and on June 10, 1985, the Department published a notice suspending the countervailing duty investigation.

We directed the U.S. Customs Service to terminate the suspension of liquidation of the subject merchandise.

Pursuant to section 704(g)(1), on June 10, 1985, the Government of Brazil formally requested that the Department continue the investigation and issue a final determination.

On December 18, 1985, the Government of Brazil notified the Department of its withdrawal from the suspension agreement.

Scope of Investigation

The product covered by this investigation is iron ore pellets. Iron ore pellets are defined, for purposes of this proceeding, as fine particles of iron oxide, hardened by heating and formed into balls of ⅜" to ⅝" for use in blast furnaces to obtain pig iron. Pellets for use in electric furnaces and containing not over three percent by weight of silica are excluded from this investigation.

Cancellation of the Agreement

The Government of Brazil has notified the Department of its withdrawal from the suspension agreement. Therefore, the suspension agreement between the Department and the Government of Brazil with regard to iron ore pellets exported to the United States is no longer in force and the affirmative preliminary determination published on March 22, 1985, is in effect as of the date of publication of this notice. The Department will entertain further comment on the legal implications of this withdrawal. The United States Customs Service will be instructed to suspend liquidation of shipments of Brazilian iron ore pellets entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

The Department intends to expedite the final determination. In any event, it will be issued no later than seventy-five days after the date of this notice.

This notice is published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f)).

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

March 24, 1986.

[FR Doc. 86–7049 Filed 3–28–86; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Marine Mammals; Permit Modification; Dr. Robert Elsner Modification No. 9 to Permit No. 31

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Scientific Research Permit No. 31 issued to Dr. Robert Elsner, Institute of Marine Science, University of Alaska, Fairbanks, Alaska 99701, on July 3, 1974, is further modified as follows:

Section A.6 is added.

"6. One (1) adult ringed seal (*Phoca hispida*) may be utilized in release-to-the-wild research as described in the requests of March 10 and 18, 1986."

The Permit, as modified, and documentation pertaining to the modifications are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, DC; and

Regional Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

Dated: March 24, 1986.

Richard B. Roe,

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

[FR Doc. 86–7059 Filed 3–28–86; 8:45 am]

BILLING CODE 3510-22-M

Mid-Atlantic Fishery Management Council; Public Meeting

The Mid-Atlantic Fishery Management Council will convene a public meeting, April 16–17, 1986, at the Quality Inn, 2015 Penrose Avenue, Philadelphia, PA (telephone: 215–755–6500), to discuss the environmental impact statement for the Minerals

Management Service's proposed five-year leasing program, as well as to discuss other fishery management matters. For further information contact John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901–6790; telephone: (302) 674–2331.

Dated: March 24, 1986.

Richard B. Roe,

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

[FR Doc. 86–7011 Filed 3–28–86; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting Import Limits for Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Dominican Republic

March 26, 1986.

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 March 26, 1986. For further information contact Ann Fields, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

A CITA directive establishing import limits for specific categories of cotton and man-made fiber textile products, including men's and boys' shirts in Category 340, nightwear in Category 351, women's, girls' and infants' knit shirts and blouses in Category 639, women's, girls', and infants' suits in Category 644 and brassieres in Category 649, produced or manufactured in the Dominican Republic, and exported during the twelve-month period which began on June 1, 1985, and extends through May 31, 1986, was published in the **Federal Register** on June 19, 1985 (50 FR 25441). The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement on December 30, 1983 between the Governments of the United States and Dominican Republic provides for the carryover of shortfalls in certain categories from the previous agreement year. Accordingly, at the request of the Government of the Dominican Republic, carryover is being applied to the current-year limits for Categories 340, 351, 639, 644, and 649.

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 (1986).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 26, 1986.

Commissioner of Customs,
Department of the Treasury,
Washington, DC 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of June 14, 1985 from the Chairman of the Committee for the Implementation of Textile Agreements which established levels of restraint for certain specific categories of cotton and man-made fiber textile products, produced or manufactured in the Dominican Republic and exported during the twelve-month period which began on June 1, 1985.

Effective on March 26, 1986, the directive of June 14, 1985 is hereby amended to adjust the previously established restraint limits for Categories 340, 351, 639, 644, and 649 to the following amounts under the terms of the Bilateral Cotton, Wool and Man-made Fiber Textile Agreement of December 30, 1983: [1]

Category:	*Adjusted 12-mo restraint limit* [1]
340	203,334 dozen.
351	472,752 dozen.
639	458,773 dozen.
644	51,162 dozen.
649	2,351,052 dozen.

[1] The levels have not been adjusted to account for any imports exported after May 31, 1985.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86–7042 Filed 3–28–86; 8:45 am]

BILLING CODE 3510–DR–M

[1] The Agreement provides, in part, that: (1) Specific limits may be exceeded by designated percentages to account for swing, provided that an equal amount in equivalent square yards is deducted from another specific limit; and (2) specific limits may also be increased for carryover and carryforward.

CONSUMER PRODUCT SAFETY COMMISSION

Notification of Request for Approval of Survey of Persons Seeking Emergency Room Treatment for Product-Related Injuries

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1981 (44 U.S.C. Chapter 35) the Consumer Product Safety Commission has submitted to the Office of Management and Budget a request for approval of a survey of persons seeking emergency room treatment for product-related injuries. On February 5, 1986, the Commission by majority vote directed the staff to conduct a study to determine the feasibility of collecting information about causal factors contributing to accidents involving consumer products. In the study authorized by the Commission, persons seeking treatment for injuries at hospital emergency rooms will be asked to provide information about causal factors contributing to product-related accidents by completing a brief written questionnaire.[1] At eight hospitals, emergency room personnel will request patients to complete the questionnaire while in the emergency room. At eight other hospitals, patients will be requested to take home a postcard containing the same questions, complete it, and mail it directly to the Commission. The study will be limited in time to a period of about two weeks.

The Commission will evaluate the information obtained from this study to determine whether to seek causal information about product-related accidents by use of a written questionnaire at a larger number of hospitals on a continuing basis.

Additional Details About the Request for Approval for Collection of Information

Agency address: Consumer Product Safety Commission, 1111 18th Street, NW., Washington, DC 20207.

Title of information collection: Pilot survey to test the feasibility of collecting behavioral/causal data from victims treated in hospital emergency rooms for product-related injuries either: (1) In the emergency

[1] Commissioners Saundra Brown Armstrong and Stuart M. Statler objected to conducting this study. Dissenting opinions of Commissioners Armstrong and Statler concerning this study are available at the Commission's reading room, 8th Floor, 1111 18th Street, NW., Washington, DC.

room, or (2) after leaving the emergency room.
Type of request: Approval of a new plan.
Frequency of collection: One time.
General description of respondents: Persons seeking treatment at hospital emergency rooms for injuries received in product-related accidents.
Estimated number of respondents: 1,460.
Estimated number of hours for all respondents: 62.
Comments: Comments on this request for approval for a collection of information should be addressed to Andy Velez-Rivera, Desk Officer, Office of Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503; telephone: (202) 395–7340. Copies of the request for approval of a collection of information are available from Francine Shacter, Office of Budget, Program Planning, and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 492–6529.

This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Dated: March 26, 1986.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 86–7040 Filed 3–28–86; 8:45 am]

BILLING CODE 6355–01–M

Notification of Request for Extension of Approval for Information Collection Requirements—Baby-Bouncers, Walker-Jumpers, Baby-Walkers

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1981 (44 U.S.C. Chapter 35), the Consumer Product Safety Commission has submitted to the Office of Management and Budget a request for extension of approval, through April 10, 1989, of information collection requirements in regulations applicable to children's articles commonly called baby-bouncers, walker-jumpers, and baby-walkers.

These products, intended for use by young children, are subject to regulations issued under the Federal Hazardous Substances Act. 15 U.S.C. 1261 *et seq.* One regulation bans from distribution in commerce such products designed so that exposed parts present hazards of amputation, crushing, lacerations, fractures, hematomas, bruises or other injuries to children's fingers, toes, or other parts of the body. 16 CFR 1500.18(a)(6). A second regulation sets forth criteria for exemption from the banning rule, under specified conditions, of baby-bouncers, walker-jumpers, and baby-walkers. 16 CFR 1500.86(a)(4). This exemption regulation requires certain labeling on the products and their packaging to identify the product model and name and address of its manufacturer or distributor. The exemption regulation also requires that records be compiled and maintained for three years relating to the sale, distribution, inspection, and testing of these articles.

If a product subject to the regulations were determined to be banned by provisions of § 1500.18(a)(6) and the hazard were severe enough to warrant recall, both the Commission and the manufacturer or distributor would use the records required by § 1500.86(a)(4) to conduct and monitor a public notification program and/or recall. Records of testing are useful for identifying the products subject to recall and for limiting recall to the products that present the hazards addressed by the banning regulation. Records of sales and distribution would enable the manufacturer involved to send notices concerning the hazard and recall to those customers who received the products subject to recall.

The records required by § 1500.86(a)(4) are maintained on an ongoing basis by manufactuers and importers of products subject to the regulation. They are subject to examination by Commission investigators during inspections or in connection with other compliance-related activities.

Additional Details About the Request for Extension of Collection of Information

Agency address: Consumer Product Safety Commission, 1111 18th Street, NW., Washington, DC 20207.
Title of information collection: Baby-bouncer; walker-jumper; baby-walker, 16 CFR 1500.18(a)(6) and 1500.86(a)(4).
Type of request: Extention of approval of informaiton collection requirements contained in regulations.
Frequency of collection: On-going compilation and maintenance of records.
General descripition of respondents: Manufacturers of baby-bouncers, walker-jumpers, and baby-walkers.
Estimated number of respondents/recordkeepers: 20.
Estimated number of hours for all respondents/recordkeepers: 50.
Comments: Comments on this request for extension of approval of information collection requirements should be addressed to Andy Velez-Rivera, Desk Officer, Office of Regulatory Affairs, Office of Management and Budget, Washington, 20503, telephone: (202) 395–7340. Copies of the request for extension of approval of information collection requirements are available from Francine Shacter, Office of Budget, Program Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207, telephone: (301) 492–6529.

This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Dated: March 26, 1986.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 86–7041 Filed 3–28–86; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Per Diem, Travel and Transportation Allowance Committee; Charges in per Diem Rates

AGENCY: Per Diem, Travel and Transportation Allowance Committee.

ACTION: Publication of Changes in Per Diem Rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 131. This bulletin lists changes in per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico and possessions of the United States. Bulletin Number 131 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: April 1, 1986.

SUPPLEMENTARY INFORMATION: This document gives notice of changes in per diem rates prescribed by the Per Diem, Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. Distribution of Civilian Per Diem Bulletins by mail was discontinued effective June 1, 1979. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of change in per diem rates to agencies and establishments outside the Department of Defense.

The text of the Bulletin follows:

Civilian Personnel per Diem Bulletin Number 131 to the Heads of the Executive Departments and Establishments

Subject: Table of maximum per diem rates in lieu of subsistence for United States Government civilian officers and employees for official travel in Alaska, Hawaii, the Commonwealth of Puerto Rico and possessions of the United States

1. This bulletin is issued in accordance with Memorandum for Heads of Executive Departments and Establishments from the Deputy Secretary of Defense dated 17 August 1966, subject: Executive Order 11294, August 4, 1966, "Delegating Certain Authority of the President to Establish Maximum Per Diem Rates for Government Civilian Personnel in Travel Status" in which this Committee is directed to exercise the authority of the President (5 U.S.C. 5702 (a)(2)) delegated to the Secretary of Defense for Alaska, Hawaii, the Commonwealth of Puerto Rico, the Canal Zone, and possessions of the United States. When appropriate and in accordance with regulations issued by competent authority, lesser rates may be described.

2. The maximum per diem rates shown in the following table are continued from the preceding Bulletin Number 130 except for the cases indentified by asterisks which rates are effective on the date of this Bulletin.

3. Each Department or establishment subject to these rates shall take appropriate action to disseminate the contents of this Bulletin to the appropriate headquarters and field agencies affected thereby.

4. The maximum per diem rates referred to in this Bulletin are:

Locality	Maximum rate
Alaska:	
Adak [1]	$19
Anaktuvuk Pass	140
Anchorage	122
Atqasuk	215
Barrow	144
Bethel	124
Coldfoot	122
College	105
Cordova	113
*Deadhorse	113
Dillingham	114
Dutch Harbor—Unalaska	105
Eielson AFB	105
Elmendorf	122
Fairbanks	105
Ft. Richardson	122
Ft. Wainwright	105
Juneau	109
Kenai	119
Ketchikan	113
Kodiak	110
Kotzebue [3]	126
Murphy Dome [3]	105
Noatak	126
Nome	136
Noorvik	126
Petersburg	113
Point Hope	160
Point Lay	179
*Prudhoe Bay	113
Sand Point	103
Shemya AFB [3]	30
Shungnak	126
Sitka-Mt. Edgecombe	113
Skagway	113
Spruce Cape	110
St. Mary's	100
Tanana	136
Valdez	136
Wainwright	165
Wrangell	113
Yakutat	100
All other localities [3]	91
American Samoa	81
Guam M.I.	91
Hawaii:	
*Hawaii, Island of:	
Hilo	63
Other	85
Oahu	94
All other islands	85
Johnston Atoll [2]	23
Midway Islands [1]	13
Puerto Rico:	
Bayamon:	
12-16—5-15	132
5-16—12-15	105
Carolina:	
12-16—5-15	132
5-16—12-15	105
Fajardo (including Luquillo):	
12-16—5-15	132
5-16—12-15	105
Ft. Buchanan (incl. GSA Service Center, Guaynabo):	
12-16—5-15	132
5-16—12-15	105
Ponce (incl. Ft. Allen NCS)	99
Roosevelt Roads:	
12-16—5-15	132
5-16—12-15	105
Sabana Seca:	
12-16—5-15	132
5-16—12-15	105
San Juan (including San Juan Coast Guard Units):	
12-16—5-15	132
5-16—12-15	105
All other localities	111
Virgin Islands of U.S.:	
12-1—4-30	126
5-1—11-30	112
Wake Island [2]	20
All other localities	20

[1] Commercial facilities are not available. The per diem rate covers charges for meals in available facilities plus an additional allowance for incidental expenses and will be increased by the amount paid for Government quarters by the traveler. For Adak, Alaska—when Government quarters are not utilized, and quarters are obtained at the Simone Construction, Inc. camp, a daily travel per diem allowance of $71.50 is prescribed to cover the cost of lodging, meals and incidental expenses at this facility.

[2] Commercial facilities are not available. Only Government-owned and contractor operated quarters and mess are available at this locality. This per diem rate is the amount necessary to defray the cost of lodging, meals and incidental expenses.

* [3] On any day when US Government or contractor quarters and US Government or contractor messing facilities are used, a per diem rate of $13 is prescribed to cover meals and incidental expenses at Shemya AFB and the following Air Force Stations: Cape Lisburne, Cape Newenham, Cape Romanzof, Clear, Cold Bay, Fort Yukon, Galena, Indian Mountain, King Salmon, Kotzebue, Murphy Dome, Sparrevohn, Tatalina and Tin City. This rate will be increased by the amount paid for US Government or contractor quarters and by $4 for each meal procured at a commercial facility. The rates of per diem prescribed herein apply from 0001 on the day after arrival through 2400 on the day prior to the day of departure.

Dated: March 25, 1986.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 86-6927 Filed 3-28-86; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Army Science Board; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Tuesday & Wednesday, 15-16 April 1986.

Times of Meeting: 0830-1600 hours.

Places: U.S. Army Missile Command, Redstone Arsenal, AL.

Agenda: The Army Science Board AHSG on MICOM Lab Effectiveness Review will visit the Research, Development and Engineering Center for the purpose of gathering data in key technical areas. The panel will also interact with representatives from industry and several project managers to gain insights into their working relationship and how the product of the Center is used. This meeting will be closed to the public in accordance with section 552(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039 or 695-7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 86-6981 Filed 3-28-86; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Wednesday & Thursday, 23-24 April 1986.

Times of Meeting: 0800-1700, Wednesday; 0800-1200, Thursday.

Place: Communications Electronic Command, Ft. Monmouth, NJ

Agenda: The Army Science Board 1986 Summer Study Panel on C³I Requirements for AirLand Battle will meet to receive briefings on selected systems and technology being developed by the Communications Electronics Command. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically

subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 86–6982 Filed 3–28–86; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Meeting

In accordance with section 10(a)(2) of the Federal. Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Tuesday & Wednesday, 29–30 April 1986.

Times of Meeting: 0800–1700 hours.

Places: San Diego, California.

Agenda: The Army Science Board Special Panel on Ballistic Missile Defense will meet to write the Kwajalein Missile Range report. This meeting will be closed to the public in accordance with Section 552(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 86–6983 Filed 3–28–86; 8:45 am]

BILLING CODE 3719–08–M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed collection requests.

SUMMARY: The Director, Information Resources Management Service invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATE: Interested persons are invited to submit comments on or before April 30, 1986.

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 Director, Information Resources Management Service 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: March 26, 1986.

George P. Sotos,

Director, Information Resources Management Service.

Office of Elementary and Secondary Education

Type of Review: NEW

Title: Instructions for Performance Status Report—State Education Agency and Desegregation Assistance Center Programs

Agency Form Number : ED 296–2

Frequency: Annually

Affected Public: State or local governments

Reporting Burden:

Responses: 146

Burden Hours 876

Recordkeeping Burden:

Recordkeepers: 146

Burden Hours: 292

Abstract: Discretionary grant programs to State Education Agencies and Desegregation Assistance Centers under the Title IV Civil Rights Program are required to submit performance status reports annually. Reports are used to monitor compliance with terms and conditions of grant awards.

[FR Doc. 86–7060 Filed 3–28–86; 8:45 am]

BILLING CODE 4000–1–M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Proposed Southern California Edison Contract Rates and Opportunity for Public Review and Comment

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice and Request for Comments. *BPA File No:* SCE–86. All comments and documents submitted as part of the Official Record compiled in the process of developing the Southern California Edison Contract rates should contain the file number designation SCE–86.

SUMMARY: BPA forecasts a firm capacity surplus for at least 20 years and a firm energy surplus for at least the next 5 years. BPA seeks to market its surplus energy and capacity on a long-term basis. As part of this marketing effort, BPA has negotiated with the Southern California Edison Company (Edison) a description of a proposed contract for a long-term power sale that would convert to a capacity/energy exchange when BPA no longer has surplus firm energy available for sale. BPA is proposing formula rates that escalate over the period of the proposed Edison contract.

Responsible Official: Ms. Shirley Melton, Director, Division of Rates, is the official responsible for the development of BPA's Edison contract rates.

DATES: Persons wishing to become a party to the proceedings must submit a written petition to intervene. The written petition must be received by April 7, 1986, and should be addressed to Hearing Officer, c/o Susan Ackerman, Office of General Counsel—APR, Bonneville Power Administration, 1002 NE. Holladay, Portland, Oregon 97232–4189.

BPA's direct case will be available on March 31, 1986. A prehearing conference will be held before the hearing officer at 9 a.m. on April 8, 1986, at the Jackson

High School Auditorium, 10625 SW. 35th Avenue, Portland, Oregon. Registration for the prehearing conference will begin at 8:30 a.m.

During the prehearing conference, the hearing officer will establish dates for the presentation of direct cases, rebuttal cases, cross-examination, and briefs. A procedural schedule will be mailed to all parties of record. Written comments may be submitted through May 15, 1986.

The Administrator has decided to conduct this hearing under BPA's rules governing expedited proceedings. 51 FR 7611 (March 5, 1986) (Rule 1010.10). The Administrator's Record of Decision (ROD) will be issued 90 days from the day this notice is published in the **Federal Register.**

ADDRESSES: Written comments should be submitted to Ms. Donna L. Geiger, Public Involvement Manager, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: Ms. Kathleen S. Johnson, Public Involvement office, at the address above: Telephone numbers, voice/TTY, for the Public Involvement office are: 503–230–3478 in Portland; toll-free 800–452–8429 for Oregon outside of Portland; 800–547–6048 for Washington, Idaho, Montana, Wyoming, Utah, Nevada, and California. Information may also be obtained from:

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97232, 503–230–4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503–687–6959.

Mr. Wayne R. Lee, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509–456–2518.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406–329–3060.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509–662–4377, extension 379.

Mr. Terrence G. Esvelt, Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206–442–4130.

Mr. Thomas V. Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509–522–6226.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208–523–2706.

Mr. Frederic D. Rettenmund, Boise District Manager, 550 West Fort Street, Room 376/Box 035, Boise, Idaho 83724, 208–334–9137.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background

BPA is projecting a firm capacity surplus of approximately 2,000 megawatts (MW) for at least 20 years and a firm energy surplus of approximately 1,000 average MW for the next 5 years. Since BPA first projected that it would have surplus firm power, efforts have been made to market the power. BPA has looked to California as a possible market for its surplus firm power for several reasons: existing contracts between BPA and some California utilities will expire in the next few years; power costs differ in the two regions; and the existence of seasonal diversity in peakloads for BPA and California.

BPA currently has power sales and capacity/energy exchange contracts with Edison that will expire in 1987. The parties have been negotiating a new arrangement. The result of these negotiations is a proposed 20-year power sale and exchange contract that would become effective October 1, 1987.

BPA proposes to sell Edison 250 MW of surplus firm power, with a one-time option to increase that amount up to 550 MW prior to contract execution. The firm power would be delivered with a take-or-pay obligation at an average annual load factor of 53.57 percent, so long as BPA has sufficient surplus firm energy available. When BPA's planning pursuant to the Agreement for Coordination of Operations among Power Systems of the Pacific Northwest (Coordination Agreement), BPA Contract No. 14–02–48221, shows insufficient surplus firm energy to fulfill the contract, the sale would be converted to a seasonal capacity/energy exchange. The conversion to a capacity/energy exchange could also occur at the option of either Edison or BPA, if specified conditions were to make the power sale uneconomical for either party. From that point forward, BPA would provide only firm capacity to Edison. BPA would deliver firm power during daytime hours in the summer (June through October) when Edison experiences its peakloads. In this same period, the energy that BPA delivered during the peak daytime hours would be returned by Edison during the offpeak nighttime hours (peaking replacement energy). Edison may purchase nonfirm energy from the Pacific Northwest or Canada to satisfy its peaking replacement energy obligation. If Edison chooses this course, it must first buy that energy from BPA, to the extent it is available, before purchasing from Northwest or Canadian Utilities.

In exchange for the summer capacity deliveries, Edison would deliver firm energy to BPA in the winter when BPA experiences its peakloads. In addition to receiving the exchange energy, BPA would also be entitled to request specified amounts of supplemental energy from Edison during the winter. BPA would pay Edison 115 percent of the variable cost of producing the supplemental energy.

The proposed rate for surplus firm power is based on BPA's current Surplus Firm Power (SP–85) rate. The rate would be escalated annually over the 20-year contract term by a factor comprised of the rate of increase in the Priority Firm Power (PF) rate plus 2 percent compounded annually. Edison's purchase of nonfirm energy from BPA to meet its peaking replacement energy requirements would be made at the current Nonfirm Energy (NF–85) Standard rate escalated at the annual rate of increase in the PF rate plus 2 percent compounded annually. The proposed Edison contract rates for surplus firm power and nonfirm energy will be established in a hearing process pursuant to section 7(i) of the Pacific Northwest Electric Power Planning and Conservation Act (Pacific Northwest Power Act).

II. *Rate Proposal*

A. *Proposed Formula Rates*

1. *Surplus Firm Power*

a. During October through December 1987, the rate shall be 36.887 mills/kWh, which is based on the SP–85 Contract rate and includes the Intertie Service charge.

b. For all future calendar years beginning in 1988, the surplus firm power rate is calculated as follows:

$$SP_n = SP_0 * \frac{PF_n}{PF_0} * (1.02)^n$$

where SP_0 = 36.887 mills/kWh, based on the SP-85 Contract rate computed at a load factor of 53.57 percent.

PF_0 = 24.002 mills/kWh, based on the PF-85 rate computed at a load factor of 53.57 percent.

n = Number of years beyond calendar year 1987

SP_n = The surplus firm power rate for the relevant calendar year

PF_n = The average Priority Firm Power (PF) rate or successor rates(s) (in mills per kilowatthour) effective on January 1 of the relevant calendar year. Such average rate shall be calculated at the load factor of 53.57 percent, and assuming a uniform demand in all months. If there is more than on PF rate, the average shall be determined by a weighting based on forecasted sales in the relevant rate case.

Substituting the known values for SP_0 and PF_0, the equation above becomes:

$$SP_n = 1.537 * PF_n * (1.02)^n$$

2. *Nonfirm Energy.*

a. During October through December 1987, the rate shall be 23.4 mills/kWh, which is based on the NF–85 Standard rate and includes the Intertie Service charge.

b. For all future calendar years beginning in 1988, the rate for nonfirm energy is calculated as follows:

$$NF_n = NF_0 * \frac{PF_n}{PF_0} * (1.02)^n$$

where NF_0 = 23.4 mills/kWh, based on the NF-85 Standard rate and Intertie Service charge.

PF_0 = 24.002 mills/kWh, based on the PF-85 rate computed at a load factor of 53.57 percent.

n = Number of years beyond calendar year 1987.

NF_n = The nonfirm energy rate in effect on January 1 of the relevant calendar year.

PF_n = The average Priority Firm Power (PF) rate or successor rate(s) (in mills per kilowatthour) effective on January 1 of the relevant calendar year. Such average rate shall be calculated at the load factor of 53.57 percent, and assuming a uniform demand in all months. If there is more than one PF rate, the average shall be determined by a weighting based on forecasted sales in the relevant rate case.

Substituting the known values for NF_0 and PF_0, the equation above becomes:

$$NF_n = 0.975 * PF_n * (1.02)^n$$

B. *Formula Rate Design*

The Edison contract formula rate for surplus firm power is based on the SP–85 Contract rate which reflects the full cost of BPA surplus firm power. The rate of 36.887 mills/kWh equals the SP–85 Contract rate computed at 53.57 percent load factor (35.687 mills/kWh) plus the 1.2 mills/kWh Intertie Service charge for deliveries over the Pacific Northwest-Pacific Southwest Intertie (Intertie). For any calendar year beginning with 1988, Edison would pay a rate for surplus firm power equal to the SP–85 Contract rate at 53.57 percent load factor times the increase in the PF rate at 53.57 percent load factor and then increased by 2.0 percent compounded annually.

The proposed formula rate for nonfirm energy of 23.4 mills/kWh is based on the NF–85 Standard rate of 22.2 mills/kWh plus a 1.2 mills/kWh Intertie Service charge. This rate reflects BPA's full cost of generating and transmitting nonfirm energy as determined by Federal Energy Regulatory Commission Administrative Law Judge David Miller, 29 FERC ¶ 63.039. For any calendar year beginning with 1988, if Edison purchased peaking replacement energy from BPA, Edison pays a nonfirm energy rate escalated at the same escalation factor proposed for surplus firm power; i.e., 23.4 mills/kWh times the PF rate increase computed at 53.57 percent load factor plus 2 percent compounded annually.

Thus, the proposed Edison formula rate for surplus firm power and nonfirm energy are based on the full cost of power as embodied in BPA's current SP–85 Contract rate and NF–85 Standard rate. These rates will be escalated at the same rate as the PF rate escalation plus a 2 percent factor compounded annually. The escalation factor satisfies both Edison's and BPA's requirements. Edison needs rate predictability in order to evaluate the proposed contract against various resource investment opportunities. The PF rate is considered by Edison to be BPA's most stable rate. Thus, an escalator based on the change in the PF rate plus the 2 percent factor offers assurance to Edison regarding the level of the rates over the life of the contract.

BPA desires an assured revenue stream that recovers the full cost of service for the duration of the surplus firm power. The proposed Edison formula rate is forecasted to recover the full cost of surplus firm power based on rate projections from BPA's medium long-term load forecast. The take-or-pay nature of the contract ensures the stability of BPA's revenue stream over the term of the contract. Contract provisions that provide for conversion from the power sale to a capacity/energy exchange also ensure that BPA will recover its fully allocated cost, while providing rate predictability to Edison.

The SP–85 rate schedule contains two different escalators for application to contracts extending beyond the current rate period. However, these escalation factors are not well suited to the proposed 20-year Edison contract, which caused BPA and Edison to negotiate the escalation factors described above. The SP–85 variable escalation factor is based on the annual rate of increase in the cost of investor-owned utility exchange resources. This variable escalation factor would not provide sufficient long-term rate assurance to BPA, since the cost of exchange resources may not be the major determinant of the surplus firm power rate in the later years of the proposed Edison contract. The SP–85 fixed escalation factor of 7.6 percent compounded annually was developed using rate projections covering only 5 years, so it is not useful for the proposed Edison sale of 20 years. The NF–85 rate includes no escalation factors.

The proposed Edison rates were developed in a negotiation process in which BPA compared rates resulting from the proposed escalators with long-term rate projections. The rate projections BPA used while negotiating the Edison contract were prepared for BPA's long-term load forecast. Using the medium forecast rate projection for the period 1987 through 2005 (the last year of the load forecast), the surplus firm power rate is projected to increase at an average annual rate of 5.6 percent compared to 7.1 percent per year for the proposed Edison contract rate for the same period. In the year 2005, the SP rate at 53.57 percent load factor is projected to be 99 mills/kWh and the rate to Edison would be 128 mills/kWh. BPA is similarly protected on the nonfirm energy rate: the projected nonfirm energy rate is forecasted to increase at an average annual rate of 5.0 percent through 2005 compared to 7.1 percent annually for the Edison contract nonfirm energy rate. The proposed Edison formula rates would thus allow full cost recovery while mitigating the risk of revenue underrecovery caused by the possibility that actual conditions will differ from forecasted conditions.

III. Relevant Statutory Provisions

The Administrator is authorized under section 5(f) of the Pacific Northwest Power Act, 16 U.S.C. 839c(f), to sell surplus power. Section 5(f) provides:

> The Administrator is authorized to sell, or otherwise dispose of, electric power, including power acquired pursuant to this and other Acts, that is surplus to his obligations incurred pursuant to subsections (b), (c), and (d) of this section in accordance with this and other Acts applicable to the Administrator. . . .

Section 7 of the Pacific Northwest Power Act, 16 U.S.C. 839e, contains a number of general directives that the BPA Administrator must consider in establishing rates for the sale of electric energy and capacity. In particular,

section 7(a)(1) 16 U.S.C. 839e(a)(1), provides:

> [s]uch rates shall be established and, as appropriate, revised to recover, in accordance with sound business principles, the costs associated with the acquisition, conservation, and transmission of electric power, including the amortization of the Federal investment in the Federal Columbia River Power System (including irrigation costs required to be repaid out of power revenues) over a reasonable period of years and the other costs and expenses incurred by the Administrator pursuant to this Act and other provisions of law.

Rates established by BPA can become effective on an interim or final basis only upon approval by the Federal Energy Regulatory Commission (FERC). (16 U.S.C. 839e(i)(6) and (a)(2).)

In addition to the Pacific Northwest Power Act, BPA ratemaking is governed by the Federal Columbia River Transmission System Act, 16 U.S.C. 838 et seq. and the Flood Control Act of 1944 (16 U.S.C. 825, *et seq.*). BPA power sales are also subject to the provisions of the Pacific Northwest Regional Preference Act, (16 U.S.C. 837 *et seq.*) (Regional Preference Act). The Regional Preference Act, in conjunction with section 9(c) of the Pacific Northwest Power Act (16 U.S.C. 839(c)), guarantees Pacific Northwest (PNW) consumers first call on Federal power generated in the PNM.

IV. Procedures Governing Rate Adjustments and Public Participation

Section 7(i) of the Pacific Northwest Power Act (16 U.S.C. 839(i)), requires that rates be set according to certain procedures. These procedures include issuance of a **Federal Register** notice announcing the proposed rates; one or more hearings; the opportunity to submit written views, supporting information, questions, and arguments; and a decision by the Administrator based on the record developed during the hearing process. This proceeding will be governed by BPA's "Procedures Governing Bonneville Power Administration Rate Hearings," 51 FR 7611 (March 5, 1986) which implement, and in most instances expand, these statutory requirements.

BPA's procedures for publication of a notice of the proposed rates, a prehearing conference, a hearing, receipt of written comments, preparation of decisional documents, a decision, and the transmittal of the decision with supporting documentation to FERC. Rule 1010.10 of the procedures allow the Administrator to conduct a hearing on an expedited basis. The procedures require that the Administrator specify in the **Federal Register** notice whether expedited rules will be used. When expedited procedures are used, the hearings process will conclude with issuance of a ROD adopting the final rates not later than 90 days from the publication of the **Federal Register** notice. The Administrator has determined and hereby gives notice that expedited rules of procedure will apply to this proceeding. A ROD will be adopted by the Administrator on June 30, 1986.

A prehearing conference has been scheduled before an independent hearing officer on April 8, 1986, at 9 a.m. at the Jackson High School. Issues for discussion at the prehearing conference may include intervention of parties, discovery, the scope of cross-examination, hearing schedules, and other pertinent matters. The hearing officer will act on all intervention petitions and opositions to intervention petitions, establish additional procedures, establish a service list, establish a procedural schedule, and consolidate parties with like interests into groups for purposes of jointly sponsoring testimony.

The prefiled testimony of BPA witnesses will be available on March 31, 1986, from BPA's Public Reference Room, 1002 NE. Holladay, Portland, Oregon 97208. The telephone number for the Public Reference Room is 503–230–3478. A copy will be given to persons who may be requesting party status. During the rate proceeding, copies of exhibits, studies, qualifications, attachments, and other relevant documents will be available to any interested person for review in the Public Reference Room.

BPA distinguishes between "participants in" and "parties to" the hearings. Apart from the formal hearing process, BPA will receive comments, views, opinions, and information from "participants," who are defined in the procedures as any person who may express his views, but who does not intervene as a party. Participants' written comments will be made part of the Official Record. The participant category gives the public the opportunity to participate and have its views considered without assuming the obligations incumbent upon "parties." Participants are not entitled to cross-examine parties' witnesses, seek discovery, serve or be served with documents and are not subject to the same procedural requirements as parties.

The second category of interest is that of a "party." BPA customers and customer groups whose rate are subject to revision in the hearing may intervene and gain party status upon request. Other intervenors must have a relevant interest in the proceeding, and must explain their interests in sufficient detail to enable the hearing officer to rule on an intervention petition. All petitions must specify the issue or issues the petitioner intends to raise at the hearing. Intervention petition must be filed with the Hearing Officer, c/o Office of General Counsel—APR, Bonneville Power Administration, 1002 NE. Holladay, Portland, Oregon 97232–4189, and served on BPA's Office of General Counsel—APR, c/o Susan Ackerman, at the above address. Petitions for intervention in this proceeding must be filed and served by April 7, 1986. Pursuant to Rule 1010.1(d) of BPA's Procedures, BPA waives the requirement in Rule 1010.4(d) that an opposition to an intervention petition be filed and served 24 hours before the prehearing conference. Any opposition to an intervention petition may instead be made at the prehearing conference. Any party, including BPA, may opposed a petition for intervention.

Parties may participate in the prehearing conference, may call and cross-examine witnesses, and are entitled to service of documents from all other parties. Parties may also be cross-examined and required to serve documents on the other parties. To avoid unnecessary delay, cross-examination by parties may be limited by the hearing officer. Where two or more parties have substantially like interest and positions, the hearing officer, to expedite the hearing, may order appropriate limitations on the number of attorneys (or parties appearing *pro se*) who will be permitted to cross-examine witnesses and file motions and objections on behalf of such parties.

In order to facilitate discovery and promote the efficient use of cross-examination, the hearing officer may order BPA, the parties, or both, to make witneses available for clarifying sessions. When clarifying sessions are scheduled, BPA and parties intending to participate in clarification of a witness' testimony will be required to serve all data requests relevant to that testimony one business day prior to the clarification session. The witness may answer data requests at the clarification session or answer in writing. Cross-examination will be scheduled by the hearing officer as necessary following completion of the filing of all parties' and BPA's direct cases, rebuttal testimony, discovery, and clarification. Parties will have the opportunity to file initial briefs at the close of cross-examination.

After the close of the hearings and following submisson of initial briefs, BPA will file a draft ROD which will identify the rate issues BPA will resolve in the hearing, summarize the factual, legal, and policy arguments presented by BPA and the parties on each rate issue, and state the Administrator's tentative decision. Parties may file briefs on exceptions, or when all parties have previously agreed, oral argument may be substituted for briefs on exceptions. When oral argument has been scheduled in lieu of briefs on exceptions, the argument will be transcribed and made part of the record.

Persons need not attend the hearings in order to have their views included in the record. Written comments may be included in the record if they are submitted by May 15, 1986. Procedures for submitting comments to BPA's Public Involvement office are detailed in the Dates and Addresses sections of this notice.

The record will include, among other things, transcripts of the hearings, written material submitted by the parties and participants, documents developed by the BPA staff, and other materials accepted into the record by the hearing office. The hearing officer will then review the record and certify the record to the BPA Administrator for decision.

The Administrator will develop the final proposed Edison contract formula rates based on the entire record, including the record certified by the hearing officer, comments received from participants, relevant National Environmental Policy Act analysis, other material and information submitted to or developed by the Administrator, and any other comments received during the rate development process. The basis for the final proposed formula rates will be expressed in the Administrator's ROD. The Administrator will serve copies of the ROD on all parties and will file the final proposed formula rates and record with FERC for approval.

V. Statement of Issues

Pursuant to rule 1010.3(f) of BPA's Procedures, the Administrator limits the scope of this hearing to issues respecting the formula rates for surplus firm power and nonfirm energy contained in the propose Edison contract. Contracts terms are not rates for the purpose of this hearing. See Rule 1010.2(j) of BPA's Procedures. See also *California Energy Resources Conservation and Development Commission v. Johnson*, No. 81-7809 (9th Cir. Feb. 24, 1986). Issues respecting the extent and availability of surplus capacity have been raised in the Firm Displacement rate (FD-85) proceeding and will not be considered in this proceeding. Other non-rate issues will not be heard.

Issued in Portland, Oregon, on March 20, 1986.

James J. Jura,

Acting Administrator.

[FR Doc. 86-7092 Filed 3-27-86; 11:18 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. ERA-C&E-86-24; OFP Case No. 64012-9295-24-24]

Powerplant and Industrial Fuel Use; Exemption; Klondike Equity Enterprises, Inc.

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Order Granting to Klondike Equity Enterprises, Inc. Exemption from the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that it has granted a permanent cogeneration exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* ("FUA" or "the Act"), to Klondike Equity Enterprises, Inc. (KEE or "the petitioner"). The permanent cogeneration exemption permits the use of natural gas as the primary energy source for a 27.6 MW (net, approximate) combined cycle cogeneration facility designed to produce electricity and process steam at the Klondike VI facility located in City of Industry, California. The final exemption order and detailed information on the proceeding are provided in the **"SUPPLEMENTARY INFORMATION"** section, below.

DATES: The order shall take effect on May 3, 1986.

The public file containing a copy of the order, other documents, and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., room 1E-190, Washington, DC 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m., except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Steven Mintz, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA-045, Washington, DC 20585, Telephone (202) 252-9506.

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6A-113, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone (202) 252-6947.

SUPPLEMENTARY INFORMATION: On January 7, 1986, KEE petitioned ERA under section 212(c) of FUA and 10 CFR 503.37 for a permanent cogeneration exemption to permit the use of natural gas in a 27.6 MW (net, approximate) combined cycle cogeneration facility consisting of a gas turbine and generator, a heat recovery steam generator, a steam turbine and generator, an absorption refrigeration package, and ancillary equipment. It is expected that more than 50 percent of the net annual electric power produced by KEE will be sold to Southern California Edison Company, making the cogeneration facility an electric powerplant pursuant to the definitions contained in 10 CFR 500.2. The facility will also produce thermal energy for an absorption refrigeration system, water heating, and comfort heating system at the adjoining recreational complex.

Basis for Permanent Exemption Order

The permanent exemption order is based upon evidence in the record including KEE's certification to ERA, in accordance with 10 CFR 503.37(a)(1), that:

1. The oil or natural gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of such cogeneration facility, in accordance with 10 CFR 503.37(a)(1)(i); and

2. The use of a mixture of natural gas and coal or oil and coal in the cogeneration facility will not be technically feasible, in accordance with 10 CFR 503.37(a)(1)(ii).

Procedural Requirements

In accordance with the procedural requirements of Section 701(c) of FUA and 10 CFR 501.3(b), ERA published its Notice of Acceptance of Petition and Availability of Certification in the **Federal Register** on January 30, 1986 (51 FR 3818), commencing a 45-day public comment period.

A copy of the petition was provided to the Environmental Protection Agency for comments as required by section 701(f) of the Act. During the comment period, interested persons were afforded an opportunity to request a public hearing. The comment period closed on March 17, 1986; no comments were received and no hearing was requested.

NEPA Compliance

After review of the petitioner's environmental impact analysis, together with other relevant information, ERA has determined that the granting of the requested exemption does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA).

Order Granting Permanent Cogeneration Exemption

Based upon the entire record of this proceeding, ERA has determined that KEE has satisfied the eligibility requirements for the requested permanent cogeneration exemption, as set forth in 10 CFR 503.37. Therefore, pursuant to section 212(c) of FUA, ERA hereby grants a permanent cogeneration exemption to KEE to permit the use of natural gas as the primary energy source for its cogeneration facility at Klondike VI in City of Industry, California.

Pursuant to section 702(c) of the Act and 10 CFR 501.69, any person aggrieved by this order may petition for judicial review thereof at any time before the 60th day following the publication of this order in the **Federal Register.**

Issued in Washington, DC, on March 18, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-6964 Filed 3-28-86; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-C&E-86-25; OFP Case No. 64012-9295-25-24]

Powerplant and Industrial Fuel Use; Exemption; Klondike Equity Enterprises, Inc.

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Order Granting to Klondike Equity Enterprises, Inc. Exemption from the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that it has granted a permanent cogeneration exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* ("FUA" or "the Act"), to Klondike Equity Enterprises, Inc. (KEE or "the petitioner"). The permanent cogeneration exemption permits the use of natural gas as the primary energy source for a 27.6 MW (net, approximate) combined cycle cogeneration facility designed to produce electricity and process steam at the Klondike VII facility located in San Diego, California. The final exemption order and detailed information on the proceeding are provided in the **SUPPLEMENTARY INFORMATION** section, below.

DATES: The order shall take effect on May 30, 1986.

The public file containing a copy of the order, other documents, and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, DC 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m., except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Steven Mintz, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA-045, Washington, DC 20585, Telephone (202) 252-9506.

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6A-113, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone (202) 252-6947.

SUPPLEMENTARY INFORMATION: On January 7, 1986, KEE petitioned ERA under section 212(c) of FUA and 10 CFR 503.37 for a permanent cogeneration exemption to permit the use of natural gas in a 27.6 MW (net, approximate) combined cycle cogeneration facility consisting of a gas turbine and generator, a heat recovery steam generator, a steam turbine and generator, an absorption refrigeration package, and ancillary equipment. It is expected that more than 50 percent of the net annual electric power produced by KEE will be sold to San Diego Gas and Electric Company, making the cogeneration facility an electric powerplant pursuant to the definitions contained in 10 CFR 500.2. The facility will also produce thermal energy for an absorption refrigeration system, water heating, and comfort heating system at the adjoining recreational complex.

Basis for Permanent Exemption Order

The permanent exemption order is based upon evidence in the record including KEE's certification to ERA, in accordance with 10 CFR 503.37(a)(1), that:

1. The oil or natural gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of such cogeneration facility, in accordance with 10 CFR 503.37(a)(1)(i); and

2. The use of a mixture of natural gas and coal or oil and coal in the cogeneration facility will not be technically feasible, in accordance with 10 CFR 503.37(a)(1)(ii).

Procedural Requirements

In accordance with the procedural requirements of Section 701(c) of FUA and 10 CFR 501.3(b), ERA published its Notice of Acceptance of Petition and Availability of Certification in the **Federal Register** on January 30, 1986 (51 FR 3819), commencing a 45-day public comment period.

A copy of the petition was provided to the Environmental Protection Agency for comments as required by Section 701(f) of the Act. During the comment period, interested persons were afforded an opportunity to request a public hearing. The comment period closed on March 17, 1986; no comments were received and no hearing was requested.

NEPA Compliance

After review of the petitioner's environmental impact analysis, together with other relevant information, ERA has determined that the granting of the requested exemption does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA).

Order Granting Permanent Cogeneration Exemption

Based upon the entire record of this proceeding, ERA has determined that KEE has satisfied the eligibility requirements for the requested permanent cogeneration exemption, as set forth in 10 CFR 503.37. Therefore, pursuant to section 212(c) of FUA, ERA hereby grants a permanent cogeneration exemption to KEE to permit the use of natural gas as the primary energy source for its cogeneration facility at Klondike VII in San Diego, California.

Pursuant to section 702(c) of the Act and 10 CFR 501.69, any person aggrieved by this order may petition for judicial review thereof at any time before the 60th day following the publication of this order in the **Federal Register.**

Issued in Washington, DC, on March 18, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-6965 Filed 3-28-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. EL86-11-000]

Cities of Newark, New Castle and Milford, Delaware and Town of Smyrna, Delaware v. Delmarva Power and Light Co.; Establishing New Procedural Dates

March 25, 1986.

By this notice, the Commission is establishing a new date for the filing of protests, interventions and an answer in the above-docketed proceeding. The Commission is in receipt of a February 26, 1986, filing on behalf of the Cities of Newark, New Castle and Milford, Delaware and the Town of Smyrna, Delaware, requesting that new dates be established because parties to this docket have been unsuccessful in their attempt to resolve this proceeding through settlement negotiations. Notice is hereby given that protests, interventions and any answers shall be filed on or before April 14, 1986.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86-7036 Filed 3-28-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP86-363-000]

Northern Natural Gas Co., Division of InterNorth, Inc.; Request Under Blanket Authorization

March 26, 1986.

Take notice that on March 6, 1986, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP86-363-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to install and operate one small volume measurement station to accomodate natural gas deliveries to the Morton County Landfill in Morton County, Kansas, for commercial heating, to be served through Peoples Natural Gas Company, Division of Utilicorp United Inc. (Peoples), under the certificate issued in Docket No. CP82-401-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

It is stated that the estimated peak day and annual volumes to be delivered through the proposed facility in the fifth year of service would be 7 Mcf and 616 Mcf, respectively. It is further stated that the volumes to be delivered to Peoples would be within its currently authorized level of firm entitlements as authorized in Docket No. CP86-192-000. It is asserted that the service to be rendered through the proposed facilities would have no impact on Northern's peak day and annual deliveries.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86-7037 Filed 3-28-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL86-27-000]

Sacramento Municipal Utility District v. Pacific Gas and Electric Co.; Complaint

March 26, 1986.

Take notice that on March 11, 1986, Sacramento Municipal Utility District submitted for filing a complaint against Pacific Gas and Electric pursuant to section 306 of the Federal Power Act and Rule 206 of the Commission's Rules of Practice and Procedure.

The complaint arises from PG and E's alleged failure to comply with the terms of the 1970 SMUD—PG and E Power Sale, Exchange and Interrogation Contract, as amended (FPC Rate Schedule No. 45) and PG and E's alleged assertion of a unilateral right to change the rate schedule.

SMUD requests that the Commission order PG and E to comply with the terms of FPC Rate Schedule No. 45, declare that PG and E's alleged unilateral modifications of that Rate Schedule are without force or effect, declare that the Rate schedule permits SMUD to purchase power from sources other than PG and E and grant SMUD such other or further relief as may be appropriate.

Any person desiring to be heard or to protest the 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 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before April 25, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86-7038 Filed 3-28-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ST82-95-002, ST82-442-001, ST83-668-000, ST84-628-000, ST84-628-001]

Red River Gas Pipeline Corp.; Application for Approval of Rates and Charges for Section 311 Services

March 25, 1986.

Take notice that on November 25, 1985, Red River Gas Pipeline Corporation (Red River), First City Center, 1700 Pacific Avenue, Dallas, Texas 75201, filed in Docket Nos. ST82-95-002, *et al.* an application pursuant to § 284.123(b)(2) of the Commission's Regulations for approval of rates and charges for the transportation of natural gas pursuant to section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Red River is requesting Commission approval for continued use of a 36.0 cents per Mcf rate approved by Commission letter order dated May 20, 1985 in Docket Nos. ST82-95-002, *et al.* Red River further requests relief of a settlement condition in order to change the depreciation rate used in developing its current rate of 36.0 cents per Mcf.

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 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1985)). All such motions or protests should be filed on or before April 2, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to

become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86-6957 Filed 3-28-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ES86-31-000, et al.]

Electric Rate and Corporate Regulation Filings; Niagara Mohawk Power Corp. et al.

Take notice that the following filings have been made with the Commission:

1. Niagara Mohawk Power Corporation

[Docket No. ES86-31-000]

March 21, 1986.

Take notice that on March 13, 1986, Niagara Mohawk Power Corporation (Applicant) filed an application seeking an order pursuant to section 204 of the Federal Power Act authorizing the issuance of drafts issued pursuant to a bankers acceptance agreement and short-term unsecured notes of not more than $700 million on or before December 31, 1988.

Comment date: April 11, 1986, in accordance with Standard Paragraph E at the end of this notice.

Northern States Power Company

[Docket No. ER86-355-000]

March 24, 1986.

Take notice that Northern States Power Company (Minnesota) on 3/17/86, tendered for filing the Supplement No. 2 to the Interconnection & Interchange Agreement Between Northern States Power Company (Minnesota), Northern States Power Company (Wisconsin) and Wisconsin Power & Light Company (Supplement).

The Supplement provides for substituting Modification No. 2 for Modification No. 1 of Service Schedule D. The revised Service Schedule D retains the present formula rate but provides for an optional, mutually agreeable flat charge for a transaction in order to enhance the possibilities of additional mutually beneficial transactions.

Northern States Power Company (Minnesota) requests this Supplement become effective on April 1, 1986, and therefore, requests waiver of the Commission's notice requirements.

Copies of this filing have been provided to the respective parties and to the state Commissions of Minnesota and Wisconsin.

Comment date: April 4, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. Baltimore Gas and Electric Company

[Docket No. ER86-353-000]

March 24, 1986.

Take Notice that on March 14, 1986, Baltimore Gas and Electric Company (BG&E) tendered for filing as an initial rate schedule a specimen letter agreement by which BG&E and certain members of the Pennsylvania-New Jersey-Maryland Interconnection (PJM) can enter into monthly sales of BG&E's unutilized entitlement for use of the PJM transmission system which is used to import energy from systems to the west of PJM. EG&E's importation entitlement will be sold to the member companies through a bidding process. Certificates of concurrence to the entitlement sale procedure by Public Service Electric and Gas Company, Atlantic Electric, Delmarva Power and Light Company, and UGI Corporation were submitted. A copy of the initial rate schedule has been mailed to the above-mentioned companies.

BG&E's importation entitlement will be sold on a modified calendar month basis, that is the "month" for which the importation entitlement will be sold will start on the first Monday of the calendar month and end on the first Sunday after or coincident with the end of the calendar month. PJM members wishing to bid on increments of BG&E's importation entitlement will be required to submit their bids by midnight of the 20th day of the calendar month prior to the modified calendar month they are bidding on. All bids must be submitted for 10% increments of BG&E's importation entitlement. The highest bid submitted will be accepted. If the highest bid is not for 100% of BG&E's importation entitlement, BG&E will accept the offer[s] for the remainder of its importation entitlement made by the next highest bidder[s]. The results of the bidding process will be communicated to the bidding companies within 24 hours of the bidding deadline. BG&E reserves the right to retain, on a weekly basis, any or all of its importation entitlement whenever in its sole judgment it has a need to utilize such capability for its own purposes.

BG&E requests that the Commission waive its customary notice period and allow the rate schedule to become effective on March 14, 1986.

Comment date: April 4, 1986, in accordance with Standard Paragraph E at the end of this notice.

4. Consolidated Edison Company of New York, Inc.

[Docket No. ER86-357-000]

March 24, 1986.

Take notice that on March 17, 1986, Consolidated Edison Company of New York, Inc. ("Con Edison") tendered for filing a Supplement to its Rate Schedules FERC No. 60 and 66, agreements to provide transmission service for the Power Authority of the State of New York (the "Authority"). The Supplements provide for a decrease in the monthly transmission charge from $1.12 to $0.89 per kilowatt for transmission of power and energy sold by the Authority to Brookhaven National Laboratory and Grumman Corporation. Con Edison has requested waiver of notice requirements so that the decrease can be made effective as of July 1, 1985.

Con Edison states that a copy of this filing has been served by mail upon the Authority.

Comment date: April 4, 1986, in accordance with Standard Paragraph E at the end of this notice.

5. Iowa Public Service Company

[Docket No. ER86-326-000]

March 24, 1986.

Take notice that Iowa Public Service Company on March 18, 1986, tendered for filing an executed Firm Power Interchange Service Agreement dated August 21, 1985, whereby Iowa Public Service Company will supply the City of Independence, Missouri with firm electric capacity, commencing June 1, 1986 and continuing through May 21, 2006. This firm power will be supplied by Iowa to Independence through transmission facilities owned by Kansas City Power and Light Company. An executed System Capacity Service Agreement dated August 21, 1985, whereby Kansas City will purchase, from Iowa and transmit, resell and deliver to Independence commencing June 1, 1986 and continuing through May 31, 2006, is also tendered for filing herewith.

Comment date: April 4, 1986, in accordance with Standard Paragraph E at the end of this document.

6. Kentucky Utilities Company

[Docket No. ER86-356-000]

March 24, 1986.

Take notice that on March 17, 1986, Kentucky Utilities Company (Company) tendered for filing three letter agreements between Company and East Kentucky Power Cooperative (East Ky.), which provides for interconnection points between the two parties' systems.

An Agreement between the parties dated January 13, 1970, which is on file with this Commission (Company Rate Schedule F.P.C. No. 96), provides for additional delivery points to be established as needs arise.

In the first letter agreement, Company requests the effective date of June 18, 1984 for said letter agreement in which Company's Somerset North—Science Hill 69 KV line section will tap East Ky.'s East Somerset—Norwood 69 KV line section.

In the second letter agreement, Company requests the effective date of April 9, 1985 for said letter agreement in which Company's 138 KV line from the Boonesboro North 138/69 KV substation will tap East Ky's 138 KV Avon to Dale line section.

In the third letter agreement, Company requests the effective date of February 21, 1985; for said letter agreement in which East Ky. will construct a 69 KY tap (and substation) from Company's 69 KV KU Park to London line.

Company states that copies of the filing have been sent to East Ky. and the Public Service Commission of Kentucky.

Comment date: April 4, 1986, in accordance with Standard Paragraph E at the end of this notice.

7. New England Power Company

[Docket Nos. ER85-475-002; ER85-476-002]

March 24, 1986.

Take notice that on March 17, 1986 New England Power Company (NEP) filed a Compliance Refund Report and supporting documentation that effectuates the terms of a Settlement Agreement between NEP and several of its transmission service customers that are served under NEP's FERC Electric Tariff, designated as Third Revised Page No. 1, Schedule II to Tariff No. 3 for T-PTF transmission service. In addition NEP has filed a Compliance Refund Report effectuating the terms of a Settlement Agreement with Vermont Electric Power Company (VELCO) which supersedes FERC Rate Schedule No. 101, as supplemented.

NEP states that appropriate refunds under the above referenced settlement rates were made on February 21, 1986.

Comment date: April 4, 1986, in accordance with Standard Paragraph H at the end of this notice.

8. New York State Electric & Gas Corporation

[Docket No. ER86-358-000]

March 24, 1986.

Take notice that New York State Electric & Gas Corporation (NYSEG), on March 17, 1986, tendered for filing proposed changes in its FERC Rate Schedule 36 and FERC Rate Schedule 84 under which the Company supplies firm transmission wheeling service to the Power Authority of the State of New York (PASNY) for the benefit of Allegheny Electric Cooperative, Inc. and the City of Cleveland, respectively. The rate schedule change consists of a new agreement between PASNY and NYSEG reducing the volume of firm transmission service that NYSEG will provide to Allegheny and Cleveland from 65,000 Kw per month to 38,184 Kw of firm and peaking power and associated energy. This represents 43% of each customer's hydropower allocation from PASNY.

The new agreement is being filed as a rate schedule change due to the expiration of the old contract and to the revised PASNY hydropower allocations. No rate change is proposed by this filing.

Copies of the filing were served upon PASNY, the Public Service Commission of the State of New York, Allegheny Electric Cooperative, Inc. and the City of Cleveland.

Comment date: April 4, 1986, in accordance with Standard Paragraph E at the end of this notice.

9. Niagara Mohawk Power Corporation

[Docket No. ER86-354-000]

March 24, 1986.

Take notice that Niagara Mohawk Power Corporation (Niagara Mohawk), on March 17, 1986, tendered for filing proposed changes to rate schedules to increase charges for delivery of power and energy to municipal and cooperative customers of the Power Authority of the State of New York (Power Authority) located either in Niagara Mohawk's franchise area, in the remaining areas of New York State or in areas adjacent to New York State which are served in whole or in part through Niagara Mohawk's transmission system; affected also are certain of Power Authority's industrial customers located in Niagara Mohawk's Capital Region who receive FitzPatrick power and energy. The new rates are proposed to be effective May 19, 1986.

Niagara Mohawk presently has on file agreements with the Power Authority dated March 1, 1957, designated Rate Schedule 18; dated February 10, 1961, designated Rate Schedule FERC No. 19; dated July 28, 1975, designated Rate Schedule 95; and dated February 5, 1986, designated Rate Schedule 135. These provide for, among other services, transmitting power and energy from the Power Authority over Niagara Mohawk's transmission facilities to customers of the Power Authority, including those customers identified in the preceding paragraph.

Comment date: April 4, 1986, in accordance with Standard Paragraph E at the end of this notice.

10. Otter Tail Power Company

[Docket No. ER86-362-000]

March 24, 1986.

Take notice that Otter Tail Power Company (Otter Tail) of Fergus Falls, Minnesota, on March 17, 1986, tendered for filing Supplement No. 3 to the Agreement between Otter Tail and East River Electric Power Cooperative, Inc., Madison, South Dakota (East River).

Supplement No. 3 allows for the addition of an interconnection at Lake Preston, South Dakota.

Otter Tail requests that the amended agreement (Supplement No. 3 to FERC No. 168) be permitted to be effective as soon as possible.

Copies of the filing were served upon East River Power Cooperative, Inc., and the South Dakota Public Utilities Commission, State of South Dakota.

Comment date: April 4, 1986, in accordance with Standard Paragraph E at the end of this document.

11. Portland General Electric Company

[Docket No. ER86-351-000]

March 24, 1986.

Take notice that on March 18, 1986, Portland General Electric Company (PGE) tendered for filing its revised Average System Cost (ASC) which reflects PGE's Power Cost Adjustment (PCA) rate change which became effective with meter readings on and after July 31, 1985. This filing includes a revised Schedule 4 to Appendix 1, Exhibit C of the Residential Purchase and Sale Agreement along with the authorization to implement this rate change from the Public Utility Commissioner of Oregon.

PGE states that the filing shows that the third quarter PCA adjustment to the current base ASC is 1.08 mills/kWh credit, which when combined with the base ASC results in a net ASC rate effective for this period.

Comment date: April 4, 1986, in accordance with Standard Paragraph E at the end of this notice.

12. Public Service Company of New Hampshire

[Docket No. ER86-312-000]

March 24, 1986.

Take notice that on March 14, 1986, Public Service Company of New Hampshire (PSNH) tendered for filing a supplement to its filing of February 21,

1986 in the above referenced Docket Number.

The supplemental information responds to requests made by the Commission staff in a telephone call to PSNH on March 10, 1986.

The first request was whether PSNH intended to recover capacity costs through the fuel adjustment in the event that the New England Power Pool (NEPOOL) purchased capacity from other pools or power authorities and charged PSNH for its share of the capacity costs of the purchase. PSNH would not recover the capacity portion of the costs of such a purchase through its fuel adjustment without first filing an amendment to its fuel adjustment allowing it to do so. NEPOOL currently purchases energy from neighboring pools and power authorities on a short-term basis when it is short of capacity due to unit outages, and charges each participant for its share of that energy. The cost of those purchases includes a small amount of capacity costs. PSNH recovers only the fuel portion of the cost through its fuel adjustment, and will continue to recover only the fuel portion in the future, since those purchases are not made for the purpose of reducing energy costs.

The second request was for justification of PSNH's request for waiver of the 60-day notice requirement and a March 1, 1986 effective date. PSNH wishes to modify its fuel adjustment as soon as possible because it is continually engaging in economic purchases. For example in the month of March 1986, PSNH is purchasing approximately 50 megawatts of capacity from another utility in order to lower its energy costs. Without the effectiveness of PSNH's proposed revision, PSNH would either have to forego the purchase or would have to forego recovery of the non-energy cost portion of the purchase.

Comment date: April 4, 1986, in accordance with Standard Paragraph E at the end of this notice.

13. South Carolina Electric and Gas Company

[Docket No. ER85-204-006; ER85-603-004]

March 24, 1986.

Take notice that on March 13, 1986, South Carolina Electric and Gas Company (the company) tendered for filing a notice of compliance filing pursuant to Commission letter order dated December 11, 1985. The Company said due to an error, it did not make the refund in January as required by the Commission's order. As a result, the refund was made in February with interest paid until the day the refund was made.

Comment date: April 4, 1986, in accordance with Standard Paragraph H at the end of this notice.

14. South Carolina Electric & Gas Company

[Docket No. ER 86-360-000]

March 24, 1986.

Take notice that South Carolina Electric & Gas Company (SCE&G) on March 17, 1986, tendered for filing a contract between SCE&G and the United States of America, Department of Energy, acting by and through the Southeastern Power Administration (SEPA), dated February 11, 1986. This contract provides for the delivery by SCE&G of approximately 13,000 kilowatts from the Government's Clark Hill Project to certain perference customers of the United States Government located in SCE&G's service area in South Carolina. The rate of $1.93 per kilowatt month has been established for delivery of the said kilowatts.

SCE&G has requested that the contract become effective on the date of tender for filing or March 17, 1986, or as soon as the Commission deems appropriate. If waiver is not granted, however, SCE&G requests an effective date of no later than sixty (60) days after the date of tender for filing or May 17, 1986.

Copies of the filing were served on the Southeastern Power Administration and the South Carolina Public Service Commission.

Comment date: April 4, 1986, in accordance with Standard Paragraph E at the end of this notice.

15. Upper Peninsula Power Company

[Docket No. ER86-361-000]

March 24, 1986.

Take notice that on March 17, 1986, the Upper Peninsula Power Company (UPPCO) tendered for filing proposed changes in the rate schedules for service to the Alger-Delta Cooperative Electric Association, the Ontonagon County Rural Electrification Association, Village of Baraga, City of Escanaba, City of Gladstone, Village of L'Anse, City of Negaunee, and the Wisconsin Electric Power Company.

Based on the Period II test year ending December 31, 1986, UPPCO states that the proposed rates would increase revenues from sales to these customers by $278,556 (4.79%). UPPCO states that the rate increase is necessary as a result of cost increases incurred since 1983, when its rates for wholesale electric service were last changed.

UPPCO proposes to make its rate change effective May 17, 1986. Copies of the filing were served upon UPPCO's affected jurisdictional customers, and the Michigan Public Service Commission.

Comment date: April 4, 1986, in accordance with Standard Paragraph E at the end of this notice.

16. Vermont Electric Power Company, Inc.

[Docket No. ER86-359-000]

March 24, 1986.

Take notice that on March 17, 1986, Vermont Electric Power Company (VELCO) tendered for filing a change in rate under FERC Rate Schedule No. 10 and FERC Rate Schedule No. 236.

VELCO states that these rate changes are provided for in Paragraph 5 of FERC Rate Schedule No. 10 and Article IV of FERC Rate Schedule No. 236.

VELCO further states that the percentage rate used in computing monthly charges changed from 16.70% to 18.31%.

VELCO requests that the effective date for the proposed change in rate be January 1, 1986.

Comment date: April 4, 1986, in accordance with Standard Paragraph E at the end of this document.

17. Pacific Gas and Electric Company

[Docket No. ER86-364-000]

March 25, 1986.

Take notice that Pacific Gas and Electric Company (PGandE), on March 20, 1986 tendered for filing as an initial rate schedule the Cotenancy Agreement between and among PGandE, the Northern California Power Agency (NCPA) and the City of Santa Clara (CSC), dated June 1, 1984.

The Cotenancy Agreement provides that PGandE will own, operate, maintain, and replace the special facilities at the PGandE's Lakeville Substation associated with the integration of the Castle Rock Junction—Lakeville 230 kV transmission line into PGandE's transmission system. The charge for this service is based on PGandE's system average ownership, operation, maintenance, and replacement costs and will be equal to 8.97 percent of NCPA's and CSC's respective shares of the installed costs of the customer-financed special facilities.

PGandE has requested a waiver of the notice requirements of Section 35.3 of the Commission's Regulations so as to permit an effective date of November 4, 1984, for the proposed rates.

Copies of this filing were served upon NCPA, CSC, and the California Public Utilities Commission.

Comment date: April 7, 1986, in accordance with Standard Paragraph E at the end of this notice.

18. Utah Power & Light Company

[Docket No. ER86-363-000]

March 25, 1986.

Take notice that Utah Power & Light Company (Utah Power or Company) on March 18, 1986 tendered for filing revised Resale Electric Service Agreements for supplemental sales for resale with the following partial-requirements customers:

Name	Date of agreement
The Town of Levan	Sept. 25, 1985.
Nephi City Corp	Nov. 4, 1985.
Brigham City Corp	Mar. 14, 1985.

Utah Power also tendered for filing a Revised Resale Electric Service Agreement, dated December 18, 1985, for sales for resale with Price City, a total-requirements customer.

The initial term of these agreements will be for five (5) years and will continue until cancelled by either party upon five (5) years' written notice.

The Price Agreement supersedes the prior agreement of 1965. The agreements with Levan, Nephi, and Brigham were revised to make them consistent with the Company's other partial-requirements service agreements. None of the agreements involve a change in service or a change in rates, and no other resale purchaser will be adversely affected.

Utah Power requests a waiver of the notice requirements of § 35.3 and to make the contracts effective as of their respective execution dates.

The Company served copies of its filing upon the affected resale customers and upon the Utah Public Service Commission.

Comment date: April 7, 1986, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the 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.

H. Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, on or before the comment date. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86-6956 Filed 3-28-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP86-346-000, et al.]

Natural Gas Certificate Filings; Columbia Gas Transmission Corp., et al.

March 24, 1986.

Take notice that the following filings have been made with the Commission:

1. Columbia Gas Transmission Corporation

[Docket No. CP86-346-000]

Take notice that on February 25, 1986, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP86-346-000 an applicant pursuant to sections 7(b) and 7(c) of the Natural Gas Act. Applicant requests a certificate of public convenience and necessity authorizing an increase in the daily contract demand for a wholesale customer, an additional delivery point, a transportation service, the construction and operation of certain natural gas facilities, and requests permission and approval for abandonment of certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization for service under a revised service agreement with Orange and Rockland Utilities, Inc. (Orange and Rockland) effectuating an increase in its contract demand under Rate Schedule CDS of 10,000 dt equivalent of natural gas per day from 45,900 dt equivalent to 55,900 dt, in Zone 7, effective November 1, 1986. Applicant also proposes to establish an additional point of delivery to Orange and Rockland, to be known as Buena Vista, located in Rockland County, New York. In addition, Applicant requests authority to transport on an interruptible basis up to 100,000 dt equivalent of natural gas per day for Orange and Rockland during the seven-month summer operating period utilizing a portion of the proposed facilities.

Applicant requests authorization for the following facility projects:

1(a). The construction and operation of approximately 7.2 miles of 24-inch pipeline and the abandonment of approximately 7.2 miles of 10-inch pipeline, in two segments, located in Orange County, New York.

1(b). The construction and operation of approximately 5.8 miles of 24-inch pipeline located in Rockland County, New York.

2(a). The construction and operation of interconnecting piping and measuring facilities for the Buena Vista delivery point.

2(b). The construction and operation of an interconnecting measuring and regulating facility (the Algonquin Interconnect) which would replace an existing emergency interconnection, between Applicant's facilities and the facilities of Algonquin Gas Transmission Company, located in Rockland County, to permit its utilization for receipt of gas volumes for Applicant and Orange and Rockland accounts.

Applicant states the proposed facilities would increase the capacity of the eastern portion of its A-5 system which is necessary to provide the requested increase in contract demand for Orange and Rockland. Furthermore, Applicant states the facilities proposed in 1(b), 2(a) and 2(b) would facilitate the requested transportation service for Orange and Rockland whereby Applicant would transport up to a maximum daily quantity of 100,000 dt equivalent of natural gas on an interruptible basis from the point of receipt at the Algonquin Interconnect to the point of delivery at the proposed Buena Vista delivery point. Applicant proposes to charge Orange and Rockland a rate of $.1226 per dt equivalent for the proposed transportation service.

Applicant states the total estimated investment cost of the proposed construction is $12,161,200, including the Commission's filing fees, and that Orange and Rockland has agreed to make a contribution in aid of construction to Applicant in the amount of $728,000, to reimburse Applicant for the estimated cost of the portion of the proposed measuring and regulating

facilities associated with the proposed interruptible transportation service. Applicant states that it would finance the proposals with funds generated from internal sources.

Comment date: April 14, 1986, in accordance with Standard Paragraph F at the end of this notice.

2. Eastern Natural Gas Company, National Fuel Gas Distribution Corporation, National Fuel Gas Supply Corporation

[Docket No. CP86-351-000]

Take notice that on February 27, 1986, Eastern Natural Gas Company (Eastern), 100 Matson Ford Road, Radnor, Pennsylvania 19087, National Fuel Gas Distribution Corporation (Distribution), 10 Lafayette Square, Buffalo, New York 14203, and National Fuel Gas Supply Corporation (National), 10 Lafayette Square, Buffalo, New York 14203 (Applicants) filed in Docket No. CP86-351-000 an application pursuant to sections 1(b), 1(c), 7(b), 7(c) and 7(f) of the Natural Gas Act for various authorizations in connection with the acquisition by Eastern, an Ohio regulated natural gas public utility, of that portion of Distribution's natural gas plant located within Ohio, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that in October 1985, Distribution and Eastern entered into an agreement providing for the conveyance to Eastern of Distribution's Ohio natural gas plant, and that on December 30, 1985, the conveyance was approved by the Public Utilities Commission of Ohio. It is explained that the gas plant involved is located in Ashtabula and Trumbull Counties, Ohio, and serves approximately 5,700 retail customers.

Applicants state that authorization to effectuate this transaction may be necessary because Distribution's Ohio gas plant is a portion of Distribution's Sharon subsystem, which the Commission found to be operated for the transportation of gas in interstate commerce in Docket No. CP76-448. It is further stated that on December 3, 1980, in Docket No. CP80-465, the Commission granted Distribution's request, pursuant to section 7(f) of the Natural Gas Act, for an order determining the Sharon subsystem to be a service area within which Distribution could enlarge or expand its facilities without further authorization from the Commission.

Applicants state that, with the exception of a small volume of local production, the gas serving Distribution's Ohio customers is supplied by National to Distribution pursuant to National's Rate Schedule RQ. National seeks a certificate of public convenience and necessity to sell gas to Eastern under Rate Schedule RQ following Eastern's acquisition of Distribution's Ohio properties.

It is stated that, upon acquisition by Eastern, two portions of the Sharon subsystem, known as the Andover and Kinsman segments, would be completely separated from the facilities of Distribution and that all of the gas received by Eastern from National into the Andover and Kinsman segments would be consumed by Eastern's customers within Ohio. It is further stated that the rates and service of Eastern and its Ohio facilities are subject to regulation by the Public Utilities Commission of Ohio. Eastern requests that the Commission declare the Andover and Kinsman segments exempt from its jurisdiction pursuant to section 1(c) of the Natural Gas Act.

The application further states that, outside of the Andover and Kinsman segments, the natural gas supplied by National must be transported by Distribution to Eastern, and that Distribution and Eastern have agreed to perform certain system modifications to facilitate the measurement of such gas. It is stated that within a period of three to six months following the transfer of assets, a number of low pressure mains which currently cross the state boundary from the City of Sharon, Pennsylvania, into Ohio, would be severed at the state boundary. Furthermore, in order to maintain service to various Ohio customers, Eastern states it would lay approximately 1,850 feet of three-inch pipe. In addition, to eliminate a border crossing to the south of Sharon, Pennsylvania, Distribution states it would lay approximately 320 feet of six-inch pipe. It is indicated that the parties would require additional measurement stations to be constructed at or near the state boundary to measure gas delivered by Distribution to Eastern and by Eastern back to Distribution.

The application states that these proposed system modifications would not result in a complete separation and isolation of the Ohio and Pennsylvania portions of the Sharon subsystem. Such a complete separation and isolation would cost in excess of $500,000, it is stated. To avoid this expenditure, Distribution and Eastern have each agreed to transfer by displacement exchange the volumes required by Distribution from Eastern at the remaining points of interconnection on a no-fee exchange basis. The application requests that the Commission exercise its discretion not to assert jurisdiction over this exchange transaction.

The Applicants further request, if and to the extent necessary, service area determinations under section 7(f) of the Natural Gas Act with respect to what would be their respective portions of the Sharon subsystem, so that each may enlarge or extend its facilities without first having to obtain Commission authority under section 7(c) of the Natural Gas Act.

The Applicants also request any other authorization which may be necessary to effectuate the proposed transaction. If necessary, Distribution requests abandonment authorization under section 7(b) of the Natural Gas Act to transfer its Ohio properties to Eastern. Applicants Distribution and Eastern also request authorization, if necessary, to perform the miscellaneous construction described above.

Comment date: April 14, 1986, in accordance with Standard Paragraph F at the end of this notice.

3. El Paso Natural Gas Company

[Docket No. CP86-372-000]

Take notice that on March 10, 1986, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP86-372-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to install and operate a sales tap on El Paso's 24-inch San Juan line in Coconino County, Arizona, under the certificate issued in Docket No. CP82-435-000 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.

El Paso proposes to install the tap to serve Southern Union Gas Company (Southern Union), delivering by the third year up to 335 Mcf of natural gas per day and 48,650 Mcf per year for resale and distribution in the Koch field area in Coconino County. It is stated that the gas would be used to serve high priority end-users (a school and residences). It is further stated that the volumes delivered through the proposed tap would not represent an increase in Southern Union's entitlement from El Paso. It is estimated that the cost of the tap would be $19,000, to be paid by El Paso.

Comment date: May 8, 1986, in accordance with Standard Paragraph G at the end of this notice.

4. National Fuel Gas Supply Corporation

[Docket No. CP86-362-000]

Take notice that on March 6, 1986, National Fuel Gas Supply Corporation

(National Fuel), Ten Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP86-362-000 an application pursuant to section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity authorizing the transportation of up to 200,000 Mcf on natural gas per day and up to 23,000,000 Mcf of natural gas annually for National Fuel Gas Distribution Corporation (Distribution) for use as general system supply, for a term ending December 31, 1986, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

National Fuel states that it would receive the subject transportation volumes from any source at existing receipt points on its system and would redeliver the volumes to Distribution at existing points of delivery. National Fuel adds that the authorization requested is not intended as a long-term alternative to Order No. 436, but rather, would permit Distribution to purchase interstate supplies on a spot basis while the market is adjusting to the sweeping changes brought on by Order No. 436.

National Fuel further states that it would charge Distribution pursuant to a new Rate Schedule T-2, Transportation Service for RQ Customers, which provides for an initial rate of 22.54 cents per Mcf, and is comprised of the current margin under National Fuel's Rate Schedule RQ commodity rate, converted to a volumetric equivalent, plus the applicable GRI surcharge. It is explained that the proposed maximum daily and total volumes are approximately equal to 15 percent of Distribution's peak day and annual requirements.

Comment date: April 14, 1986, in accordance with Standard Paragraph F at the end of this notice.

5. Panhandle Eastern Pipe Line Company

[Docket No. CP86-376-000]

Take notice that on March 12, 1986, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP86-376-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation on an interruptible basis of natural gas on behalf of Western Gas Interstate Company (Western), for the term of the contract between Western and Applicant, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Pursuant to a transportation agreement dated November 20, 1984, as amended on February 3, 1986, Applicant has agreed to transport up to 10,000 Mcf of natural gas per day on behalf of Western for a term ending November 20, 1989. Applicant states that it would receive the gas for Western's account in Texas County, Oklahoma, and would redeliver for Western's account in Moore County, Texas. Western would pay Applicant 3.90 cents per Mcf for this service, it is stated. Applicant also requests authority to report annually any additions or deletions of points of receipt and redelivery.

Comment date: April 14, 1986, in accordance with Standard Paragraph F at the end of this notice.

6. Southern Natural Gas Company

[Docket No. CP86-336-000]

Take notice that on February 18, 1986, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP86-336-000 an application pursuant to section 7(c) of the Natural Gas Act for a limitedterm certificate of public convenience and necessity authorizing Southern to transport natural gas on behalf of MacMillan Bloedel Inc. (MacMillian), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern proposes to transport up to 16 billion Btu of gas per day on an interruptible basis for MacMillian for a term of one year. It is stated that gas purchased by MacMillian from SNG Trading Inc. would be delivered to Southern at an existing point of interconnection in Block 194 and in Block 311, Mississippi Canyon area, offshore Lousiana. Southern indicates that it would redeliver equivalent quantities of gas to MacMillian at an existing point of interconnection with MacMillian on Southern's main line in Perry County, Alabama.

Southern also requests flexible authority to provide transportation from additional delivery points in the event MacMillian obtains alternative sources of natural gas. Southern states that this flexible authority would not be used to change the recipient of the service, the location of the proposed redelivery point or the maximum daily quantity of gas transported by Southern. Southern indicates that it would file periodic reports with the Commission providing information about the addition of any delivery points.

It is asserted that Southern would charge MacMillian 64.9 cents per million Btu for the transportation service. It is further stated that Southern would collect a Gas Research Institute surcharge of 1.35 cents per Mcf of gas redelivered to MacMillian.

Southern's application states that all transportation services would be conditioned upon the availability of sufficient capacity for Southern to perform the proposed services without detriment or disadvantage to Southern's obligations to its customers, and is further subject to the availability of excess capacity in Southern's pipeline facilities and to operating conditions and system requirements of Southern.

Comment date: April 14, 1986, in accordance with Standard Paragraph F at the end of this notice.

7. Southern Natural Gas Company

[Docket No. CP86-358-000]

Take notice that on March 15, 1986, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP86-358-000 an application pursuant to section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity authorizing for one year the transportation of natural gas for Union Camp Corporation (Union Camp), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern requests a limited-term certificate of public convenience and necessity authorizing it to transport gas on behalf of Union Camp in accordance with the terms and conditions of a transportation agreement between Union Camp and Southern dated February 20, 1986 (agreement). It is said that subject to the receipt of all necessary governmental authorizations, Southern has agreed to transport on an interruptible basis up to 20 billion Btu of gas per day purchased by Union Camp from SNG Trading Inc. (SNG Trading). Southern requests that the Commission issue a limited-term certificate for a term expiring one year from the date of the Commission's order issuing the requested authorization.

The agreement, it is said, provides that Union Camp would cause gas to be delivered to Southern for transportation at the existing point of interconnection on the facilities of Southern located on a production platform in Main Pass area, Block 64, offshore Louisiana. Southern states that it would redeliver to Union Camp at the Union Camp Corporation meter station, Chatham County, Georgia, an equivalent quantity of gas less 3.25 percent of such amount which would be deemed to have been used as compressor fuel and company-use gas (including system unaccounted-for gas losses); less any and all shrinkage, fuel

or loss resulting from or consumed in the processing of gas; and less Union Camp's pro-rate share of any gas delivered for Union Camp's account which is lost or vented for any reason.

Southern states that Union Camp has agreed to pay Southern each month a transportation rate of 77.6 cents for each million Btu of gas redelivered by Southern. Southern states further that it would collect from Union Camp the GRI surcharge of 1.35 cents per Mcf or any such other GRI funding unit or surcharge as hereafter prescribed.

Southern also requests flexible authority to provide transportation from addtional delivery points in the event Union Camp obtains alternative sources of supply of natural gas. The additional transportation service, it is said would be to the same redelivery point, the same recipient, and within the maximum daily transportation volume of gas as stated in the application. Southern indicates that it would file a report providing certain information with regard to the addition of any delivery points.

Southern states that the transportation arrangement would enable Union Camp to divesify its natural gas supply sources and to obtain gas at competitive prices. It is said that Union Camp has the installed capability to utilize fuel oil and because of the recent precipitious decline in the prices of fuel oil, has switched to that fuel for substantially all of its energy requirements. It is further said that Union Camp has advised Southern that unless it is able to obtain the transportation services requested by Southern, it would continue to utilize fuel oil to the maximum extent possible causing a corresponding loss of throughput on Southern's system. Thus it is alleged that to the extent the transportation service proposed would enable Union Camp to obtain access to competitively priced natural gas, the entire Southern system would benefit by retaining Union Camp as a customer on the system.

Comment date: April 14, 1986, in accordance with Standard Paragraph F at the end of this notice.

8. Southern Natural Gas Company

[Docket No. CP86-365-000]

Take notice that on March 7, 1986, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP86-365-000 an application pursuant to Section 7 of the Natural Gas Act for a limited-term certificate of public convenience and necessity authorizing for one year the transportation of natural gas for Alabama Gas Corporation (Alagasco), acting as agent for Harbison-Walker Refractories Division of Dresser Industries Inc. (Harbison-Walker), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport, on an interruptible basis, up to 1,350 million Btu of natural gas per day on behalf of Alagasco, acting as agent for Harbison-Walker for a term of one year from the date of the Commission's order. It is stated that Harbison-Walker would purchase such gas from TXO Production Corporation. It is explained that Applicant would receive the gas at existing points of interconnection on Applicant's system in Jackson, Bienville, Desota, Lincoln, and Lafourche Parlishes, Louisiana and deliver it to Alagasco in Jefferson County, Alabama, for further transportation to Harbison-Walker's Bessemer and Fairfield plants.

Applicant states that Alagasco has agreed to pay the following transportation charge:

(a) Where the aggregate of the volumes transported and redelivered by Applicant on any day to Alagasco under any and all transportation agreements with Applicant, excluding that certain long-term transportation agreement among Applicant, Alagasco, and Alabama Intrastate Supply, dated October 1, 1984, when added to the volumes of gas delivered under Applicant's OCD Rate Schedule on such day to Alagasco do not exceed the daily contract demand of Alagasco, the transportation rate would be 39.9 cents per million Btu; and

(b) Where the aggregate of the volumes transported and redelivered by Applicant on any day to Alagasco under any and all transportation agreements with Applicant, excluding that certain long-term transportation agreement among Applicant, Alagasco, and Alabama Intrastate Supply, dated October 1, 1984, when added to the volumes of gas delivered under Applicant's OCD Rate Schedule on such day to Alagasco exceed the daily contract demand of Alagasco, the transportation rate for the excess volumes would be 64.9 cents per million Btu.

Applicant proposes to charge Alagasco the currently effective GRI surcharge. Applicant also proposes to retain 3.25 percent of the volume transported for fuel use.

Applicant states that the transportation service would displace sales by Applicant on a one-for-one basis which, in turn, increase Applicant's take-or-pay liability with its producers on the same basis unless take-or-pay relief can be obtained with respect to the volumes transported. It is further stated that to mitigate the impact of sales displacement transportation upon Applicant's sales customers, Applicant proposes to charge Alagasco a take-or-pay payment surcharge of 34.0 cents per million Btu for any volumes transported for which Applicant does not receive a credit against its take-or-pay obligations.

Applicant also requests flexible authority to provide transportation from additional delivery points in the event Alagasco obtains alternative sources of supply of natural gas.

Applicant states that the transportation service would enable the end-users to diversify their natural gas supply sources and to obtain gas at competitive prices.

Comment date: April 14, 1986, in accordance with Standard Paragraph F at the end of this notice.

9. Williston Basin Interstate Pipeline Company

[Docket No. CP86-354-000]

Take notice that on March 3, 1986, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501, filed in Docket No. CP86-354-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for autorization to abandon a sales tap and appurtenant facilities in Washakie County, Wyoming, under the authorization issued in Docket No. CP82-487-000 *et al.*, 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.

Williston Basin contends that its customer, Montana-Dakota Utilities Company (Montana-Dakota), no longer requires the tap and facilities because its farm tap customer no longer wishes to continue with gas service. It is stated that the abandoment of the sales tap would have no effect uon existing rates and no impact upon Williston Basin peak-day and annual requirements.

Williston Basin further states that no cost of abandonment is indicated, as Montana/Dakota would pay all removal costs associated with the proposed abandonment.

Comment date: May 8, 1986, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. any person desiring to be heard or make any protest with reference to said

filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisidiction on conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's procedural rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86-6845 Filed 3-28-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF86-557-000, et al.]

Scott Paper Co., 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. Scott Paper Company

[Docket No. QF86-557-000]

March 24, 1986.

On March 5, 1986, Scott Paper Company (Applicant), of Scott Plaza, Philadelphia, Pennsylvania 19113 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 proposed topping-cycle cogeneration facility is located adjacent to Scott's paper-making plant in Chester, Pennsylvania. The facility will consist of one anthracite culm fired steam generator, two natural gas or fuel oil fired stand-by steam generators and one double automatic extraction/condensing turbine. The extracted steam at various pressure levels is used for paper drying purposes. The net electrical power capacity of the facility will be 55.2 MW. The primary energy source will be anthracite culm. The installation of the facility commenced in first quarter of 1985 with a scheduled start-up by the summer of 1986.

2. York Canyon Cogeneration Associates

[Docket No. QF86-555-000]

March 25, 1986.

On March 5, 1986, York Canyon Cogeneration Associates (Applicant), of 102 South Tejon, Suite 800, Colorado Springs, Colorado 80903, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The combined-cycled cogeneration facility will be located at the York mine, near Colfax County, New Mexico. The facility will consist of a 16,100 kW combustion turbine generator unit, extraction steam turbine generator, and related auxiliary equipment. The thermal energy output from the facility will be utilized in a coal drying process to reduce the moisture content of bituminous coal. The primary energy source for the facility will be natural gas. The electric power production capacity of the facility will be 22,100 kilowatts.

3. Sunnyside Cogeneration Associates

[Docket No. QF86-556-000]

March 25, 1986.

On March 5, 1986, Sunnyside Cogeneration Associates (Applicant), of 102 South Tejon, Suite 800, Colorado Springs, Colorado 80903 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 at the Sunnyside mine, near the town of Sunnyside, Utah. The facility will consist of two circulating fluidized bed boilers, two extraction steam turbine generators, and related auxiliary equipment. The thermal energy output from the facility will be utilized in a coal drying process to reduce the moisture content of bituminous coal. Applicant states that the primary energy source for the facility will be "waste" in the form of bituminous coal refuse. The net electric power production capacity of the facility wil be 45 megawatts.

4. Capital District Energy Center Cogeneration Associates

[Docket No. QF86-543-000]

March 24, 1986.

On February 26, 1986, Capital Disrict Energy Center Cogeneration Associates (Applicant), of 255 Main Street, Hartford, Connecticut 06106 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 proposed topping-cycle cogeneration facility will be located on Aetna Life & Casualty Company's (Aetna) Home Office properties in Hartford, Connecticut. The facility will consist of a combustion turbine-generator, a two pressure heat recovery steam generator (HRSG), an extraction/condensing steam turbine and three natural gas supplementally fired package boilers. The steam from the HRSG's and the extracted steam will be used in the absorption chillers for heating and cooling loads at the Aetna Home Office and the Capitol Area District heating and cooling system. The net electric power production capacity of the facility will be 55,000 kW. The

primary energy source will be natural gas. The facility is scheduled to commence operation on November 30, 1987.

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 mut file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86-7035 Filed 3-28-86; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59758, FRL-2994-7]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. PMNs for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of six such PMNs and provides a summary of each.

DATES: Close of Review Period:

Y 86-104 and 86-105—April 3, 1986.

Y 86-106—April 6, 1986.

Y 86-107, 86-108 and 86-109—April 7, 1986.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street, SW., Washington, DC 20460, (202) 382-3725).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission by the manufacture on the exemptions received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 86-104

Manufacture. NL Industries, Inc.

Chemical. (G) Water dispersible phenolic modified alkyd resin.

Use/Production. (G) A water dispersible phenolic modified alkyd resin to be used in an open non-dispersive manner. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

Y 86-105

Manufacture. NL Industries, Inc.

Chemical. (G) Water dispersible alkyd resin.

Use/Production. (G) A water-dispersible alkyd resin to be used in an open non-dispersive manner. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

Y 86-106

Manufacturer. Confidential.

Chemical. (G) Polymer from alkane diols, alkanedioic acid and carbomonocyclic acids.

Use/Production. (G) Will be utilized in an industrial coating having a open use. Prod. range: 35,000-105,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

Y 86-107

Importer. Confidential.

Chemical. (G) Styrene-n-butylacrylate-polymer.

Use/Import. (G) Open, non-dispersive use. Import range: Confidential.

Toxicity Data. Acute oral: 5,000 mg/kg; Acute dermal: 2,000 mg/kg; Irritation skin—Non-irritant.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

Y 86-108

Manufacture. Confidential.

Chemical. (G) Styrene-2-ethylhexyl acrylate copolymer.

Use/Import. (G) Open, non-dispersive use. Import range: Confidential.

Toxicity Data. Acute oral: 5,000 mg/kg; Acute dermal: 2,000 mg/kg; Irritation: Skin—Non-irritant.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

Y 86-109

Importer. Confidential.

Chemical. (G) Styrene-2-ethylhexyl acrylate copolymer.

Use/Import. (G) Open, non-dispersive use. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

Dated: March 21, 1986.

Denise Devoe,

Acting Director, Information Management Division.

[FR Doc. 86-6985 Filed 3-28-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59212A, (FRL-2995-1)]

Certain Chemicals; Approval of Test Marketing Exemptions

AGENCY: Environmental Protection (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of sixteen applications for testing marketing exemptions (TME's) under section 5(h)(6) of the Toxic Substances Control Act (TSCA). The test marketing conditions are described below:

EFFECTIVE DATE: March 20, 1986.

FOR FURTHER INFORMATION CONTACT: Michelle Roddy, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Environmental Protection Agency, RM. E-611B, 401 M Street, SW., Washington, DC 20460, (202 475-8681).

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 the following TMEs 86–12 through 86–16 and TMEs 86–18 through 86–28. 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 periods and restrictions (if any) specified below, will not present any unreasonable risk of injury to health or the environment. Production volumes, uses and number of customers must not exceed those specified in the applications. All other conditions and restrictions described in the application and in this notice must be met.

The following additional restrictions apply to TMEs–86–12 thru 86–16 and TMEs–86–18 thru 86–28. A bill of lading accompanying each shipment must state that the use of the substances are restricted to those approved in the TME's. In addition, the 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 substances produced.

2. The applicant must maintain records of the dates of shipment to each 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 substances.

T 86–12

Date of Receipt: February 4, 1986.
Notice of Receipt: February 14, 1986 (51 FR 5589).
Applicant: Confidential.
Chemical: (G) Substituted biphenyl.
Use: (G) Liquid crystal display.
Production Volume: Confidential.
Number of Customers: Twelve.
Worker Expsoure: No exposure.
Test Marketing Period: One year.
Commencing on: March 20, 1986.
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.

T 86–13

Date of Receipt: February 4, 1986.
Notice of Receipt: February 14, 1986 (51 FR 5589).
Applicant: Confidential.
Chemical: (G) Substituted biphenyl.
Use: (G) Liquid crystal display.
Production Volume: Confidential.
Number of Customers: Twelve.
Worker Exposure: No exposure.
Test Marketing Period: One year.
Commencing on: March 20, 1986.
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.

T 86–14

Date of Receipt: February 4, 1986.
Notice of Receipt: February 14, 1986 (51 FR 5589).
Applicant: Confidential.
Chemical: (G) Substituted biphenyl.
Use: (G) Liquid crystal display.
Production Volume: Confidential.
Number of Customers: Twelve.
Worker Exposure: No exposure.
Test Marketing Period: One year.
Commencing on: March 20, 1986.
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.

T 86–15

Date of Receipt: February 4, 1986.
Notice of Receipt: February 14, 1986 (51 FR 5589).
Applicant: Confidential.
Chemical: (G) Substituted benzoate.
Use: (G) Liquid crystal display.
Production Volume: Confidential.
Number of Customers: Twelve.
Worker Exposure: No exposure.
Test Marketing Period: One year.
Commencing on: March 20, 1986.
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.

T 86–16

Date of Receipt: February 4, 1986.
Notice of Receipt: February 14, 1986 (51 FR 5589).
Applicant: Confidential.
Chemical: (G) Substituted benzoate.
Use: (G) Liquid crystal display.
Production Volume: Confidential.
Number of Customers: Twelve.
Worker Exposure: No exposure.
Test Marketing Period: One year.
Commencing on: March 20, 1986.
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.

T 86–18

Date of Receipt: February 4, 1986.
Notice of Receipt: February 14, 1986 (51 FR 5589).
Applicant: Confidential.
Chemical: (G) Substituted florobiphenyl.
Use: (G) Liquid crystal display.
Production Volume: Confidential.
Number of Customers: Twelve.
Worker Exposure: No exposure.
Test Marketing Period: One year.
Commencing on: March 20, 1986.
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.

T 86–19

Date of Receipt: February 4, 1986.
Notice of Receipt: February 14, 1986 (51 FR 5589).
Applicant: Confidential.
Chemical: (G) Substituted florobiphenyl.
Use: (G) Liquid crystal display.
Production Volume: Confidential.
Number of Customers: Twelve.
Worker Exposure: No exposure.
Test Marketing Period: One year.
Commencing on: March 20, 1986.
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.

T 86–20

Date of Receipt: February 4, 1986.
Notice of Receipt: February 14, 1986 (51 FR 5589).
Applicant: Confidential.
Chemical: (G) Substituted propyl cyclohexal ether.
Use: (G) Liquid crystal display.
Production Volume: Confidential.
Number of Customers: Twelve.
Worker Exposure: No exposure.

Test Marketing Period: One year.
Commencing on: March 20, 1986.
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.

T 86–21

Date of Receipt: February 4, 1986.
Notice of Receipt: February 14, 1986 (51 FR 5589).
Applicant: Confidential.
Chemical: (G) Substituted methyl cyclohexal ether.
Use: (G) Liquid crystal display.
Production Volume: Confidential.
Number of Customers: Twelve.
Worker Exposure: No exposure.
Test Marketing Period: One year.
Commencing on: March 20, 1986.
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.

T 86–22

Date of Receipt: February 4, 1986.
Notice of Receipt: February 14, 1986 (51 FR 5589).
Applicant: Confidential.
Chemical: (G) Substituted propyl cyclohexal ether.
Use: (G) Liquid crystal display.
Production Volume: Confidential.
Number of Customers: Twelve.
Worker Exposure: No exposure.
Test Marketing Period: One year.
Commencing on: March 20, 1986.
Risk Assesement: 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.

T 86–23

Date of Receipt: February 4, 1986.
Notice of Receipt: February 14, 1986 (51 FR 5589).
Applicant: Confidential.
Chemical: (G) Substituted ethyl cyclohexal ether.
Use: (G) Liquid crystal display.
Production Volume: Confidential.
Number of Customers: Twelve.
Worker Exposure: No exposure.
Test Marketing Period: One year.
Commencing on: March 20, 1986.
Risk Assesement: 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.

T 86–24

Date of Receipt: February 4, 1986.
Notice of Receipt: February 14, 1986 (51 FR 5589).
Applicant: Confidential.
Chemical: (G) Substituted cyclohexal butyrate.
Use: (G) Liquid crystal display.
Production Volume: Confidential.
Number of Customers: Twelve.
Worker Exposure: No exposure.
Test Marketing Period: One year.
Commencing on: March 20, 1986.
Risk Assesement: 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.

T 86–25

Date of Receipt: February 4, 1986.
Notice of Receipt: February 14, 1986 (51 FR 5589).
Applicant: Confidential.
Chemical: (G) Substituted propyl cyclohexal carboxylate.
Use: (G) Liquid crystal display.
Production Volume: Confidential.
Number of Customers: Twelve.
Worker Exposure: No exposure.
Test Marketing Period: One year.
Commencing on: March 20, 1986.
Risk Assesement: 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.

T 86–26

Date of Receipt: February 4, 1986.
Notice of Receipt: February 14, 1986 (51 FR 5589).
Applicant: Confidential.
Chemical: (G) Substituted pental cyclohexal carboxylate.
Use: (G) Liquid crystal display.
Production Volume: Confidential.
Number of Customers: Twelve.
Worker Exposure: No exposure.
Test Marketing Period: One year.
Commencing on: March 20, 1986.
Risk Assesement: 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.

T 86–27

Date of Receipt: February 4, 1986.
Notice of Receipt: February 14, 1986 (51 FR 5589).
Applicant: Confidential.
Chemical: (G) Substituted propyl cyclohexal carboxylate.
Use: (G) Liquid crystal display.
Production Volume: Confidential.
Number of Customers: Twelve.
Worker Exposure: No exposure.
Test Marketing Period: One year.
Commencing on: March 20, 1986.
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.

T 86–28

Date of Receipt: February 4, 1986.
Notice of Receipt: February 14, 1986 (51 FR 5589).
Applicant: Confidential.
Chemical: (G) Substituted pentyl cyclohexal carboxylate.
Use: (G) Liquid crystal display.
Production Volume: Confidential.
Number of Customers: Twelve.
Worker Exposure: No exposure.
Test Marketing Period: One year.
Commencing on: March 20, 1986.
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 findings that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: March 20, 1986.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 86–7001 Filed 3–28–86; 8:45 am]
BILLING CODE 6560–50–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of Information Collection

submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

Title of Information Collection: Application for Assistance to Operating Insured Banks (OMB NO. 3064-0071).

Background: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget form SF-83, "Request for OMB Review," for the formation collection system identified above.

ADDRESS: Written comments regarding the submission should be addressed to Robert Neal, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to John Keiper, Assistant Executive Secretary (Administration), Federal Deposit Insurance Corporation, Washington, DC 20429.

Comments: Comments on this collection of information should be submitted on or before April 15, 1986.

FOR FURTHER INFORMATION CONTACT: Requests for a copy of the submission should be sent to John Keiper, Assistant Executive Secretary (Administration), Federal Deposit Insurance Corporation, Washington, DC 20429, telephone (202) 898-3810.

SUMMARY: The FDIC is requesting OMB approval for extending the expiration date of the procedure for the application for assistance to be followed by insured banks which are in danger of failing. The applicant is instructed to submit a proposal to the appropriate FDIC regional office, in letter form, providing information about the amount, terms and conditions of the assistance and demonstrating that the bank will have the managerial and financial resources to be a viable institution in the future. The letter application makes it possible for the FDIC to give formal consideration and response to an applicant. The statutory authority for FDIC assistance is contained in section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)). It is estimated that it takes the average applicant eight hours to prepare an application for assistance.

Dated: March 25, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-6962 Filed 3-28-86; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction	Waiting period terminated effective
(1) 86-0630—Meredith Corporation's proposed acquisition of voting securities of ChemExec Relocation Systems, Inc., (Chemical New York Corporation, UPE).	Feb. 12, 1986.
(2) 86-0566—J.P. Stevens and Co.'s proposed acquisition of assets of Burlington Domestic Division, (Burlington Industries, Inc., UPE).	Feb. 13, 1986.
(3) 86-0581—Montedison, S.p.A.'s proposed acquisition of voting securities of Conserv, Inc., (Ghaith R. Pharaon, UPE).	Feb. 13, 1986.
(4) 86-0568—American Express Co.'s proposed acquisition of voting securities of Warner Amex Cable Communications, Inc., (Warner Amex Cable Holding Co., UPE).	Feb. 14, 1986.
(5) 86-0569—Warner Communications, Inc.'s proposed acquisition of voting securities of Warner Amex Cable Communications, Inc., (Warner Amex Cable Holding, Co., UPE).	Feb. 14, 1986.
(6) 86-0570—Warner Communications, Inc.'s proposed acquisition of voting securities of Warner Amex Cable Communications, Inc., (American Express Company, UPE).	Feb. 14, 1986.
(7) 86-0575—Warner Communications, Inc.'s proposed acquisition of assets of Warner Amex Cable Communications Company.	Feb. 14, 1986.
(8) 86-0624—The Stanley Works' proposed acquisition of assets of Bostitch Division, (Textron, Inc., UPE).	Feb. 14, 1986.
(9) 86-0625—United Coal Company's proposed acquisition of voting securities of Morris & Marshall, Inc. and assets of Magoffin Coal Company, (Charles Marshall, UPE).	Feb. 14, 1986.
(10) 86-0635—Wheeling-Pittsburgh Steel Corporation and Nisshin Steel Co., Ltd.'s proposed acquisition of voting securities of the joint venture corporation Wheeling-Nisshin, Inc.	Feb. 14, 1986.
(11) 86-0639—The Amsted Industries Incorporated Employees Stock Ownership Plan's (Amsted Industries Incorporated, UPE) proposed acquisition of voting securities of Amsted Industries, Incorporated.	Feb. 14, 1986.
(12) 86-0641—The Amsted Industries Incorporated Employees Stock Ownership Plan's, (Amsted Industries Incorporated, UPE) proposed acquisition of voting securities of Amsted Industries, Incorporated.	Feb. 14, 1986.
(13) 86-0642—Wheeling-Pittsburgh Steel Corporation and Nisshin Steel Co., Ltd.'s proposed acquisition of voting securities of the joint venture corporation Wheeling-Nisshin, Inc.	Feb. 14, 1986.
(14) 86-0627—Pepsico, Inc.'s proposed acquisition of voting securities of A&M Food Services, Inc.	Feb. 18, 1986.
(15) 86-0648—Whittaker Corporation's proposed acquisition of voting securities of Zeta Laboratories, Inc., (Computer and Communications Technology Corp., UPE).	Feb. 18, 1986.
(16) 86-0650—James Hardie Industries, Ltd.'s proposed acquisition of voting securities of Nolex Corporation.	Feb. 18, 1986.
(17) 86-0653—Cyrus Tang's proposed acquisition of assets of Pinkert Steel Company, Inc., (Phibro-Salmon, Inc., UPE).	Feb. 18, 1986.
(18) 86-0654—Sandoz Ltd.'s proposed acquisition of voting securities of VCC Agrichemicals, Inc., (William F. Farley, UPE).	Feb. 18, 1986.
(19) 86-0663—Tyco Laboratories, Inc.'s proposed acquisition of voting securities of Hershey Products, Inc.	Feb. 18, 1986.
(20) 86-0664—Tyco Laboratories, Inc.'s proposed acquisition of voting securities of Hershey Products, Inc.	Feb. 18, 1986.
(21) 86-0604—American Home Products Corporation's proposed acquisition of voting securities of Quantum Pharmics, Ltd.	Feb. 19, 1986.
(22) 86-0659—Ashland Oil, Inc.'s proposed acquisition of assets of Amax, Inc.	Feb. 19, 1986.
(23) 86-0644—Dean Foods Company's proposed acquisition of voting securities of The Larsen Company.	Feb. 19, 1986.
(24) 86-0611—CooperVision, Inc.'s proposed acquisition of voting securities of Rorer Surgical, Inc., (Rorer Group, Inc., UPE).	Feb. 20, 1986.
(25) 86-0651—Amoco Corporation's proposed acquisition of assets of Phillips Petroleum Company.	Feb. 20, 1986.
(26) 86-0666—National Intergroup, Inc.'s proposed acquisition of voting securities of FoxMeyer Corporation.	Feb. 20, 1986.
(27) 86-0667—National Intergroup, Inc.'s proposed acquisition of voting securities of FoxMeyer Corporation.	Feb. 20, 1986.
(28) 86-0661—FFV Foretagen AB's proposed acquisition of assets of Aero Thrust Corporation and Melard International, Inc., (The 1973 Goettsche Family Trust, UPE).	Feb. 21, 1986.
(29) 86-0122—MCI Communications Corp.'s proposed acquisition of voting securities of Information Satellite, Inc. and BCI Satellite, Inc. and assets of Satellite Business Systems.	Feb. 24, 1986.
(30) 86-0123—International Business Machines Corp.'s proposed acquisition of voting securities of MCI Communications Corp.	Feb. 24, 1986.
(31) 86-0633—International Minerals and Chemical Corporation's proposed acquisition of assets and voting securities of 36 subsidiaries constituting the Malinckrodt Division, (Avon Products, Inc., UPE).	Feb. 24, 1986.
(32) 86-0658—The Fulcrum II Limited Partnership's proposed acquisition of assets of American Bank Stationary Company Division, (American Standard Inc., UPE).	Feb. 24, 1986.

Transaction	Waiting period terminated effective
(33) 86-0671—Clabir Corporation's proposed acquisition of voting securities of Wilbur Chocolate Co., Inc., (Ronald O. Perelman, UPE).	Feb. 24, 1986.
(34) 86-0678—NHP, Inc.'s proposed acquisition of voting securities of The National Housing Partnership.	Feb. 24, 1986.
(35) 86-0649—Chevron Corporation's proposed acquisition of voting securities of Western States Geothermal Company, (Phillips Petroleum Company, UPE).	Feb. 25, 1986.
(36) 86-0655—Alan E. Clore's proposed acquisition of voting securities of Kaiser Aluminum & Chemical Corporation.	Feb. 25, 1986.
(37) 86-0613—Universal Leaf Tobacco Company, Inc.'s proposed acquisition of voting securities of N.V. Deli Maatschappij.	Feb. 26, 1986.
(38) 86-0665—Parkside Foundation, Inc.'s proposed acquisition of assets of Brookwood Recovery Centers, (American Medical International, Inc., UPE).	Feb. 26, 1986.
(39) 86-0668—TransTechnology Corporation's proposed acquisition of voting securities of Lundy Electronics & Systems, Inc.	Feb. 26, 1986.

FOR FURTHER INFORMATION CONTACT:
Sandra M. Peay, Legal Technician, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, DC 20580, (202) 523-3894.

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 86-6959 Filed 3-28-86; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committees; Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meetings: The following advisory committee meetings are announced:

Veterinary Medicine Advisory Committee

Date, time, and place. April 23 and 24, 8:15 a.m., Conference Rm. E., Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open committee discussion, April 23, 8:15 a.m. to 10:15 a.m.; open public hearing, 10:15 a.m. to 10:45 a.m.; open committee discussion, 10:45 a.m. to 1 p.m.; open public hearing, 1 p.m. to 1:30 p.m.; open committee discussion, 1:30 p.m. to 3 p.m.; open public hearing, 3 p.m. to 3:30 p.m.; open committee discussion, 3:30 p.m. to 4:30 p.m. and April 24, 8:30 a.m. to 11:30 a.m.; Max L. Crandall, Center for Veterinary Medicine (HFV-4), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4557.

General function of the committee. The committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational new animal drugs, feeds, and devices for use in the treatment and prevention of animal diseases and increased animal production.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The committee will discuss the following topics: (1) Limitation of injectable veterinary antibiotics to prescription (Rx) use only, (2) the involvement of practicing veterinarians in the use and distribution of animal drugs for animal feed, (3) efforts to increase the recognition and credibility of the Rx legend among distributors, veterinarians, and producers, (4) Human Food Safety and the Regulation of Animal Drugs—a Report by the House Committee on Government Operations, December 31, 1985, (5) the Center for Veterinary Medicine's (CVM) annual regulation matrix, (6) CVM budgetary constraints, (7) propylene glycol in semimoist pet foods, and (8) labeling and effectiveness requirements for antibotic products.

Psychopharmacologic Drugs Advisory Committee

Date, time, and place. April 25, 9 a.m., Conference Rms. G and H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. April 24, open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to conclusion; Frederick J. Abramek, Center for Drugs and Biologics (HFN-120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4020.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of psychiatry and related fields.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The committee will review the significance of reports of seizures occurring among bulimic patients treated with doses of Wellbutrin ® (bupropion hydrochloride) below the maximum recommended in the product's labeling.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a close committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at

the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Rm. 4–62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: March 24, 1986.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 86–6953 Filed 3–28–86; 8:45 am]

BILLING CODE 4160–01–M

National Institutes of Health

Preliminary Public Meeting; Consensus Development Conference on Infantile Apnea and Home Monitoring

Notice is hereby given of a preliminary public meeting to the NIH Consensus Development Conference on "Infantile Apnea and Home Monitoring." This preliminary meeting is to be held May 19, 1986. The purpose of this preliminary public meeting is to gather data and hear the views of organizations and individuals. The consensus development panel will assemble at Lister Hill National Center, Conference Room BIN 30B, Building 38A, on the NIH Campus in Bethesda, Maryland, to hear discussion and receive data. The meeting is open to the medical community and the general public at no charge. This meeting precedes the NIH Consensus Development Conference on Infantile Apnea and Home Monitoring sponsored by the National Institute of Child Health and Human Development, the National Heart, Lung, and Blood Institute, the Division of Maternal and Child Health, HRSA, the Food and Drug Administration and the NIH Office of Medical Applications of Research to be held on September 29 and 30, and October 1, 1986.

The occurrence of apena in the premature infant is a significant problem, with the incidence estimate at 30 to 50 percent. In infants who are 28 to 29 weeks or less in gestational age, the incidence increases to 90 percent.

Infantile apnea can be associated with many underlying disorders but the exact pathogenesis has yet to be understood. In addition, the treatment of this condition is an unresolved issue and apparoaches include pharmacotherapy and mechanical respiratory support. Many infants are discharged from the nursery on home monitoring, but specific indications for its use and for its discontinuation need clarification.

The relationship of infantile apnea to the occurrence of SIDS is yet to be determined. Although many infants with prolonged apnea are not victims of SIDS and many SIDS victims were never observed to have prolonged apnea, it appears that the risk of death from SIDS is somewhat greater in the group of infants with prolonged apnea than in the general population.

Individuals and organizations wishing to attend or be part of the discussion at the preliminary public meeting or at the consensus conference can obtain information from and register with Ms. Barbara McChesney, Prospect Associates, 2115 East Jefferson Street, Suite 401, Rockville, Maryland 20852 or call (301) 468–6555.

Statements should be submitted in advance to Ms. McChesney; oral presentations at the public meeting will be limited to 15 minutes.

Dated: March 12, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86–7054 Filed 3–28–86; 8:45 am]

BILLING CODE 4140–01–M

National Diabetes Advisory Board; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Diabetes Advisory Board and its subcommittees on April 21, 1986, 8:30 a.m. to adjournment, at the Vanderbilt Plaza, 2100 West End Avenue, Nashville, Tennessee 37203. The meeting which will be open to the public, is being held to discuss the Board's activities and to continue evaluation of the implementation of the long-range plan to combat diabetes mellitus. Attendance by the public will be limited to space available. Notice of the meeting room will be posted in the hotel lobby.

Mr. Raymond M. Kuehne, Executive Director, National Diabetes Advisory Board, Federal Building, Room 616, Bethesda, Maryland 20892, (301) 496–6045, will provide on request an agenda and roster of the members. Summaries of the meeting may also be obtained by contacting his office.

Dated: March 25, 1986.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 86–7055 Filed 3–28–86; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute, Board of Scientific Counselors, Division of Cancer Prevention and Control, Cancer Control Science Subcommittee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Cancer Control Science Subcommittee of the Board of Scientific Counselors, Division of Cancer Prevention and Control, National Cancer Institute, National Institutes of Health, April 21, 1986, Building 31A, Conference Room 3, 9000 Rockville Pike, Bethesda, Maryland 20892. The entire meeting will be open to the public from 10:30 a.m. to adjournment, and the current and future programs of the Cancer Control Science Program will be discussed. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will provide summaries of meetings and rosters of subcommittee members upon request.

Mr. J. Henry Montes, Executive Secretary of the Board of Scientific Counselors, Division of Cancer Prevention and Control, National Cancer Institute, National Institutes of Health, Blair Building, Room 1A07, Bethesda, Maryland 20892 (301/427–8630) will furnish substantive program information.

Dated: March 26, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86–7056 Filed 3–28–86; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Pulmonary Diseases Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Pulmonary Diseases Advisory Committee, National Heart, Lung, and Blood Institute on May 10, 1986 at the Vista International, 200 West 12th Street, Kansas City, Missouri 64105.

The entire meeting, from 9:00 a.m. to adjournment on May 10, will be open to the public. The Committee will discuss the current status of the Division of Lung

Diseases' programs and Committee plans for fiscal year 1987. Attendance by the public will be limited to the space available.

Ms. Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A–21, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496–4236, will provide a summary of the meeting and a roster of the Committee members.

Dr. Suzanne S. Hurd, Executive Secretary of the Committee, Westwood Building, Room 6A16, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496–7208, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.838, Lung Diseases Research, National Institutes of Health)

Dated: March 25, 1986.

Betty J. Beveridge,

Committee Management Officer.

[FR Doc. 86–7057 Filed 3–28–86; 8:45 am]

BILLING CODE 4140–01–M

Office of Human Development Services

Adjustments to Fiscal Year 1987 Federal Allotments to States for Developmental Disabilities Basic Support and Protection and Advocacy Formula Grant Programs

AGENCY: Office of Human Development Services, HHS.

ACTION: Notification of Adjustments to Fiscal Year 1987 Federal Allotments to States for Developmental Disabilities Basic Support and Protection and Advocacy Formula Grant Programs.

SUMMARY: This issuance sets forth the individual allotments to States for Fiscal Year 1987 pursuant to section 125 of the Developmental Disabilities Act of 1984. The allotments to the States published herein are based upon the Fiscal Year 1985 appropriations levels and are contingent upon Congressional appropriations actions for Fiscal Year 1987. If Congress enacts and the President approves an amount different from this budget amount, the allotments will be adjusted accordingly.

EFFECTIVE DATE: The allotments shall be effective October 1, 1986.

FOR FURTHER INFORMATION CONTACT: Bettye Mobley, Chief, Formula Grants Management Branch, Division of Grants and Contracts Management, Department of Health and Human Services, 200 Independence Avenue, SW, Room 332E, Washington, DC 20201, telephone (202) 245–7220.

SUPPLEMENTARY INFORMATION: Pub. L. 98–527, section 125(a)(2), requires that adjustments in the amounts of State allotments may be made not more often than annually and that States are to be notified not less than six (6) months before the beginning of any fiscal year of any adjustments to take effect in that fiscal year.

The Administration on Development Disabilities has updated the data for issuance of Fiscal Year 1987 formula grants. These allotments are based upon:

A. The Number of Beneficiaries in each State and Territory under Childhood Disabilities Beneficiary Program, December 1983, are from Table 123 of the "Social Security Bulletin: Annual Statistical Supplement 1984–85" issued by the Social Security Administration, U.S. Department of Health and Human Services (the number in the Northern Mariana Islands and the Trust Territory of the Pacific Islands, included under 'Abroad' in the Table, were also obtained from the Social Security Administration);

B. State data on Average per Capita Income, 1982–84, are from Table 1, page 18, of the "Survey of Current Business August 1985," Volume 65, Number 8, issued by the Bureau of Economic Analysis, U.S. Department of Commerce; comparable data for the Territories was also obtained from that Bureau;

C. State data on Total Population and Working Population (Ages 18–64) as of July 1, 1984, are from Tables 1 and 3 of "Current Population Reports: Population Estimates and Projections," Series P–25, Number 970, issued June 1985 by the Bureau of the Census, U.S. Department of Commerce; the Territories' estimated total population are from "United States Department of Commerce News" (CB 84–203) released by the Bureau of the Census on November 14, 1985; each Territory's Working Population was calculated by multiplying its estimated total population by the percentage of its 1980 population that was Ages 18–64, as determined by the Decennial Census.

The above data is the most recent satisfactory data available at this time. The adjustments are set forth below.

ADJUSTED FISCAL YEAR 1987 FEDERAL ALLOTMENTS ADMINISTRATION ON DEVELOPMENTAL DISABILITIES

	Basic support	Protection and Advocacy
Total	$50,250,000	$13,750,000
Alabama	1,008,134	241,962
Alaska	300,000	150,000
Arizona	547,315	151,438
Arkansas	586,079	150,000
California	3,964,812	952,772
Colorado	486,404	150,000
Connecticut	515,406	150,000
Delaware	300,000	150,000
District of Columbia	300,000	150,000
Florida	1,936,655	465,405
Georgia	1,236,401	296,902

ADJUSTED FISCAL YEAR 1987 FEDERAL ALLOTMENTS ADMINISTRATION ON DEVELOPMENTAL DISABILITIES—Continued

	Basic support	Protection and Advocacy
Hawaii	300,000	150,000
Idaho	300,000	150,000
Illinois	2,040,216	489,868
Indiana	1,143,199	274,509
Iowa	618,463	153,877
Kansas	439,810	150,000
Kentucky	947,534	227,337
Louisiana	992,821	238,333
Maine	300,000	150,000
Maryland	717,201	172,249
Massachusetts	1,034,210	248,165
Michigan	1,840,536	441,731
Minnesota	773,411	185,702
Mississippi	722,905	173,554
Missouri	1,033,272	248,033
Montana	300,000	150,000
Nebraska	316,219	150,000
Nevada	300,000	150,000
New Hampshire	300,000	150,000
New Jersey	1,235,627	298,581
New Mexico	319,107	150,000
New York	3,288,187	788,871
North Carolina	1,412,620	339,145
North Dakota	300,000	150,000
Ohio	2,203,109	528,782
Oklahoma	640,682	156,436
Oregon	508,249	150,000
Pennsylvania	2,479,391	594,929
Rhode Island	300,000	150,000
South Carolina	791,456	190,051
South Dakota	300,000	150,000
Tennessee	1,120,817	269,071
Texas	2,793,093	671,263
Utah	370,379	150,000
Vermont	300,000	150,000
Virginia	1,044,914	250,868
Washington	736,955	179,052
West Virginia	564,069	158,987
Wisconsin	973,712	233,684
Wyoming	300,000	150,000
Puerto Rico	1,792,143	430,433
American Samoa	160,00	80,000
Guam	160,000	80,000
No. Mariana Islands	160,000	80,000
Trust Territories*	*252,487	*80,000
Virgin Islands	160,000	80,000

* Available only for the Repulic of Palau, and only in amounts that such Republic would have received had the Compact for Free Association not been enacted.

Dated: March 10, 1986.

Jean K. Elder, Ph.D.,

Commissioner, Administration on Developmental Disabilities.

Approved: March 25, 1986.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

[FR Doc. 6968 Filed 3–28–86; 8:45 am]

BILLING CODE 4130–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N–86–1592; FR–2196]

Section 8 Housing Vouchers

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

ACTION: Notice of funding availability.

SUMMARY: This Notice announces the availability of fiscal year 1986 funding authority for HUD's Housing Voucher Program authorized by section 8(o) of the United States Housing Act of 1937. The Notice also describes requirements for all of the different components of the Housing Voucher Program. The Department announces that fiscal year 1986 Housing Voucher funding will be available for the following purposes: (1) In support of the Rental Rehabilitation program; (2) For families living in public housing units that are being demolished or disposed of with HUD approval; (3) For families in Section 8 New Construction or Substantial Rehabilitation projects where the owner has sole discretion to "opt-out" of an additional term of assistance under the Section 8 Housing Assistance Payments Program and does so; (4) For families in Section 8 Loan Management Set-Aside projects (Part 886, Subpart A) where the owner and HUD do not agree to renew the contract of assistance for an additional term; and (5) Housing Vouchers distributed by formula allocation. Additional funding will not be available for the Freestanding Component of the Housing Voucher Demonstration Program, authorized in fiscal year 1984, or the Small PHA/Rural Area Housing Voucher Demonstration Program, authorized in fiscal year 1985.

DATES: *Effective Date:* March 31, 1986.
Comment Due Date: May 30, 1986.

ADDRESS: HUD invites interested persons to submit comments on this Notice to the Office of General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410–0500. Comments should refer to the docket number and title. A copy of each comment submitted will be available for public inspection and copying during regular business hours at this address.

FOR FURTHER INFORMATION CONTACT: For Housing Vouchers: Madeline Hastings, Room 6124, Existing Housing Division, (202) 755–6887, or Gerald Benoit, Room 6128, Existing Housing Branch, (202) 755–6477. For the Rental Rehabilitation Program: Nancy Blauvelt, Room 7164, (202) 755–5970, Office of Urban Rehabilitation, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION:

Housing Voucher Program

I. Background

A. Previous Funding Authorized for Housing Vouchers

In 1983, Congress authorized a demonstration Housing Voucher Program under section 8(o) of the United States Housing Act of 1937 (the 1937 Act) (see section 207 of the Housing and Urban-Rural Recovery Act of 1983, Pub. L. 98–181 (the 1983 Act)). Since this authorization, HUD has published three Notices of Funding Availability. (*See* the **Federal Register** issues of July 12, 1984, 49 FR 28458; February 28, 1985, 50 FR 8196; and May 8, 1985, 50 FR 19475.)

Each of these preceding Notices has provided requirements for different uses of Housing Voucher assistance. The Department has authorized a variety of uses for Housing Voucher assistance to demonstrate that Housing Voucher assistance is as functional as, and more flexible than, Section 8 Certificate assistance. Housing Vouchers will provide participating families with a greater choice of units in a local housing market and will allow the Department to assist families in a more cost-effective manner.

Previously authorized uses of Housing Vouchers include: (1) A Freestanding Demonstration component designed to study the feasibility of a Housing Voucher Program administered by a large public housing agency (fiscal year 1984); (2) A Small PHA/Rural Area Demonstration component, designed to study the feasibility of a Housing Voucher Program administered by a small public housing agency or in a rural area (fiscal year 1985); (3) A Rental Rehabilitation component, authorizing uses of Housing Vouchers in support of the Department's Rental Rehabilitation Program (fiscal years 1984 and 1985); (4) Housing Vouchers for families residing in public housing projects being demolished or disposed of with HUD approval (fiscal year 1985); (5) Housing Vouchers for families living in units in projects assisted under the Section 8 New Construction or Substantial Rehabilitation Housing Assistance Payments Program, in cases where the owner has the sole option whether to renew the housing assistance payment contract for an additional term, and exercises the option not to renew (fiscal year 1985); and (6) A formula allocation of Housing Vouchers to the HUD Regional Offices (fiscal year 1985).

B. Housing Voucher Funding Authorized for Fiscal Year 1986

This Notice of Funding Availability (NOFA) announces the availability in fiscal year 1986 of contract and budget authority for Housing Vouchers provided by the HUD-Independent Agencies Appropriations Act of 1986 (Pub. L. 99–160) (FY 1986 funding authority). The Department is using the FY 1986 funding authority for the following purposes:

(1) Housing Vouchers in support of the Department's Rental Rehabilitation Program;

(2) Housing Vouchers for families residing in public housing projects being demolished or disposed of with HUD approval;

(3) Housing Vouchers for two types of "opt-out" projects: for families living in

Section 8 New Construction or Substantial Rehabilitation projects where the owner has sole discretion to "opt-out" of an additional term of assistance under the Section 8 Housing Assistance Payments Program and does so; and for families living in Section 9 Loan Management Set-Aside projects (Part 886, Subpart A) where the owner and HUD do not agree to renew the Section 8 Housing Assistance Payments contract for an additional term; and

(4) Housing Vouchers distributed by formula allocation.

C. New Features for Housing Vouchers

This Notice of Funding Availability contains the program requirements that apply to all components of the Housing Voucher program, including Housing Vouchers authorized or issued in earlier years. The Department is making few changes in previous years' program requirements. The principal changes are described briefly below:

1. The Department is providing for special uses of Housing Vouchers issued in connection with the Rental Rehabilitation Program, to maximize the use of Housing Vouchers allocated to public housing agencies in support of the Rental Rehabilitation Program. In particular, the Department is authorizing interim use of Housing Vouchers issued to PHAs with FY 1986 funding authority.

2. Provisions relating to the allowable Adjustment Standard Schedules and the New Family/Mover schedules have been reworked to accommodate jurisdictions where there is a reduction in Fair Market Rent levels.

3. The security deposit provision is conformed to analogous provisions in the Section 8 Certificate program.

4. Program requirements have been reorganized so that *all* requirements appear in one section (Section III) of this NOFA. If a specific Housing Voucher program component (for example, the Rental Rehabilitation component) has a requirement that is different from the generally applicable Housing Voucher requirements, the specific program requirement is distinguished from the generally applicable requirement, but is stated in the same section. Thus, there will be no need for the user to consult two or more sets of requirements to determine those applicable to a particular component of the Housing Voucher program.

D. Housing Voucher Rulemaking

The Department continues to support the use of Housing Voucher assistance as the principal vehicle for providing housing assistance under section 8 of the 1937 Act.

Housing Voucher procedures have been published for public notice and comment in successive Notices in the **Federal Register**, but have not been incorporated into the Code of Federal Regulations. The Department has decided to codify the Housing Voucher procedures as a separate part in Chapter VIII of the Department's rules in Title 24 of the Code of Federal Regulations (CFR). This will eliminate the annual publication of a Notice of Funding Availability containing all of the applicable program requirements. In addition, once the part is published, changes will be promulgated just as other amendments to HUD's rules are promulgated. The Department intends to use the substance of this NOFA as the basis for the final rule.

When promulgated, this part will include procedures incorporating shared housing provisions analogous to those to be adopted for the Section 8 Certificate program. In addition, the Department is considering establishing a preference for applications from PHAs for formula allocation Housing Vouchers where the jurisdiction demonstrates locally generated efforts (for example, its own housing subsidy program) to provide decent safe and sanitary housing for low and moderate income Families.

Any comments submitted (as well as the comments submitted on the May 8, 1985 NOFA) will be considered in developing the rule and will be addressed in the final rule. Commenters on today's rule should take this into account, so that any rule on the subject matter will have the benefit of comment before effectiveness.

II. Components of the Housing Voucher Program

A. General

This section of the Notice contains a brief description of each of the components of the Housing Voucher Program. None of the fiscal year 1986 funding authority will be used in support of The Freestanding Housing Voucher Demonstration (discussed in Section E) or the Small PHA/Rural Area Housing Voucher Demonstration (discussed in Section F). However, the administration of these demonstrations must comply with the procedures contained in this Notice. Accordingly, to the extent different procedures apply to these demonstrations, the differences are described in Part III of this Notice, which also states special procedures for other components of the Housing Voucher program.

B. Rental Rehabilitation Program

Since 1984, Housing Vouchers have been made available for use in connection with the Rental Rehabilitation Program. (Certificates also were made available in fiscal year 1984.) Rental Rehabilitation Program requirements are contained in 24 CFR Part 511. Authorized by section 17 of the 1937 Act, the program's purpose is to help provide affordable standard rental housing for Lower Income Families, and to increase the availability of housing units for holders of Section 8 Housing Vouchers or Certificates.

The program makes grants to State and local governments to help support the rehabilitation of privately owned real property to be used for primarily residential purposes. Grants are made on a formula basis to cities with populations of 50,000 or more, and to urban counties, States, and qualifying consortia of geographically proximate units of general local government within the same States.

Funding allocated for use in connection with the Rental Rehabilitation Program is intended to minimize the displacement of families residing in projects to be rehabilitated with rental rehabilitation grants, to assist families who move from projects undergoing assisted rehabilitation activities, and to assist families who move into projects after rehabilitation.

Subject to the availability, as determined by HUD, of sufficient contract and budget authority (authority), HUD will allocate authority for up to one Housing Voucher for each $5,000 of rental rehabilitation grant amounts received by the grantee. HUD will not consider requests to reserve authority for more than one Housing Voucher for each $5,000 of rental rehabilitation grant amount.

Authority reserved for each Housing Voucher will be calculated on the basis of the published Fair Market Rent for a two-bedroom unit. The Housing Voucher authority reserved also will vary based on estimates of the incomes of those expected to be assisted. The actual number of families assisted with this funding will vary, based on local program administration by the PHA.

All of the program requirements for the use of Housing Vouchers in support of the Rental Rehabilitation Program are contained in Part III of this Notice. To maximize the use of Housing Vouchers allocated in support of the Rental Rehabilitation program, the Department is authorizing "interim" use of FY 1986 Housing Voucher funding authority allocated to a jurisdiction in support of

the Rental Rehabilitation Program, and is authorizing "special" uses for current and previous year funding authority. (*See* Section III.H. of this NOFA for further details.)

C. Targeted Housing Vouchers

1. General

The Conference Report accompanying the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1986, states the amounts of contract authority to be used for Housing Vouchers targeted to families living in certain types of projects (99th Congress, 1st Session, Conference Report to accompanying H.R. 3038, November 8, 1985). The Department will make these Housing Vouchers available, as-needed, subject to availability of funds, in the situations described in paragraphs C.2. and C.3. of this section. The Department generally considers 25 Housing Vouchers to be the mimimum practical size for administration of a Housing Voucher program. If the total size of the PHA's Housing Voucher program would be smaller than 25 units, the Department may allocate Certificates.

2. Section 8 "opt-out" Projects

Certain project-based Section 8 New Construction and Substantial Rehabilitation Housing Assistance Payment Contracts provide that the owner of the project has the sole discretion to not renew—or "opt-out"—of an additional term of assistance. In addition, for Section 8 Loan Management Set-Aside projects under Part 886, Subpart A, the owner and HUD may not agree to renew the section 8 Housing Assistance Payments contract for an additional term. Subject to the availability, as determined by HUD, of sufficient contract and budget authority, the Department may make Housing Voucher assistance available to Eligible Families residing in units in a project described above, if the section 8 Housing Assistance Payment Contract is not renewed.

3. Demolition or Disposition of Public Housing Units

Part 970 of the Department's regulations sets out the procedures a PHA must follow to receive HUD approval of the demolition of buildings or disposition of real property owned by the PHA which contains public housing dwellings units (Demolition/Disposition). (*See* 50 FR 50891, December 13, 1985.)

When the Department has granted approval for demolition or disposition of public housing units, there may be Families living in the units who qualify for continued assistance, as defined in section III.I. of this Notice. In these cases, subject to the availability, as determined by HUD, of sufficient contract and budget authority, the Department may make Housing Vouchers available for Eligible Families.

4. Program Requirements

All of the program requirements for Housing Vouchers in support of Opt-Out and Demolition/Disposition projects are contained in Part III of this Notice. However, the following features are highlighted:

A PHA receiving Housing Voucher funding provided by HUD designated for Opt-Out or Demolition/Disposition purposes must use the assistance in accordance with the PHA's HUD-approved Equal Opportunity Housing Plan (EOHP) and with the PHA's HUD-approved administrative plan.

The administrative plan must be revised, if necessary, to provide for targeting of assistance to families living in public housing units to be disposed of or demolished, or in Section 8 Opt-Out projects. To permit such use, the prohibition of a selection preference based on identity or location of housing which is occupied by an applicant Family is not applicable.

A Family living in a Demolition/Disposition or Opt-Out unit may move to a unit anywhere in the PHA jurisdiction in accordance with section III.I. and III.K. of this Notice.

Once the PHA has met the requirement of targeting the initial use of the Housing Voucher assistance to Families residing in the affected project(s), the PHA is free to use the funding authority for any purpose in furtherance of its Housing Voucher program.

D. Formula Allocation of Housing Vouchers

1. General

The Department will allocate a portion of the fiscal year 1986 Housing Voucher funding authority to its Regional Offices, using a formula allocation procedure similar to the "fair share" allocation of Section 8 Certificate funds in 24 CFR Part 791. Each Regional Office may determine the amounts of Housing Voucher funding to be used for individual PHAs, or it may delegate these decisions to its Field Offices. In addition, HUD Headquarters may determine to allocate fiscal year 1986 Housing Voucher funding authority directly to its Field Offices or it may retain a portion of the FY 1986 funding authority to be distributed in response to emergency situations.

2. Program Requirements

All of the program requirements for Housing Vouchers distributed by formula allocation are contained in Part III of this Notice. For the convenience of the reader, however, the following procedures used with formula allocation Housing Vouchers are highlighted:

i. *Invitations for and Allocations of Housing Vouchers.* The availability of Housing Voucher funding to be distributed by formula allocation will be announced by the Regional or Field Offices, which will invite PHAs to submit applications for Housing Vouchers to the appropriate Field Office.

The Department considers 25 units to be the minimum feasible program size. If a PHA is not already administering Housing Vouchers, the Field Office may only approve a minimum of 25 Housing Vouchers for a PHA. (This minimum does not apply once the minimum is met, nor does it apply to Housing Vouchers reserved by HUD Headquarters for emergency situations.)

Preference may be given to applications from PHAs that provide families with the broadest geographical choice of housing, including inter-jurisdictional and interstate housing choice.

The Field Office may give preference to applications from PHAs whose Section 8 Certificate or Housing Voucher needs previously have been underfunded in relation to the needs of other localities within the allocation area.

ii. *Selecting Families and Issuing Housing Vouchers.* In selecting applicants from the waiting list, the PHA shall use the same waiting list for the Housing Voucher program and the Certificate program. A Family may not be penalized for refusing a Certificate if it desires to wait for a Housing Voucher, or conversely, for refusing a Housing Voucher to wait for a Certificate. However, if the Family then refuses the second form of assistance when it is offered, the Family will be taken off the waiting list. If the Family requests, it will be reinstated on the waiting list, in conformance with the PHA's approved administrative plan or equal opportunity housing plan.

E. Freestanding Housing Voucher Demonstration

The Department announced the Freestanding Housing Voucher Demonstration in the July 12, 1984 NOFA. The Freestanding Demonstration

component of the Housing Voucher Program is designed to compare the Housing Voucher Program with the Certificate Program to determine the effect of Housing Vouchers on Families and PHAs, concentrating on PHAs administering Certificate programs with at least 1,000 units. The issues to be evaluated will include the rates at which Families receiving Housing Vouchers are successful in finding units; the impact of the program on rent burdens of participating families, the percentage of participants who move and who rent in-place; the rate of turnover among participants; and the cost of administering the program. The Demonstration also will compare these factors with similar information in the Section 8 Certificate program.

The special requirements concerning start-up of the Freestanding Demonstration were contained in Part IV of the July 12, 1984 NOFA and remain unchanged (see 49 FR 28463—28464). The program requirements contained in Part III of this Notice apply to the Freestanding Housing Voucher Demonstration.

F. Small PHA/Rural Area Housing Voucher Demonstration

The Department announced the Small PHA/Rural Area Housing Voucher Demonstration in the May 5, 1985 NOFA. The Small PHA/Rural Area Housing Voucher Demonstration is complementary to the Freestanding Demonstration. The Small/Rural Demonstration is designed to test the feasibility of the Housing Voucher Program administered by a small PHA or in a rural area. The issues to be evaluated will include issues similar to those described in paragraph E. of this section for the Freestanding Demonstration component.

Special requirements concerning start-up of the Small/Rural Demonstration were contained in Part II of the May 5, 1985 NOFA and remain unchanged (see 50 FR 19476–19477). The program administration requirements in Part III of this Notice apply to Small PHA/Rural Area Housing Voucher Demonstration.

III. Housing Voucher Program Requirements

A. Definitions

For purposes of the Housing Voucher Program, the following definitions apply.

Annual Contributions Contract (ACC). A written agreement between HUD and a PHA to provide annual contributions to the PHA for housing assistance payments and administrative fees.

Congregate Housing. See section III.M. (b) of this Notice.

Decent, Safe, and Sanitary Housing. Housing that meets the Housing Quality Standards of § 882.109 or the requirements for Single Room Occupancy (SRO) Housing.

Demolition/Disposition. The demolition of public housing buildings or disposition of public housing units. The PHA must obtain HUD approval for the demolition or disposition under 24 CFR Part 970.

Eligible Family (Family). A Family as defined in 24 CFR Part 812 that, at the time it initially receives assistance under the Housing Voucher program, (1) qualifies as a Very Low-Income Family or as Lower Income Family displaced by Rental Rehabilitation program activity under 24 CFR Part 511 (see section III.I. of this Notice); or (2) has been continuously assisted under the 1937 Act.

Housing Voucher. A document issued by a PHA declaring a Family to be eligible for participation in the Housing Voucher Program and stating the terms and conditions for the Family's participation.

Housing Voucher Contract (Contract). A written contract between a PHA and an Owner, in the form prescibed by HUD for the Housing Voucher program, in which the PHA agrees to make housing assistance payments to the Owner on behalf of an Eligible Family.

HUD. The Department of Housing and Urban Development or its designee.

Independent Group Residence (IGR). See section III.M.(b) of this Notice.

Initial PHA. A PHA administering a Housing Voucher program with a Housing Voucher holder or Housing Voucher participant who desires to move or who has moved to another area.

Lower Income Family. A Family whose Annual Income does not exceed 80 percent of the medium income for the area, as determined by HUD with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 80 percent of the median income for the area on the basis of its finding that such variations are necessary because of the prevailing levels of construction costs or unusually high or low family incomes.

Occupancy Policy. Standard established by the PHA for determining the appropriate number of bedrooms for Families of different sizes and compositions.

Opt Out. (1) A Section 8 New Construction or Substantial Rehabilitation project where the owner has the sole option to renew for an additional term of assistance under the Section 8 Housing Assistance Payments Program, but elects not to renew; or (2) A Section 8 Loan Management Set-Aside project (Part 886, Subpart A) where the owner and HUD do not agree to renew the Section 8 Housing Assistance Payment Contract for an additional term.

Owner. Any person or entity having the legal right to lease or sublease Decent, Safe, and Sanitary Housing.

Payment Standard. (See section III.J. of this Notice)

PHA Jurisdiction. The area in which the PHA is not legally barred from entering into Housing Voucher Contracts.

Public Housing Agency (PHA). Any State, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) that is authorized to engage in or assist in the development or operation of lower income housing.

Receiving PHA. A PHA administering a Section 8 Certificate or Housing Voucher program that accepts a Housing Voucher holder or Housing Voucher participant from another PHA.

Single Room Occupancy (SRO) Housing. A unit which contains no sanitary facilities or food preparation facilities, or which contains one but not both types of facilities, (as those facilities are defined in 24 CFR 882.109 (a) and (b)), which is suitable for occupancy by a single eligible individual capable of independent living. (See also section III.M. (c) of this Notice.)

Targeted Housing Voucher. Term used to describe Housing Voucher funding authority to be used for families living in certain types of projects. These projects include Demolition/Disposition projects and Opt Out projects.

Very Low-Income Family. A Lower Income Family whose Annual Income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller or larger Families. HUD may establish income limits higher or lower than 50 percent of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes.

Voucher. See Housing Voucher.

Voucher Contract (Contract). See Housing Voucher Contract.

B. Applicability and Purpose

(a) *Applicability.* The provisions of this Part III apply to the use of contract and budget authority for all Housing Voucher assistance authorized by section 8(o) of the U.S. Housing Act of 1937. Requirements that apply to less than all of the Housing Voucher program components also are contained in Part

III, but are distinguished from the generally applicable requirements. By cross reference, provisions of the regulations for the Section 8 Existing Housing (Certificate) Program (24 CFR Parts 812, 813 and 882, Subparts A and B) are incorporated in this Notice and also apply to the Housing Voucher Program. Unless otherwise specified, references to particular section numbers (e.g., § 882.110) are to regulations in Title 24 of the Code of Federal Regulations. Provisions that apply only to a limited number of components of the Housing Voucher program are noted within the generally applicable provisions.

(b) *Purpose.* The purpose of the Housing Voucher Program is to assist Eligible Families in affording rents for Decent, Safe, and Sanitary Housing.

C. Equal Opportunity Requirements

Participation in the Housing Voucher Program requires compliance with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and all related rules, regulations and other requirements. PHAs also shall comply with section 3 of the Housing and Urban Development Act of 1968 and all related rules, regulations, and requirements. Failure to comply with these equal opportunity requirements shall result in the imposition of sanctions under applicable civil rights law.

D. Allocations of Funding and Invitations for Applications

(a) *Invitations for Applications for Housing Voucher Assistance in Connection with the Rental Rehabilitation Program—Allocation of Funding.* (1) After HUD has determined the amount of contract and budget authority to allocate for Housing Vouchers in connection with a grantee's Rental Rehabilitation Program, it will invite one or more PHAs to submit applications. HUD will invite the PHA administering the Certificate Program in the grantee's jurisdiction ("local PHA") unless the grantee has indicated that it wants one or more other PHAs to administer the Housing Voucher assistance. Where the grantee has so indicated, the grantee, the local PHA, and HUD shall discuss the matter. If the local PHA wants to administer the assistance in connection with the grantee's Rental Rehabilitation program, HUD will decide which PHA or PHAs to invite, based on HUD's determination of which can provide the most efficient and effective program administration. If the local PHA does not want to administer the assistance, HUD may invite the other PHA or PHAs indicated by the grantee, or one or more other PHAs, based on HUD's determination of which can provide the most efficient and effective program administration.

(2) In considering which PHA or PHAs to invite to apply, HUD will not permit PHAs to administer duplicative Section 8 programs in the same area. For example, HUD will not fund two different agencies with the same jurisdictions to administer components of the Section 8 program.

(b) *Invitations for Application for Housing Voucher Assistance in Connection with the Rental Rehabilitation Program—Contents of Invitation.* An invitation under paragraph (a) of this section will state:

(1) That HUD has allocated Housing Voucher authority in connection with the Rental Rehabilitation Program as provided in this Notice;

(2) The amount of authority available for each program and the estimated number of units for each program (based on all units having two bedrooms) that the authority will support;

(3) The name of the rental rehabilitation grantee, with a statement that before the Annual Contributions Contract is executed the PHA and grantee (or the State recipient as defined in 24 CFR 511.2 where a State is distributing the grant to units of local government) must enter into a memorandum of understanding (see section III.F.(c));

(4) The PHA's application for Housing Voucher assistance must be submitted at the same time as the grantee submits its program description, or at such other time as HUD designates;

(5) That relevant information and forms are included with the invitation and that the PHA may obtain additional information from the HUD Field Office; and

(6) Other information or documentation the PHA must submit.

(c) *Special Procedures for State Rental Rehabilitation Programs.* Where a State is the grantee under the Rental Rehabilitation Program, and the identity of the PHAs that will administer the Housing Voucher Programs within the State is not known, or the applications of the PHAs that will administer the Housing Voucher Program in connection with the State Program have not been approved, HUD will reserve the contract and budget authority for use in connection with the State's program at the time HUD provides the State with written notification of grant approval under 24 CFR Part 511, or as soon as possible thereafter. When the identity of the PHAs becomes known, HUD will invite them to apply in accordance with this Notice, and the authority reserved will be transferred when HUD approves a PHA's application.

(d) *Invitations for Applications for Formula Allocation Housing Vouchers—Allocation of Funding.* The Department will allocate a portion of the current year's Housing Voucher funding to its Regional Offices or Field Offices, using a formula allocation procedure similar to the "fair share" allocation of Section 8 Certificates in 24 CFR Part 791. If allocated to the Regional Offices, each Regional Office may determine the amounts of Housing Voucher funding to be used for individual PHAs or it may delegate these decisions to its Field Offices.

(e) *Invitations for Applications for Formula Allocation Housing Vouchers—Contents of Invitation.* (1) The availability of Housing Voucher funding to be distributed by formula allocation will be announced by the Regional or Field Offices, which will invite PHAs to submit applications to the appropriate Field Office.

(2) The Department generally considers 25 Housing Vouchers to be the minimum practical size for administration of a Housing Voucher program. (This minimum need only be met once and does not apply to approval in response to an emergency as determined by HUD Headquarters.)

E. Submission of Applications

(a) The PHA shall submit its application for the Housing Voucher program in accordance with § 882.204, with the following exceptions:

(1) Number of Bedrooms

Generally, § 882.204(a)(1) does not apply to the Rental Rehabilitation Program component. Accordingly, the PHA is not required to state in the application the bedroom mix and Family type, unless there will be interim use of the Rental Rehabilitation Housing Vouchers, as provided for in section III.H. (b) of this Notice.

(2) Equal Opportunity Housing Plan

Each PHA shall submit an equal opportunity housing plan as required under § 882.204(b)(1), except that it shall be a combined plan covering the PHA's entire Certificate Program and Housing Voucher Program. The plan shall include any special rules for use of Housing Vouchers in connection with any program component identified in this Notice.

(3) Administrative Plan

Each PHA shall submit an administrative plan as required under § 882.204(b)(3), except it shall be a combined plan covering the PHA's

entire Certificate and Housing Voucher Program. Applicable special functions related to Housing Vouchers, such as computation of the housing assistance payment and special procedures for selection of Families in support of the Rental Rehabilitation Program, Targeted, Freestanding, or Small/Rural components, shall be covered. (Some functions, such as computation of the Family rent in accordance with section 3(a) of the U.S. Housing Act of 1937, and contract rent adjustments, do not apply to the Housing Voucher Program.)

(b) For all components of the Housing Voucher program except Rental Rehabilitation, the application must include estimates of gross family income.

(c) For the targeted component only, the application must include the identification of the size and the composition of affected Families.

F. Processing of Housing Voucher Applications

(a) *Processing of Applications.* (1) HUD will send applications for more than 12 units to the appropriate chief executive officer of the unit of general local government for review and comment. This submission will be in accordance with 24 CFR Part 791, as required by section 213 of the Housing and Community Development Act of 1974. Because of the nature of the Rental Rehabilitation Program, PHAs generally are not required to identify the distribution of units by Family type in the application. (See section III.E. (a)(1) of this Notice.) However, communities should be aware that their subsequent HAP performance will continue to be evaluated in terms of the actual number of households assisted, by household type.

(2) HUD will evaluate each application on the basis of the requirements of this Notice and other program requirements, and will consider any comments received from the unit of general local government. HUD also will take into account the PHA's ability to administer the Housing Voucher Program, as evidenced, in part, by its performance in operating the Certificate Program, where applicable.

(b) *Processing of Applications: Special Procedures for Formula Allocation Housing Vouchers.* (1) Preference may be given to applications from PHAs that provide Families with the broadest geographical choice of housing, including interjurisdictional and interstate housing choice.

(2) Preference may be given to PHAs whose needs previously have been underfunded in relation to the needs of other localities within the allocation area.

(c) *Approval or Disapproval of Applications.* HUD will notify the PHA and, if applicable, the Rental Rehabilitation Program grantee whether HUD has approved or disapproved its application. Where HUD has disapproved an application, HUD will include a statement of the reasons and, where applicable, the changes required to make the application approvable. HUD will not approve a PHA's application for Housing Vouchers in support of the Rental Rehabilitation Program where HUD disapproves the related program description submitted by a Rental Rehabilitation Program grantee.

(d) *Processing of Applications: Special Procedures (Memorandum of Understanding) for the Rental Rehabilitation Program.* In processing applications for Housing Vouchers, HUD requires that the PHA and the grantee under the Rental Rehabilitation Program execute a Memorandum of Understanding setting forth the responsibilities of each party and the procedures to be followed in coordinating the use of authority for Housing Vouchers allocated for use with rental rehabilitation grant amounts in accordance with this Notice, including a system (if applicable) governing interim use of Housing Vouchers by non-rental rehabilitation families (see section III. H.(c)), and a system for ensuring that the commitment of Housing Voucher assistance in support of the Rental Rehabilitation program is fulfilled. Where a State is distributing the Rental Rehabilitation grant amounts to units of general local government (State recipients), the PHA and the State recipient shall execute the Memorandum of Understanding. Before HUD and the PHA execute an ACC for the Housing Vouchers, the memorandum must be executed by both parties and the PHA shall submit a certification to HUD that both parties have executed the memorandum and it is consistent with the PHA's HUD-approved administrative and equal opportunity plans. If there is any inconsistency between the PHA's administrative plan and the Memorandum of Understanding, the administrative plan prevails.

G. Annual Contributions Contract

(a) *ACC Execution.* After HUD approves the application for Housing Voucher assistance and, in the case of the Rental Rehabilitation component, receives the PHA certification that the PHA and the grantee under the Rental Rehabilitation Program have executed a Memorandum of Understanding as required under section III.F.(d) of this Notice, HUD will execute the ACC with the PHA, in a form prescribed in HUD, in accordance with §§ 882.206.

(b) *Term of ACC.* The ACC term for each funding increment under the ACC shall be five years.

(c) *Single ACC.* HUD and the PHA shall execute one ACC covering all of the authority for the PHA's Housing Voucher Program. However, where (as in the case of some statewide PHAs) the area for which the PHA may execute Housing Voucher Contracts is within the jurisdiction of more than one HUD Field Office, HUD may require one ACC for each office.

(d) *Amount of Annual Contributions.* (1) The total amount of annual contributions contracted for in the ACC for the five-year ACC term for each funding increment shall be five times the total of (i) the average HUD-estimated annual PHA administrative fee plus (ii) 115 percent of the amount that HUD estimates would be required in the first year of the ACC for housing assistance payments to Owners, assuming a full year of occupancy.

(2) The PHA shall plan administration of its Housing Voucher program in a manner that will ensure its operation within the amounts originally contracted for under the ACC, taking into account (i) the amounts available from reserving 15 percent more than the estimated housing assistance payments for the first year and (ii) the number of Families that may be assisted (including consideration of the effect of changes in the Applicable Standard under section III.J., including adjustments to assure continued affordability, changes in Family income and composition, and portability of Housing Vouchers).

H. Special Procedures for Allocations in Connection With the Rental Rehabilitation Program

(a) Housing Vouchers are a scarce resource, to be used to the fullest extent possible. Accordingly, the Department authorizes the following procedures designed to maximize the use of Housing Vouchers and Certificates allocated in connection with the Rental Rehabilitation program. In implementing any of the procedures described in this section, a PHA shall establish a system to keep track of Housing Vouchers used by Families in connection with the Rental Rehabilitation program, so that the PHA can determine when it has used its contract authority provided for use in connection with rental rehabilitation.

(b) *Use of Funding Authority Across Rental Rehabilitation Program Years.* Housing Voucher or Certificate funding

authority reservations may be used in connection with any year's rental rehabilitation grant funds. For example, Housing Voucher or Certificate funding authority reserved in connection with a grantee's Rental Rehabilitation Program grant in fiscal year 1984 may be used to assist families where rehabilitation is being funded out of that community's fiscal year 1985 Rental Rehabilitation grant funds.

(c) *Interim Use of Fiscal Year 1986 Housing Voucher Funding Authority Allocated For Use in Connection with the Rental Rehabilitation Program.* (1) Because Housing Vouchers may not be needed for use in connection with the Rental Rehabilitation Program for some time, the PHA and grantee may develop a system providing for use of the Housing Vouchers provided under FY 1986 Housing Voucher funding authority for issuance of Housing Vouchers to Eligible Families on the PHA's waiting list before the Housing Vouchers are needed in connection with rental rehabilitation projects. The amount of FY 1986 funding, and the system for the use of such funding, must be specified in the PHA's HUD-approved administrative plan and the Memorandum of Understanding with the grantee or State recipient. To minimize the risk that Housing Vouchers will not be available when needed for rental rehabilitation projects, when developing the system the PHA and the grantee shall take into consideration such factors as the anticipated turnover rate of Housing Vouchers and Certificates, the estimated dates the Housing Vouchers will be needed in connection with the rental rehabilitation projects, and the size of the rest of the PHA's Housing Voucher and Certificate programs.

(2) Consistent with the system developed under paragraph (c)(1), a PHA may use FY 1986 Housing Voucher funding authority provided for use in connection with the Rental Rehabilitation Program for other purposes under the PHA's Housing Voucher Program and issue another available Housing Voucher or Certificate when the initial rental rehabilitation need arises, consistent with the number of units for the Rental Rehabilitation Housing Voucher components specified in the PHA's HUD-approved application. If no funding for Housing Vouchers or Certificates is available when needed, the PHA may not issue replacement Housing Vouchers or Certificates until funding becomes available. Nothwithstanding HUD's approval of this system as part of the PHA's administrative plan, HUD will not amend the ACC to provide any additional authority for Housing Vouchers or Certificates because the PHA and grantee have assessed incorrectly the future availability of Housing Vouchers or Certificates.

(3) If the PHA and grantee cannot agree on use for other purposes, they may consult with the HUD Field Office, which will assist them in negotiating an appropriate system where necessary to provide for maximum feasible use of Housing Voucher funding consistent with sound administration of the Housing Voucher and Rental Rehabilitation Programs.

(d) *Speical Use of Housing Voucher Funding.* (1) Housing Voucher funds were reserved in FY 1984 and FY 1985 for use in connection with the Rental Rehabilitation program. The availability of these funds has allowed local grantees to design and to implement rental rehabilitation projects. However, because there is a lapse of time between approval of a Rental Rehabilitation project and the availability of dwelling units for occupancy in the Rental Rehabilitation project, some FY 1984 and FY 1985 Housing Voucher funding has been reserved but not yet used to assist families.

(2) Accordingly, if one year has elapsed since the HUD reservation of funds/HUD notification of approval of the application for housing assistance for Housing Voucher or Certificate funding authority (reserved in connection with a grantee's rental rehabilitation program grant for a particular fiscal year), then that reservation of funding authority, having been used in support of the rental rehabilitation program, may, by mutual agreement between the PHA and rental rehabilitation grantee, be used for Families on the PHA's waiting list. (Housing Vouchers, issued under FY 1986 funding authority for use in connection with Rental Rehabilitation, that are the subject of an interim use agreement consistent with paragraph (c) of this section, are not eligible for the special use provisions of this paragraph (d).) Any special use agreement between the PHA and the rental rehabilitation grantee must provide for replacement housing assistance in support of the rental rehabilitation projects, consistent with the elements of the system identified in paragraph (c) of this section. In addition, any use of Housing Vouchers or Certificates in connection with the Rental Rehabilitation program must be consistent with the special procedures for Rental Rehabilitation Housing Vouchers identified in section I.(e) of this Notice.

(e) *Complete Release of Housing Voucher Funding Authority.* A PHA may determine that adequate Housing Voucher funding has been used in connection with the rental rehabilitation projects in its jurisdiction. In this case, the PHA may request HUD permission to use any remaining Housing Voucher funding authority for families on its waiting list. Any such request must contain a statement from the rental rehabilitation grantee concerning its view on the proposed release. The CPD and Housing Divisions in the Field Offices will review the request and the Field Office Manager will approve or disapprove the request based on analysis of the information provided. Any use of Housing Vouchers as the result of this release shall be consistent with the formula allocation procedures of this NOFA.

I. Selecting Families and Issuing Housing Vouchers

(a) *Eligible Families.* (1) A Family is eligible for assistance under the Housing Voucher program if, at the time it initially receives assistance under the program, the Family:

(i) Qualifies as a Very Low-Income Family;

(ii) Qualified as a Lower Income Family (other than Very Low-Income) and is displaced by Rental Rehabilitation activity under 24 CFR Part 511; or

(iii) Has been continuously assisted under the U.S. Housing Act of 1937.

(2) A Lower Income Family in a Rental Rehabilitation project that is forced to vacate a unit because of physical construction, housing overcrowding, or a change in use of the unit, is considered "displaced". A Lower Income Family that lives in a project undergoing rental rehabilitation activities whose post-rehabilitation rent would not be affordable is not considered "displaced" for this reason alone, for purposes of determining Housing Voucher eligibility, whether or not the Family chooses to move. (Such a Family may be issued a Certificate allocated for use in connection with the Rental Rehabilitation Program in fiscal year 1984, to assist in paying the higher rent or in finding another unit. Certificates are not subject to the statutory requirement for actual displacement as a condition of eligibility for a Lower (but not Very Low-) Income Family.)

(3) Although the Family may qualify under this paragraph (a), the PHA may be unable to issue a Housing Voucher to

an applicant or to a participant who wants to move to a new unit because of the limitations described in paragraph (b) of this section.

(b) *Compliance with Section 16 of the U.S. Housing Act of 1937*—(1) *Five Percent Cap.* (The following requirements are consistent with the provisions of 24 CFR Part 813, which contain these restrictions for the entire Section 8 program.) A PHA may issue a Housing Voucher to an Eligible Family with an income above 50 percent of area median income as provided in paragraph (a) of this section, subject to the requirements of section 16 of the 1937 Act. Section 16 restricts to five percent nationally the number of 1937 Act units (public housing and Section 8) that initially become available for occupancy on or after October 1, 1981, to which Lower Income Families with incomes above 50 percent of median income may be admitted. Specific procedures for compliance with section 16 are described below.

(2) *Rental Rehabilitation Displacee.* The Technical Amendments Act of 1984 (Pub. L. 98–479, 97 Stat. 2218), approved October 17, 1984, extended Housing Voucher eligibility to Families determined to be Lower Income Families at the time they initially receive assistance and that are displaced by Rental Rehabilitation Program activities. However, because of the requirements of section 16 of the 1937 Act, HUD must authorize the issuance of Housing Vouchers for Families under this paragraph (b)(2). The PHA shall report each case to HUD.

(3) *Eligible Family with Income Greater than 50 percent of Median Income that has been Continuously Assisted under the 1937 Act.* The PHA may issue a Housing Voucher to a Family with an income greater than 50 percent of median income that has been continuously assisted under the 1937 Act only in the following circumstances.

(i) The PHA may, without requesting prior HUD approval, issue a Housing Voucher to a Family living in a public housing unit that is being demolished or disposed of with HUD approval. The PHA shall report each case to HUD.

(ii) The PHA may, without requesting prior HUD approval, issue a Housing Voucher to a Family residing in a unit that was assisted under a project-based Section 8 Housing Assistance Payments Contract that is being terminated. The PHA shall report such initial issuance to HUD, unless the Family uses the Housing Voucher assistance to remain in the same unit. If the Family initially used its Housing Voucher assistance to remain in the same unit, but the Family later requests a Housing Voucher to move to a new unit and its income at that time is greater than 50 percent of area median, the PHA shall request prior HUD approval before issuing a Housing Voucher.

(iii) The PHA shall request prior HUD approval before issuing a Housing Voucher to a Family, if the Family is assisted under another program under the 1937 Act and requests to transfer to the Housing Voucher Program (for example, issuance of a Housing Voucher to a Family living in a public housing project); or, if the Family is a Housing Voucher participant and wants to move to another unit with assistance under the Housing Voucher program and its income at that time is greater than 50 percent of area median income.

(c) *Activities to Encourage Participation by Owners and Others.* The PHA shall encourage participation by Owners and others in the Housing Voucher Program as required under § 882.208 for the Section 8 Certificate Program.

(d) *Selecting Families; Issuing Housing Vouchers: Generally Applicable Procedures.* (1) The PHA shall select Eligible Families for participation in accordance with § 882.209(a) unless specifically modified in paragraph (e) of this section for individual components of the Housing Voucher Program.

(2) The PHA shall verify the sources of income and other information concerning the family necessary to determine eligibility and the amount of the housing assistance payment.

(3) The PHA's occupancy policy developed under § 882.209(b) shall provide for the minimum commitment of housing assistance payments necessary to meet the housing quality standards identified in § 882.109(c). The PHA shall issue Housing Vouchers in accordance with its occupancy policy and this Notice, except that for a Family renting a unit with a larger or smaller number of bedrooms than stated on the Housing Voucher, section III.N.(c) shall apply. The PHA shall issue a Housing Voucher for a particular number of bedrooms consistent with its occupancy policy and consistently for all Families of like composition.

(e) *Selecting Families: Program-Specific Requirements*—(1) *Special procedures for the Rental Rehabilitation Housing Voucher Component: Waiting List Procedures.* If an applicant is offered a Housing Voucher which must be used initially in a rental rehabilitation project, the Family may not lose its place on the waiting list if it refuses to accept the Housing Voucher. (Refusal of assistance under this paragraph (e)(1) does not affect any other right of refusal of assistance a Family is provided elsewhere in this section.)

(2) *Special Procedures for the Rental Rehabilitation Housing Voucher Component: Conditioned Initial Use.* (i) Except as provided in section III.H. of this Notice, with respect to the initial use of the Housing Voucher authority allocated for use in connection with the Rental Rehabilitation Program, the PHA shall issue Housing Vouchers only to Elgible Families in one of the following categories:

(A) Families that live in projects to be rehabilitated under the Rental Rehabilitation Program, whether or not they move from the projects, and

(B) Families chosen from the PHA's waiting list and that agree to move into a rehabilitated project.

(ii) Initial use means initial occupancy of a dwelling unit with Housing voucher assistance.

(a) After the grantee approves a rental rehabilitation project, the PHA shall issue Housing Vouchers to Families living in the project to be rehabilitated sufficiently in advance of the time assistance will begin to give Families time to decide whether to move (where they are not required to move) and to give them time to locate another unit (where they are required to move or choose to move).

(B) Approximately 60 days before the estimated rehabilitation completion date, the PHA shall issue Housing Vouchers to Families selected from the PhA's waiting list who agree to move into a rehabilitated project.

(3) *Special Procedures for the Targeted Housing Vouchers Compenent.* A PHA receiving funding for public housing Demolition/Disposition or Opt Out projects must use the funding to assist Eligible Families living in the affected units. The Family receiving assistance is free to use the assistance for a unit located anywhere in the PHA's jurisdiction, in accordance with the Finders Keepers policy described in section III.K. of this Notice.

(4) *Special Procedures for the Formula Allocation Component.* If an applicant on the PHA's Section 8 Certificate waiting list is offered a Housing Voucher, the Family may not lose its place for refusing the Housing Voucher if it desires to wait for a Certificate. Conversely, the Family may not lose its place if the Family refuses a Certificate if it desires to wait for a Housing Voucher. However, if the Family then refuses the second form of assistance when it is offered, the Family shall be taken off the waiting list. If the Family requests, it will be reinstated on

the waiting list, in conformance with the PHA's HUD-approved administrative plan or equal opportunity housing plan.

(5) *Special procedures for the Freestanding Housing Voucher Demonstration Component.* In selecting applicants for participation in the Freestanding Demonstration, the PHA shall issue an available Certificate and Housing Voucher to a pair of Families on the waiting list that qualify for the same size unit under the PHA's occupancy policy.

(6) *Special procuedures for the Small/Rural Demonstration Component.* In selecting applicants for participation in the Small/Rural component, the PHA shall issue an available Housing Voucher to the next Family on the waiting list that qualifies for the unit under the PHA's occupancy policy.

(f) *PHA Briefing of Families.* The PHA shall brief each Family in accordance with § 882.209(c), and shall include information on the full range of neighborhoods in which the Family may find units meeting program requirements and information on possibilities for participating in available portability programs as described in section III.L. of this Notice. Section 882.209(c)(7) shall not apply. Instead, the PHA shall brief the Family on the function of Applicable Standards, determination of the housing assistance payment, the incentive for selecting a unit renting for less than the Applicable Standard and the minimum rent the Family must pay. In jurisdictions in which the PHA is administering both a Section 8 Certificate program and a Housing Voucher program, and the Family is being offered a Formula Allocation Housing Voucher or a Housing Voucher being used in connection with the Rental Rehabilitation program, the PHA also shall explain how the principal features of the Housing Voucher program differ from the Section 8 Existing Certificate Program.

(g) *Housing Voucher Packet.* The PHA shall give each Family a Housing Voucher packet in accordance with § 882.209(b)(4), except that instead of information on the Total Tenant Payment and the Tenant Rent, the PHA shall give the Family information on how the PHA computes the housing assistance payments.

(h) *Term of Housing Voucher.* Section 882.209(d), Expiration and Extension of Certificate, shall apply to Housing Vouchers issued in the Housing Voucher Program.

J. Housing Voucher Payments

(a) *Overview and Basic Formula.* (1) A Housing Voucher Payment is the amount of assistance that will be provided on behalf of a Family participating in the Housing Voucher program. A Housing Voucher payment is determined by subtracting 30 percent of a Family's Monthly Adjusted Income from the Applicable Payment Standard (unless the minimum rent provisions of paragraph (d) of this section apply). There may be one or more Payment Standards in effect in a particular jurisdiction, depending on decisions by the PHA to adopt different Payment Standards or the establishment by HUD of new Fair Market Rents used in determining some Payment Standards.

(2) The following section does several things: it defines the different Payment Standards; it describes when a particular Payment Standard must be adopted and when it may be adopted at the discretion of the PHA; and provides guidelines for determining amounts to be included in each Payment Standard. In addition, this section defines what Payment Standard will be used to determine the Housing Voucher payment for each Family participating in the Housing Voucher program. (To assist the reader, we are publishing a table with notes to illustrate the Applicable Payment Standards, which immediately follows this section J.)

(b) *Applicable Standard*—(1) *General.* The amount of the Applicable Standard is used to calculate the subsidy for a given Family in a PHA's Housing Voucher program. Depending on the circumstances described elsewhere in this paragraph (b), the Applicable Standard will be the Initial Payment Standard, or the appropriate amount from the New Family/Mover schedule or the Adjustment Standard schedule. The appropriate amount is determined by Family size and composition and the PHA occupancy policy. Procedures for establishment of New Family/Mover schedules and Adjustment Standard schedules are described in paragraph (b)(4) and (b)(5) (respectively) of this section. Each schedule shall state the amounts that will be used to determine the Applicable Standard used to compute the amount of the housing assistance that will be paid for a Family. Each schedule established by the PHA shall state the Applicable Standard amounts for units with different numbers of bedrooms. The PHA's schedule(s) shall apply to all increments of funding in the PHA's Housing Voucher program.

(2) *Payment Standard.* (i) The "Payment Standard" is the Fair Market Rent (by number of bedrooms) published for effect in the **Federal Register** for the Section 8 Certificate Program, or the exception Fair Market Rent approved by HUD for a designated municipality, county, or similar locality under § 882.106(a)(3). The "Initial Payment Standard" is the Payment Standard based on the Fair Market Rent in effect at the time the ACC is executed by HUD for the first increment of funding in the PHA's Housing Voucher Program.

(ii) The Payment Standard for SRO Housing shall be proposed by the PHA for HUD approval, but shall be in a range from 75 to 100 percent of the applicable published 0-bedroom Fair Market Rent or the HUD-approved exception 0-bedroom Fair Market Rent. Within this range, the Payment Standard for SRO Housing shall reflect the presence or absence of sanitary facilities or food preparation facilities within the unit and what must be paid to obtain privately owned, existing, Decent, Safe, and Sanitary rental SRO Housing of modest (non-luxury) nature with suitable amenities.

(iii) The Payment Standard for a Family residing in an Independent Group Residence (see section III.M.(b)) shall be detemined by taking the appropriate dollar amount of the Payment Standard for the entire residence (for example, the 4-bedroom Payment Standard for a 4-bedroom residence) and dividing that amount by the total number of potential occupants (assisted and unassisted), other than a resident assistant (if any) occupying no more than one bedroom.

(3) *Applicable Standard Based on Initial Payment Standard.* Unless the Applicable Standard for a Family is based on a New Family/Mover schedule (under paragraph (b)(4) of this section), or an Adjustment Standard schedule (under paragraph (b)(5) of this section), the applicable standard for the Family shall be the Initial Payment Standard for the appropriate number of bedrooms under the PHA occupancy policy.

(4) *Applicable Standard Based on the New Family/Mover Schedule.* (i) Upon publication of new FMRs for effect, the PHA shall establish a new New Family/Mover schedule:

(A) If the PHA has not previously established a New Family/Mover schedule, and the current FMR or HUD approved exception FMR for a particular unit size (number of bedrooms) is less than the PHA's Initial Payment Standard for that unit size, or

(B) If the PHA has previously established a New Family/Mover schedule, and the current FMR or HUD approved exception FMR for a particular unit size is less than the Applicable Standard for that unit size as determined under the old New Family/Mover schedule.

(ii) The Applicable Standard amount on the New Family/Mover schedule for a particular unit size described in paragraph (4)(i)(A) or (4)(i)(B) of this section shall be the new FMR or the HUD approved exception FMR. The Applicable Standard for all other unit sizes shall be determined in accordance with paragraph (4)(iii) of this section.

(iii) Except where determination of the Applicable Standard for a particular unit size is governed by paragraph (4)(i) and (4)(ii) of this section, if the new FMR for a particular unit size is more than the Initial Payment Standard for the unit size, the PHA may establish at any time a new New Family/Mover schedule which sets the Applicable Standard for the unit size. The applicable standard amount on the New Family/Mover schedule shall be:

(A) The Initial Payment Standard, or, if the PHA has adopted an Adjustment Standard, the applicable Adjustment Standard (see paragraph (b)(5) of this section); or

(B) Any greater amount that does not exceed the Payment Standard based on the FMRs in effect at the time the New Family/Mover schedule is established.

(iv) The currently effective New Family/Mover schedule shall be used to determine the Applicable Standard for:

(A) Any Family entering the PHA's Housing Voucher Program; or

(B) Any participating Family that moves to another dwelling unit with assistance under the Housing Voucher program.

(v) The New Family/Mover Schedule in effect on the date of initial lease approval (the date the first lease for the unit to be occupied by the Family is approved by the PHA) shall be used to determine the Applicable Standard for the Family. This Applicable Standard continues to apply to the Family, except as provided in paragraph (c)(2) of this section.

(5) *Adjustment Standard Schedule.* (i)(A) To assure continued affordability, the PHA may, in its discretion, twice during any five-year period, establish an Adjustment Standard schedule for adjustment of the amount of the Applicable Standard. No Adjustment Standard schedule may be established until at least 60 months have elapsed since the next to the last Adjustment Standard schedule was established.

(B) The PHA may decide to establish an Adjustment Standard schedule that will be used to determine the housing assistance payment for all participating Families or for certain categories of participating Families (for example, by the unit size the Family qualifies for, or by type of Family, such as handicapped, elderly).

(C) The PHA may not establish separate Adjustment Standard schedules for structures, neighborhoods, individual Families, one of the components of the Housing Voucher program (such as Small/Rural, Opt-out) or similar categories.

(ii) The amounts in the Adjustment Standard schedule may not exceed the Payment Standard based on the published FMR or the HUD approved exception FMR in effect at the time the schedule is established. (If the PHA adopts an Adjustment Standard schedule, it also may need to establish another New Family/Mover schedule, to ensure that the New Family/Mover schedule provides amounts at least equal to those contained in the newly established Adjustment Standard schedule.)

(iii) When FMRs are published for effect in the **Federal Register** and these rents are lower than those used to develop the Initial Payment Standard or the most recently adopted Adjustment Standard schedule, the PHA shall establish a new Adjustment Standard schedule, using the Payment Standard based on the lower, currently effective FMRs or the HUD approved exception FMR. (To the extent the new Adjustment Standard schedule is required because of lower Fair Market Rents, the adoption of the schedule will not be subject to the two-in-five-years limitation described in paragraph (5)(i)(A) of this section.)

(iv) A State agency may establish an Adjustment Standard schedule for any designated municipality, county or similar locality within its jurisdiction. Any such schedule would be considered one of the two-in-five-years adjustments allowed to be established by the PHA.

(v) Before establishing an Adjustment Standard schedule to provide affordability adjustments, the PHA shall consult with the public and the unit of general local government for its area of operation regarding the impact of these adjustments on the number of Families that can be assisted.

(c) *Special Rules for Determining the Applicable Standard*—(1) *No Interim Change to Family's Applicable Standard.* The PHA may not change the Applicable Standard at a time other than at the regular reexmination, unless the Family moves to a different unit. (If the Family moves, the Applicable Standard is based on the New Family/Mover schedule adopted by the PHA, if applicable. A Family may request interim reexamination of income, as provided for in section III.Q. of this Notice, which may result in a change in family income or in Adjusted Income, but not in the Applicable Standard.

(2) *Applicable Standard at Regular Reexamination.* (i) At regular reexamination, the Applicable Standard that applied to a Family at initial lease approval for the unit or at the last regular reexamination subsequent to initial lease approval continues to be used to determine the Applicable Standard, unless:

(A) The PHA subsequently has established an Adjustment Standard schedule (see paragraph (b)(5) of this section) which applies to the Family, in which case the Applicable Standard is determined from the Adjustment Standard schedule; or

(B) The Family subsequently moves to another unit with assistance under the Housing Voucher program, after the establishment of a current New Family/Mover schedule, in which case the current New Family/Mover schedule will be used to determine the Applicable Standard.

(ii) Except as provided in paragraph (c)(2)(i) of this section, the Applicable Standard that previously applied to the Family will continue to be used at the regular reexamination unless:

(A) There has been a change in Family size or composition; or

(B) There has been a change in the PHA occupancy policy. In these cases, the Applicable Standard for the appropriate unit size is used.

(iii) Unless there has been a change in Family size or composition or a change in the PHA occupancy policy, the Applicable Standard for a particular Family may not at the time of reexamination be determined to be less than the Applicable Standard previously being used for the Family.

(3) *Assisting More Families.* If a PHA determines that some or all of the available annual contributions under its ACC are not needed for participating Families, including for future adjustment of housing assistance payments and portability moves, it may assist more Families.

(d) *Minimum Rents.* Notwithstanding the formula under paragraph J.(a) of this section, the housing assistance payment shall not exceed the difference between the rent for the unit, including any applicable Utility Allowance for Family-paid utilities (as determined by the PHA for its Certificate Program), and 10 percent of the Family's Monthly Income (1/12th of Annual Income), computed in accordance with 24 CFR Part 813. In effect, 10 percent of the Family's Monthly Income is its minimum rent—the minimum amount of shelter costs not covered by the Housing Voucher assistance. While HUD expects the majority of Families to have their

housing assistance payments based on the difference between 30 percent of Monthly Adjusted Income and the Applicable Standard, the minimum rent ensures that all Families make a contribution toward their rent, including utilities. The PHA shall provide for adjustments of the Utility Allowance in accordance with § 882.214(a) and, where applicable, shall take the current Utility Allowance into account at each Family's reexamination for purposes of determining the Family's minimum rent. (See section III.Q.)

(e) *Rent Not Capped by Applicable Standard.* Under the housing assistance payment computation described in paragraphs J.(a)–(d) of this section, the amount of the housing assistance payment does not vary with the amount of the rent for the unit, except where the minimum rent requirement applies. If the unit rents for more than the Applicable Standard, the housing assistance payment is not increased. If the unit rents for less, the Family benefits by paying less than 30 percent of Monthly Adjusted Income toward rent, subject to the minimum rent requirement.

(f) *Prohibition Against Double Subsidy.* In no event may any Family receive the benefit of Housing Voucher assistance while receiving one of the following: other section 8 or section 23 housing assistance; section 101 rent supplements; section 236 rental assistance payments; or other duplicative Federal, State or local housing subsidy, as determined by HUD. In the case of section 236 units having only interest reduction subsidy (insured or noninsured) the duplicative subsidy shall be prevented by the Owner's setting the unit rent for a Housing Voucher participant at the lesser of the Market Rent for the unit, as approved by HUD, or the Applicable Standard, but not less than Basic Rent.

(g) *No Payments for Vacancies.* If a Family moves out, the Owner promptly shall notify the PHA, and the PHA shall make no additional housing assistance payment to the Owner for any month after the month during which the Family moves. The Owner may retain the housing assistance payment for the month during which the Family moves.

(h) *Utility Reimbursements.* (1) Where the rent to the Owner does not include some or all utilities and the Family pays the utility company directly, occasionally the housing assistance payment will exceed the rent payable to the Owner for the unit. In such a case, the PHA shall pay to the Family as a Utility Reimbursement the excess of the housing assistance payment (as determined in accordance with paragraphs J.(a)–(d) of this section) over the rent payable to the Owner. Without this reimbursement, the Family's housing assistance payment would be less than the amount for which the Family is eligible under the subsidy formula. In accordance with paragraph J.(d) of this section, the Family will, in all cases, be required to pay at least 10 percent of its Monthly Income (1/12th of Annual Income) toward rent, including, where applicable, the Utility Allowance. For example, given an Applicable Standard of $500, if $120 is 30 percent of a Family's Monthly Adjusted Income, the housing assistance payment would be $380. If the rent payable to the Owner is $350, and the Utility Allowance is $150, the PHA would pay $350 to the Owner and the remaining $30 of the Housing Voucher payment to the Family as a Utility Reimbursement.

(2) If the Family and the utility company consent, the PHA may pay the Utility Reimbursement jointly to the Family and the utility company or directly to the utility company.

TABLE I TO SECTION J

ILLUSTRATION OF APPLICABLE PAYMENT STANDARDS

Year	1	2	3	4	5	6	7	8	9
Published fair market rent	300	315	330	345	360	375	390	405	420
Funding increment 1	300 (initial payment standard)								
Funding increment 2		300 (IPS)							
Adjustment standard schedule			315 (adjustment).		320 (adjustment).			340 (adjustment).	
New family/mover schedule			325 [a] (new).	320 (new)				375 [b] (new).	
Funding increment 3				325 (new)					
Applicable payment standard:									
New family/mover (new)	300	300	325	325	320	320	320	375	
Continue/stayer	300	300	315	315	320 [c]	320 [d]	320 [d]	340 [e]	

[a] Not counted in 2 in 5; does not need to have been done same year as Adjustment Standard.
[b] *Does* need to have been done when Adjustment Standard is done. Cannot be lower than Adjustment Standard.
[c] A Family who entered program at $325 would continue at $325 if a stayer (not $320); if a mover $320.
[d] A Family who entered at $325 stays at $325 and a new family who entered at $320 stays at $320.
[e] At next recertification, all families who stay will go to $340.

NOTES ACCOMPANYING THE ILLUSTRATION OF APPLICABLE PAYMENT STANDARDS

In Year 1, the PHA receives its first increment; the Initial Payment Standard (IPS) is $300 which is equal to the FMR.

In Year 2, the PHA gets a second increment; the FMR has increased to $315; the PHA decides it will continue to operate the program using the IPS (*i.e.*, the PHA does not adopt either a NF/M Schedule or an Adjustment Standard Schedule).

In Year 3, the FMR is increased to $330, the PHA decides to make an affordability adjustment and adopts a new adjustment standard of $315. The PHA also decides to adopt a NF/M schedule of $325, hence all new families entering the program will receive a subsidy based on $325.

In Year 4, the FMR is increased to $345; the PHA receives a new funding increment but decides to continue to calculate subsidy based on $325.

In Year 5, the FMR is decreased to ———— adjustment standard schedule of $———— either the NF/M Schedule ($320) or the lower FMR (*i.e.*, $320).

In Year 8, the FMR is $405 and the PHA decides to adopt a NF/M Schedule ($375) and decides to adopt an Adjustment Standard Schedule ($340). However, the Adjustment Standard Schedule is the second one adopted by the PHA and the PHA would not be allowed to adopt another Adjustment Standard Schedule until Year 10.

K. Finders-Keepers Policy

Except as described in paragraph K.(c) below, this section sets forth the same policy as that applicable to the Certificate Program.

(a) A Family with a Housing Voucher is responsible for finding a housing unit suitable to the Family's needs and desires in any area where the PHA (including the Receiving PHA when the Family is participating under the portability procedures in section III.L. of this Notice) determines that it is not legally barred from entering into Contracts. A family may select the dwelling unit that it already occupies, if the unit is approvable. Upon request, the PHA shall assist a Family in finding a unit where, because of age, handicap, large Family size or other reasons, the Family is unable to locate an approvable unit. The PHA also shall provide such assistance where the Family alleges that illegal discrimination on grounds of race, color, religion, sex, national origin, age or handicap is preventing it from finding a suitable unit, and in this case shall provide the Family with a copy of a Form HUD–903 for use in filing a

housing discrimination complaint. This assistance shall be in accordance with the PHA's approved equal opportunity housing plan.

(b) Neither in assisting a Family in finding a unit nor by any other action shall the PHA directly or indirectly reduce the Family's opportunity to choose among the available units in the housing market.

(c) This section III.K applies to any Family to which a Housing Voucher is issued by a PHA. The Finders-Keepers policy does not apply to the first occupancy of a dwelling unit with Housing Voucher assistance by a Family that agrees to move initially into a project rehabilitated under the Rental Rehabilitation Program. However, after initial use of the Housing Voucher in the rehabilitated project, the Family is free to move to any other approvable unit in the PHA's jurisdiction, consistent with the Finders-Keepers policy, or to move to another PHA's jurisdiction under section III.L. of this Notice.

L. Portability of Housing Vouchers

(a) *General Introduction.* (1) This section III.L. describes portability procedures for Families participating in the Housing Voucher program. Housing Voucher portability procedures are not intended to supplant current voluntary mobility programs for the Section 8 Certificate program that PHAs may determine to extend to Housing Voucher participants.

(2) If a PHA is administering a Housing Voucher program in the location to which a Family (Housing Voucher holder or participant) wishes to move, the PHA shall accept the Family and provide services to the Family as if the Family were part of its Housing Voucher program. Where a PHA is not administering a Housing Voucher program, the PHA is encouraged to administer the Housing Voucher assistance on behalf of the Family or to issue the Family one of the Receiving PHA's available Section 8 Certificates. The details of the Housing Voucher portability program are discussed in paragraph (d) of this section.

(b) *Mobility Under Current Section 8 Procedures.* Current § 882.103(c) of the regulations for the Section 8 Certificate program encourages PHAs to promote greater choice of housing opportunities for Eligible Families by:

(1) Seeking participation of Owners within the PHA's jurisdiction;

(2) Advising Families of their opportunities to lease housing throughout the PHA's area of operation;

(3) Cooperating with other PHAs by issuing Certificates to Families already receiving the benefit of Section 8 housing assistance payments who wish to move from the operating area of one PHA to another; and

(4) Entering into administrative arrangements with other PHAs in order to permit Certificate holders to seek housing in the broadest range of areas.

(c) *Applicability of Current Mobility Procedures.* Current procedures for the Section 8 Existing Housing Certificate program designed to facilitate mobility of assisted Families, discussed in paragraph (b) of this section, apply to the Housing Voucher program, wherever feasible to increase the opportunities of Families participating in the Housing Voucher program. If the Family desires to move and can move with the opportunity for continued Housing Voucher or Certificate assistance under a voluntary mobility program described in paragraph (b) of this section, the PHA is not required to use the portability procedures described in paragraph (d) of this section.

(d) *Portability Under the Housing Voucher Program*—(1) *Scope.* The procedures in this paragraph (d) are to be used only for the Housing Voucher program.

(2) *General.* The purpose of this paragraph (d) is to establish procedures to be used in the Housing Voucher program when a Family desires to stay in the program, but wishes to move outside its current PHA's jurisdiction.

(i) Portability will provide an opportunity to a Housing Voucher holder or participant to move to any other Housing Voucher jurisdiction, by requiring the Receiving PHA to accept the Family, subject to the limitations identified in this paragraph (d). The Receiving PHA may choose to bill the Initial PHA for assistance payments made on behalf of the Family, or it may decide to provide Housing Voucher assistance to the Family under its own ACC.

(ii) This portability feature also promotes moves of Housing Voucher holders or participants to non-Housing Voucher jurisdictions by encouraging PHAs with Certificate programs to participate on a voluntary basis. If the Family chooses to move to an area without a Housing Voucher program, the Recieving PHA is not required to accept the Family. The Receiving PHA may administer the Housing Voucher and bill the Initial PHA, or it may issue the Family one of its Certificates.

(3) *Eligibility for portability.* A Family is eligible for portability if it lives in the Initial PHA's jurisdiction and holds a current Housing Voucher, or if the Family is a current participant (see §882.209(a)) in the Initial PHA's Housing Voucher program.

(4) *Determination to deny or terminate assistance.* Either the Initial PHA or the Receiving PHA may make a determination to deny or terminate assistance to the Family in accordance with §882.210, as modified by section III.S. of this Notice.

(5) *Responsibilities of the Initial PHA.* (i) The Initial PHA shall manage its Housing Voucher program in a manner that will assure that it has the financial ability to provide continued Housing Voucher assistance in accordance with these portability procedures.

(ii) The Initial PHA may deny the request to move if the number of Families moving under these portability procedures would be more than 25 percent of units under lease in the Initial PHA's Housing Voucher program.

(iii) If a Family eligible for portability notifies the Initial PHA that it wants to move uner these procedures and informs the PHA concerning the area to which the Family wants to move, the Initial PHA shall determine whether the PHA in the new area administers a Housing Voucher program and, if it does not, but operates a Certificate program, whether the Receiving PHA is willing to accept the Family under paragraph (d)(ii) of this section III.L.

(iv) If the Family is going to move under the portability provisions above, the Initial PHA shall notify the Receiving PHA to expect the Family. The Initial PHA shall verify to the Receiving PHA that the Family met the income-eligibility requirement for admission to the program, and that the Initial PHA issued the Family a Housing Voucher consistent with § 882.209(d), and shall state the date by which the Family must submit a Request for Lease Approval in the jurisdiction of the Receiving PHA, which is governed by section III.I. of this Notice.

(v) When the Family moves out of the Initial PHA's jurisdiction, the Initial PHA retains funding for the Housing Voucher under its ACC.

(vi) The Initial PHA shall reimburse the Receiving PHA for the full amount of the housing assistance payments made by the Receiving PHA on behalf of the Family. The amount of housing assistance shall be based on the Applicable Standard in effect at the Receiving PHA. If the Receiving PHA elects to provide assistance to the Family utilizing funding under the ACC for its own Certificate or Housing Voucher program, the Initial PHA is not required to reimburse the Receiving PHA.

(vii) The Initial PHA shall reimburse the Receiving PHA 80 percent of the Initial PHA's administrative fee for each

unit month that the Family under the Housing Voucher contract is in the Receiving PHA's jurisdiction.

(viii) The Initial PHA also may receive the preliminary fee for any new unit (limited by cost-justified expenses submitted up to the maximum amount allowed for this purpose), if the portable Housing Voucher qualified for the preliminary fee.

(ix) If the portability Family leaves the Housing Voucher program, or if the Receiving PHA elects to provide assistance to the Family utilizing funding under the ACC for its own Housing Voucher or Certificate program, the Initial PHA is free to use the funding previously needed to support payment of subsidy for the portable Housing Voucher for other Families.

(6) *Responsibility of the Receiving PHA.* (i) A Receiving PHA that administers a Housing Voucher program shall issue a Housing Voucher to a Family moving from the Housing Voucher program of another PHA. (But see paragraphs (c) and (d)(4) of this section.) A Receiving PHA that administers a Housing Voucher program may not limt the number of Housing Vouchers issued to such Families. The Receiving PHA may either bill the Initial PHA for the housing assistance payments on behalf of the Family or may provide assistance to the Family utilizing funding under the ACC for its own Housing Voucher or Certificate program.

(ii) A Receiving PHA that does not administer a Housing Voucher program, but does administer a Certificate program may:

(A) Refer the Initial PHA to a Statewide or other PHA that administers a Housing Voucher program in its jurisdiction;

(B) Administer the Housing Voucher assistance on behalf of the Family and bill the Initial PHA for amounts authorized in this paragraph (d); or

(C) Issue a Certificate to the Family, utilizing funding under the ACC for its own Certificate program.

(iii) The Receiving PHA shall recertify the Family's income initially and at least annually thereafter for purposes of determining the housing assistance payments. The Receiving PHA shall not deny the Family a Housing Voucher on the ground that the Family's income exceeds the income limits for Housing Voucher eligibility in the Receiving PHA's jurisdiction.

(iv) The Receiving PHA promptly shall notify the Initial PHA if a Family fails to submit a Request for Lease Approval by the date specified by the Initial PHA.

(v) The amount of housing assistance payments to be made on behalf of the Family shall be determined in accordance with section III.J. of this Notice. A non-Housing Voucher-PHA shall use a Payment Standard based on the appropriate Fair Market Rent for the Receiving PHA as the Applicable Standard at the Family's initial lease approval.

(vi) The Receiving PHA shall perform all of the functions normally associated with providing assistance to a Family in a Housing Voucher program, including lease approval, annual recertification of income and annual inspection of the unit.

(vii) The Receiving PHA may bill the Initial PHA for an amount equal to 80 percent of the Initial PHA's administrative fee unless it elects to provide assistance to the Family utilizing funding under the ACC for its own Certificate or Housing Voucher program. The Receiving PHA also may bill the Initial PHA for up to the preliminary fee for Housing Vouchers for cost-justified expenses.

(viii) The Receiving PHA is responsible for payments it makes on behalf of the Family to the Owner in its jurisdiction. To accomplish this, in cases in which it does not elect to provide assistance to the Family utilizing funding under the ACC for its own Housing Voucher or Certificate program, the Receiving PHA bills the Initial PHA for the amount of the Housing assistance payments.

(ix) The Receiving PHA promptly shall notify the Initial PHA if the Family ceases to be a current participant in the Initial PHA's Housing Voucher Program.

(7) *Subsequent moves.* (i) A Family may move more than once, using the portability procedures in this paragraph (d), although the Initial PHA may limit Family moves to not more than once in any twelve-month period.

(ii) When the Family wishes to move from an area in which the Receiving PHA has been billing the Initial PHA, the PHA in the new jurisdiction to which the Family moves becomes the Receiving PHA. It then has all of the choices and obligations of a Receiving PHA as described in this section. The first Receiving PHA is no longer involved, because the Intital PHA retains funding authority for the Housing Voucher.

(iii) When a Family wishes to move from an area in which the Receiving PHA has elected to provide assistance to the Family utilizing funding under the ACC for its own Housing Voucher program, this Receiving PHA becomes the new Initial PHA. It has all of the choices and obligations of an Initial PHA as described in this section. The PHA in the new jurisdiction to which the Family moves becomes the Receiving PHA and has all of the choices and obligations of a Receiving PHA as described in this section. In this situation, the Initial PHA that originally selected the Family is no longer involved.

M. Eligible Housing

(a) Existing dwelling units determined by the PHA to be Decent, Safe, and Sanitary may be used under the Housing Voucher Program, except for the following types of housing:

(1) A unit that is owned by the PHA administering the ACC under this Notice, including both the Receiving PHA and Initial PHA under the portability provisions of section III.L. of this Notice;

(2) A unit that is receiving other assistance under the U.S. Housing Act of 1937, other than assistance under section 17;

(3) Nursing homes, units within the grounds of penal, reformatory, medical, mental and similar public or private institutions, or facilities that provide continual pyschiatric, medical or nursing services; and

(4) A unit that is occupied by its owner (including the owner of a manufactured home leasing a manufactured home space). However, the 1937 Act provides that a PHA may use up to five percent of Housing Voucher authority to provide assistance with respect to cooperative or mutual housing that has a resale structure that maintains affordability for Lower Income Families, if the PHA determines such assistance will assist in maintaining affordability of such housing for Lower Income Families. The PHA must obtain HUD Headquarters approval before using Housing Vouchers in cooperative or mutual housing. HUD will consider granting such approval on a case-by-case basis, and, for this purpose, may provide for appropriate modifications of requirements under this Notice.

(b) Elderly, handicapped, disabled, or displaced Families and individuals may use Congregate Housing. Eligible elderly, handicapped or disabled Families and individuals who require a planned program of continual supportive services may use Independent Group Residences. The definitions of and relating to Congregate Housing and Independent Group Residences in § 882.102 and the Housing Quality Standards for Independent Group Residences and Congregate Housing under § 882.109 shall apply to the Housing Voucher Program.

(c)(1) SRO Housing may be used only if: (i) The property is located in an area in which there is a significant demand for SRO units, as determined by the HUD Field Office; (ii) the PHA and the unit of general local government in which the property is located approve the use of SRO units for such purpose; and (iii) the unit of general local government and the local PHA certify to HUD that the property meets applicable local health and safety standards for SRO housing.

(2) The Housing Quality Standards under § 882.109 shall apply to SRO Housing, except for the standards in §§ 882.109(a), (b), (c), (m), (n) and (o). In the absence of local health and safety standards for SRO housing (see paragraph (c)(1)(iii) of this section), sanitary facilities, space and security must meet the requirements for habitable rooms used for living and sleeping purposes contained in the American Public Health Association's Recommended Housing Maintenance and Occupancy Ordinance. Each SRO unit shall be occupied by no more than one person. Exterior doors and windows accessible from outside the SRO unit must be able to be locked.

(d) The 40 percent limitation under § 882.110(c) on the number of certain subsidized units in specified types of federally assisted housing shall apply. The PHA shall count Housing Voucher units in determining compliance with the 40 percent limitation.

N. Approving Units and Executing Leases and Housing Voucher Contracts

(a) *Information to Owners and Requests to PHA for Lease Approval.* (1) The PHA shall respond to inquiries from Owners who have been approached by Housing Voucher holders by explaining the major program procedures, including Lease provisions, Lease approval procedures, housing quality inspections, Contract provisions and payment procedures, and by furnishing copies of pertinent forms.

(2) When a Family has found a unit it wants and the Owner is willing to lease, the Family shall submit to the PHA a Request for Lease Approval signed by the Owner of the unit and the Family. At the same time, the Family shall submit a copy of the proposed Lease for the unit, which shall include the lease provisions prescribed by HUD for the Housing Voucher program. At the time of submission of the Lease, it shall be complete except for execution.

(b) *Decent, Safe, and Sanitary Condition of the Unit.* In accordance with § 882.209(h), the PHA shall inspect units to determine whether they are Decent, Safe, and Sanitary before the Housing Voucher Contract is executed.

(c) *Unit Sizes That Vary from Housing Voucher.* (1) Regardless of the number of bedrooms stated on a Housing Voucher, the PHA shall not prohibit a Family from renting an otherwise acceptable unit on the ground that it is too large for the Family.

(2) The PHA may not prevent a Family from renting a unit with fewer bedrooms than stated on the Housing Voucher. However, the unit must meet the space requirements of the Housing Quality Standards under § 882.109(c) or such variation as HUD may have approved, or must meet the requirements of section III.M.(c) of this Notice, in the case of SRO Housing.

(3) If the PHA determines that the assisted unit occupied by a participant Family does not meet the space requirements of the Housing Quality Standards under § 882.109(c) (or of section III.M.(c) for SRO Housing) because of an increase in Family size or a change in Family composition, the PHA shall issue the participant Family a new Housing Voucher, and the Family and the PHA shall try to find an acceptable unit as soon as possible.

(4) The policies stated in paragraphs (c)(1)–(3) of this section are similar to policies applied in the Certificate Program (see §§ 882.209(i) and 882.213). References to compliance with maximum rent restrictions are not included, since there are no maximum rents under the Housing Voucher Program.

(d) *Lease Requirements.*—(1) *General.* (i) The lease between the Owner and the Family shall be in accordance with section III.P. of this Notice and any applicable HUD requirements. The lease shall include all provisions required by HUD and shall not contain any provisions prohibited by HUD.

(ii) In addition to the requirements identified in this paragraph (d), a lease for an Independent Group Residence also shall comply with § 882.209(j)(2).

(2) *Term of Lease.* (i) The term of the lease shall begin on a date stated in the lease and shall continue until:

(A) A termination of the lease by the Owner in accordance with section III.P of this Notice.

(B) A termination of the lease by the Family in accordance with the lease or by mutual agreement during the term of the lease. The lease shall permit a termination of the lease by the Family without cause, at any time after the first year of the term of the lease, on not more than 60 days' written notice by the Family to the Owner (without a copy to the PHA); or

(C) A termination of the Housing Voucher Contract by the PHA.

(ii) The term of the lease shall begin at least one year before the end of the term of the last funding increment under the ACC. The Contract and the lease shall end if the PHA determines, in accordance with procedures prescribed by HUD, that funding under the ACC is insufficient to support continued assistance.

(iii) The Owner may offer the Family a new lease for execution by the Family after approval by the PHA for a term beginning at any time after the first year of the term of the lease. The Owner shall give the tenant written notice of the offer, with a copy to the PHA, at least 60 days before the proposed beginning date of the new lease term. The offer may specify a reasonable time limit for acceptance by the Family.

(e) *Approval and Disapproval of Leases and Execution of Housing Voucher Contracts and Related Documents.* The PHA shall approve or disapprove leases and provide for execution of HUD-prescribed forms of Housing Voucher Contracts and related documents in accordance with §§ 882.209(k) and (l) and §§ 882.215(b). References to approving the amount of rent payable to the Owner and the rent reasonableness certification under § 882.106(b) shall not apply, since there is no maximum rent payable to the Owner under the Housing Voucher Program.

O. Maintenance, Operation and Inspections; Security Deposits

(a) *Maintenance, Operation and Inspections.* The requirements of § 882.211 concerning maintenance, operation and inspections of units shall apply. In addition, the PHA shall not make any housing assistance payments for a unit that fails to meet the Housing Quality Standards, unless the Owner promptly corrects the defect and the PHA verifies the correction.

(b) *Security Deposits and Utility Deposits.* (1) If at that time of the initial execution of the lease the Owner wishes to collect a security deposit, the amount shall not exceed the greater of $50 or the sum of (i) the amount by which the monthly rent payable by the Family to the Owner under the lease exceeds the amount of the monthly housing assistance payment to the Owner, plus (ii) any applicable utility allowance. The amount of the security deposit also shall be limited by any applicable limitation under State and local law. If a Housing Voucher Family rents its pre-program unit, a security deposit collected in excess of the maximum amount that

was collected before PHA approval of a lease under the Housing Voucher program does not have to be refunded until the Family vacates the unit subject to the lease terms. The Family is expected to pay security deposits and utility deposits from its own resources or from other public or private sources.

(2) Subject to State and local law, the Owner may use the security deposit, including any interest on the deposit, in accordance with the Housing Voucher Lease, as reimbursement for any unpaid rent payable by the Family or for other amounts the Family owes under the lease. The Owner shall give the Family a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the Owner, the Owner shall refund promptly the full amount of the unusued balance to the Family.

(3) If the Family moves from the unit, the Owner may claim reimbursement from the PHA for the amount the Family owes under the Lease (but not more than one month's rent payable by the Family to the Owner), minus the greater of

(i) The security deposit actually collected or,

(ii) The maximum security deposit the Owner could have collected at initial lease execution in accordance with paragraph (b)(1) of this section.

(4) Any reimbursement under this section must be applied, first, toward any unpaid rent due under the lease, and then to any other amounts owed. No reimbursement may be claimed from the PHA for unpaid rent for the period after the Family vacates the unit.

P. Termination of Tenancy by Owners

(a) The Owner shall not terminate the tenancy except for:

(1) Serious or repeated violation of the terms and conditions of the Lease;

(2) Violation of Federal, State, or local law which imposes obligations on a tenant in connection with the occupancy or use of the dwelling unit and surrounding premises; or

(3) Other good cause. However, during the first year of the term of the lease, the Owner may not terminate the tenancy for "other good cause," unless the termination is based on malfeasance or nonfeasance by the Family.

(b) The following are some examples of "other good cause" for termination of tenancy by the Owner:

(1) Failure by the Family to accept the offer of a new lease in accordance with section III.N.(d)(iii) of this Notice;

(2) A Family history of disturbance of neighbors or destruction of property, or of living or housekeeping habits resulting in damage to the unit or property;

(3) Criminal activity by Family members involving crimes of physical violence to persons or property;

(4) The Owner's desire to utilize the unit for personal or family use or for a purpose other than use as a residential rental unit; or

(5) A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, desire to rent the unit at a higher rental).

(c) The list of examples in paragraph (b) of this section is intended as a non-exclusive statement of some situations included in "other good cause", but shall in no way be construed as a limitation on the application of "other good cause" to situations not included in the list. The Owner may not terminate tenancy during the first year of the term of the lease for "other good cause" (see paragraph (a)(3) of this section for the grounds stated in paragraphs (b)(1), (b)(4), or (b)(5) of this section).

(b) Any notice required under this section III.P. or section III.N.(d) of this Notice may run concurrently with any notice required under State or local law.

Q. Reexamination of Family Income and Composition

(a) The PHA shall reexamine Family income and Family size and composition at least annually, and in accordance with 24 CFR Part 813.

(b) After reexamination, the PHA shall adjust the amount of the housing assistance to reflect any changes in Family Monthly Adjusted Income or Monthly Income, using the Applicable Standard determined in accordance with sections III.J. (b) and (c) of this Notice.

(c) If one year has elapsed since the date of the last housing assistance payment in accordance with section III.J. of this Notice, the Housing Assistance Payments Contract will terminate automatically.

(d) At any time, a Family may request a redetermination of the housing assistance payment on the basis of a change in Family Income or Adjusted Income.

R. Family Obligations

(a) A Family shall:

(1) Supply any certification, release, information or documentation that the PHA or HUD determines to be necessary in the administration of the program, incuding submission of required evidence of citizenship or eligible alien status, and of other information required for use by the PHA in a regularly scheduled reexamination or interim reexamination of Family income and composition in accordance with HUD requirements;

(2) Allow the PHA to inspect the dwelling unit at reasonable times and after reasonable notice;

(3) Notify the PHA before vacating the dwelling unit; and

(4) Use the dwelling unit solely for residence by the Family, and as the Family's principal place of residence.

(b) A Family shall not:

(1) Sublease or assign the lease or transfer the unit;

(2) Own or have any interest in the dwelling unit, except as provided in section III.M. (a)(4) of this Notice;

(3) Commit any fraud in connection with the Housing Voucher Program; or

(4) Receive duplicative assistance under the Housing Voucher Program while occupying, or receiving assistance for occupancy of, any other unit assisted under any other Federal, State, or local housing assistance program (including any section 8 program).

S. Grounds for Denial or Termination of Assistance

Section 882.210 shall apply to the Housing Voucher Program. However, the applicable Family obligations are covered in section III.R. of this Notice, not in § 882.118.

T. Informal Review or Hearing

(a) The informal review or hearing requirements of § 882.216 shall apply to applicants and participating Families. References to a participant's right to an informal hearing in cases involving the amount of the Total Tenant Payment or Tenant Rent under § 882.216(b)(i) shall be considered to be references to computation of the amount of housing assistance payment for the Family. Section 882.216(b)(1)(iii), concerning hearings where the PHA determines a Family is residing in a unit with a larger number of bedrooms than appropriate, shall not apply.

(b) If the Housing Voucher holder or participant wants to move with continued assistance under the Housing Voucher program using the portability procedures in section III.L(d) of this Notice, the Family shall be given the opportunity for an informal hearing in accordance with § 882.216(b) if the Initial PHA or the Receiving PHA decides to deny or terminate such continuing assistance. However, a Receiving PHA which does not administer a Housing Voucher Program is not required to give the opportunity for an Informal hearing on the PHA's election not to administer Housing Voucher assistance on behalf of the Family.

U. Reporting Requirements for the Freestanding Component and the Small/Rural Component

In addition to reporting required for all components of the Housing Voucher program, a PHA administering the Freestanding or Small/Rural component of the Housing Voucher program shall collect complete and accurate records, as required by HUD, on Certificates and Housing Vouchers issued under the component. The PHA shall send copies of required forms to HUD or its designee, as HUD may specify for each Certificate or Housing Voucher.

V. Subsequent Use of Housing Voucher Authority

(a) *Rental Rehabilitation Component.* Once Housing Voucher and Certificate authority is used in connection with a grantee's Rental Rehabilitation Program, the PHA is not subsequently required to use the authority in connection with the grantee's Rental Rehabilitation Program. If the Certificate or Housing Voucher authority has not been used in connection with the Rental Rehabilitation Program, and HUD determines that the authority is not needed for that purpose, the authority may be used for issuance of Certificates and Housing Vouchers to other families on the PHA's Certificate Program waiting list. (See section III.I. of this Notice for Housing Vouchers and 24 CFR 882.209(a) for Certficates.) In either case, the PHA may not require families to use the Certificate or Housing Voucher in a rental rehabilitiation project. (For special uses of Housing Vouchers allocated in support of the Rental Rehabilitation program, see section III.H. of this Notice.)

(b) *Opt-Outs and Demolition/Disposition.* Once Housing Voucher authority has been used to select families consistent with the procedures identified in Section III.I. of this Notice for the initial issuance of the Housing Vouchers, the PHA may use the authority for any purpose in furtherance of its approved Housing Voucher program. (See also Section III.H. of this Notice.)

W. Recapture of Contract and Budget Authority for Housing Vouchers Authorized in Support of the Rental Rehabilitation Program

(a) When HUD deobligates rental rehabilitation grant amounts in accordance with 24 CFR 511.33, HUD may reduce the amounts of contract and budget authority reserved for the Certificates and Housing Vouchers for use in connection with a grantee's Rental Rehabilitation Program. The amount reduced would be proportional to the reduction in the grant. HUD may reduce these amounts whether or not the PHA is in violation of program requirements or an ACC has been executed, but HUD will not reduce amounts being used to assist families consistent with the provisions of this Notice. In fiscal year 1986, HUD will not reduce the amounts of contract and budget authority that were reserved for such use in fiscal year 1985 or prior years. However, HUD may reduce the amount of contract and budget authority allocated and reserved in fiscal year 1986 for Housing Vouchers used in connection with a grantee's Rental Rehabilitation Program sufficient to fund up to one Housing Voucher for each $5,000 reduction of a fiscal year 1986 rental rehabilitation grant.

(b) To the extent fiscal year 1984 or fiscal year 1985 Rental Rehabilitation grant funds have been recaptured and reallocated, HUD also may offset these increases and decreases with FY 1986 Housing Voucher funds. This offsetting will maintain, to the extent possible, the overall allocation of one Housing Voucher for each $5,000 in Rental Rehabilitation grant funds over the three year span of the program.

IV. Waivers

Upon determination of good cause, the Assistant Secretary for Housing-Federal Housing Commissioner may, subject to statutory limitations, waive any provision of this Notice. Each such waiver shall be in writing and shall be supported by documentation of the pertinent facts and grounds.

V. Other Matters

An environmental finding under the National Environmental Policy Act (42 U.S.C. 4321–4347) is unnecessary since the Certificate Program and the Voucher Program are part of the Section 8 Existing Housing Program, which is categorically excluded under HUD regulations at 24 CFR 50.20(d).

The information collection requirements contained in this Notice have been submitted to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520. All requirements (except Form 2502–0138, PHA Report on Program Utilization, and PHA Request for Alternate Use of Housing Vouchers) have been approved and assigned OMB Control Numbers. The OMB control numbers are as follows: 2502–0123; 2502–0154; 2502–0161; 2502–185; 2502–0348; 2502–0350; 2577–0067 and 2577–0083.

Authority: Sec. 8(o) of the U.S. Housing Act of 1937 (42 U.S.C. 1437f(o)); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: March 24, 1986.

Silvio J. DeBartolomeis,

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

[FR Doc. 86-6919 Filed 3-28-86; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[U-54762]

Emergency Coal Lease Offering by Sealed Bid

Notice is hereby given that at 1:30 p.m. MDT, May 8, 1986 certain coal resources in lands hereinafter described in Emery County, Utah will be offered for competitive lease by sealed bid of $100 per acre or more to the qualified bidder submitting the highest bonus bid in accordance with the provisions of the Mineral Leasing Act of 1920 (41 Stat. 437), as amended. *However, no bid will be accepted for less than fair market value as determined by the authorized officer.*

This lease is being offered for sale under the provisions set forth in the regulations for emergency coal leasing at CFR 3425.1–4.

The sale will be held in the 4th Floor Conference Room of the Coordinated Financial Center at 1:30 p.m., MDT, May 8, 1986. At that time, the sealed bids will be opened and read. No bids received after 1:00 p.m., MDT, May 8, 1986 will be considered.

Coal Offered. The coal resreves to be offered consists of all seams available for underground mining in the following described land located approximately nine miles west of the town of Hiawatha, Utah:

T. 15 S., R. 7 E., SLM, Utah,
Sec. 31, SE¼SE¼;
Sec. 32, S½SW¼, SW¼SE¼.
T. 16 S., R. 7 E., SLM, Utah,
Sec. 5, lots 2, 3, and 8.
Containing 256.46 acres.

The estimated total recoverable underground reserves are approximately 890,000 tons. The coal is located in the Hiawatha seam. The coal quality is expected to average approximately 13,100 Btu per pound with approximately 6 percent ash, and approximately .55 percent sulfur. Thickness for the Hiawatha coal seam averages approximately 6 feet.

A lease issued as a result to this offering will provide for payment of an annual rental of $3 per acre or fraction thereof and a royalty payable to the United States.

Notice Of Availability. Bidding instructions are included in the Detailed Statement of Lease Sale. A copy of the Statement and of the proposed coal lease are available at the Bureau of Land Management, Utah State Office, Coordinated Financial Center, 324 South State, Suite 301, Salt Lake City, Utah 84111. All case file documents and written comments submitted by the public on Fair Market Value or royalty rates except those portions identified as proprietary by the commentator and meeting exemptions stated in the Freedom of Information Act are available for public inspection in the Public Room 400 on the 4th Floor of the Coordinated Financial Center.

Robert Lopez,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 86-6969 Filed 3-28-86; 8:45 am]

BILLING CODE 4310-DQ-M

National Park Service

Intention To Negotiate Concession Contract; El Portal Market

Pursuant to the provisions of section 5 of the Act of October 9, 1956 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with El Portal Market authorizing it to continue to provide Convenience Store, Merchandise and related facilities and services for the public at the El Portal Administrative Site of Yosemite National Park for a period of twenty (20) years from January 1, 1987 through December 31, 2006.

"This proposed contract requires a construction and improvement program. The construction and improvement program required was previously addressed in the Environmental Assessment that was prepared in conjunction with the General Management Plan for Yosemite National Park."

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1986, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand-delivered on or before the sixtieth (60th) day following the publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, Western Regional Office, 450 Golden Gate Avenue, San Francisco, California 94102 for information as to the requirements of the proposed contract.

Dated: December 20, 1985.

Howard H. Chapman,

Regional Director, Western Region.

[FR Doc. 86-7003 Filed 3-28-86; 8:45 am]

BILLING CODE 4310-70-M

Intention To Negotiate Concession Contract; Jefferson National Expansion Memorial Commission

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 19 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Service America Corporation, authorizing it to continue to provide for the sale of canned cold soft drinks from coin-operated vending machines for the public at Jefferson National Expansion Memorial National Historic Site, Missouri, for a period of five (5) years from April 1, 1986, through March 31, 1991.

This permit renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which will expire on March 31, 1986, and, therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Superintendent, Jefferson National Expansion Memorial, 11 North Fourth Street, St. Louis, Missouri 63102, for information as to the requirements of the proposed contract.

Charles H. Odegaard,

Regional Director, Midwest Region.

March 3, 1986.

[FR Doc. 86-7004 Filed 3-28-86; 8:45 am]

BILLING CODE 4310-70-M

City Point Unit-Petersburg National Battlefield

AGENCY: National Park Service, Petersburg National Battlefield.

ACTION: Notice of availability of City Point Unit Draft Development Concept Plan and notice of public review period (April 4–May 2, 1986) and public meeting.

SUMMARY: The Draft Development Concept Plan for the City Point Unit of Petersburg National Battlefield is now available for public review. The Draft Plan outlines a program for visitor use, resource management and protection, and general devlopment for the next 10 to 15 years. Issues addressed include natural and cultural resource protection, land protection, interpretation and visitor use, and facility development.

Copies of the Draft Plan may be obtained from the Park, Petersburg National Battlefield, P.O. Box 549, Petersburg, Virginia 23803; and at the Mid-Atlantic Regional Office, 143 South Third Street, Philadelphia, Pa. 19106. The public meeting will be held to discuss the plan's recommendations and to receive public comment.

Date and Location: April 3, 7:30 p.m.—Hopwell City Hall Circuit Courtroom, Main Street, Hopwell, Virginia 23860.

Written coments are encouraged and should be forewarded to the Regional Director, Mid-Atlantic Regional Office, by , May 2, 1986.

FOR FURTHER INFORMATION CONTACT: Superintendent, Petersburg National Battlefield, P.O. Box 549 Petersburg, Virginia 23803.

Dated: March 19, 1986.

Don. H. Castleberry,

Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 86-7007 Filed 3-28-86; 8:45 am]

BILLING CODE 4310-70-M

National Registery of Natural Landmarks

AGENCY: National Park Service, Interior.
ACTION: Public notice and request for comment.

The areas listed below appear to qualify for designation as National Natural Landmarks, in accordance with the provisions of 36 CFR Part 62. Pursuant to § 62.4(d)(1) of 36 CFR 62, written comments concerning the potential designation of these areas as National Natural Landmarks by the Secretary of the Interior may be forwarded to the Director, National Park Service (413), U.S. Department of the Interior, 18th and C Streets NW., Washington, DC 20240. Written comments should be received no later than 60 days from the date of this notice.

FOR FURTHER INFORMATION CONTACT: Charles M. McKinney III, Natural Areas Survey Branch, Interagency Resources Division, (202) 343–9525.

Dated: March 20, 1968.

William Penn Mott,

Director.

Illinois

McClean County

Weston Cemetery Prairie—This 5-acre cemetery is located approximately 8 miles south of Pontiac and contains one of the few undisturbed remnants of tall-grass black soil prairie in the Central Lowlands Natural Region. This prairie type once covered more than 13 million acres in eastern Illinois and northwestern Indiana; only 197-acres remain today, however, most has been disturbed except for about 21-acres in Illinois and a few acres in Indiana.

Indiana

Lawrence County

Blue Spring Cave—This cave located about 6 miles southwest of Bedford, is one of the most illustrative known examples anywhere of a dendritic cave system and contains the type example of a floodwater network of diversion passages. It is the longest known cave in Indiana and the fifteenth longest in the United States, with 20 miles of mapped passages in the Salem and St. Louis Limestones of Mississippi age. In addition, the main cave stream is among the longest navigable underground rivers in the world.

Minnesota

Mahnomen County

Waubun Prairie—This 640-acre prairie is located approximately 26 miles north of Detroit Lakes. The site is the best, largely undisturbed remnant of a tall-grass paririe in the transition zone between the grassland biome and the eastern deciduous forest biome of North America. This transition zone, or ecotone, is more abrupt and readily visible in this part of Minnesota than elsewhere in the Central Lowlands Natural Region.

Missouri

Camden County

Ha Ha Tonka Karst—This 372-acre site is located approximately 3 miles southwest of Camdenton within Ha Ha Tonka State Park. Ha Ha Tonka Karst contains the greatest diversity of karst features associated with cavern collapse found anywhere in the Interior Highlands Natural Region. It includes large sinkholes, a natural spring, a natural bridge, and several caves. As such, it complements Grand Gulf and Mammoth Spring National Natural Landmarks in the illustration of karst development.

North Carolina and Tennessee

Mitchell and Avery Counties (NC) and Carter County (TN)

Roan Mountain Massif—This 10,000-acre mountain massif is located in the southern Appalachian Mountains approximately 20 miles southeast of Johnson City, largely within the Pisgah and Cherokee National Forests. It contains some of the most diverse flora and fauna of mountain sites in the southern Appalachians; in particular, it contains the best representative examples of some types of balds in the southern Blue Ridge, although the origin of balds remains controversial and poorly understood. Round Bald in one of the most outstanding grassy balds in the southern Appalachians and the heath bald of Roan Mountain is the largest and most well-known purple rhododendron bald in the southern Appalachians. The alder bald represented at Jane and Grassy Ridge Balds is unique to the Roan Mountain Massif. In addition, the beech-maple communities on the north slope of the Round, Jane, and Grassy Ridge Balds are unequaled in the southern Appalachians.

Oregon

Deschutes County

Pringle Falls—This 1,160-acre site located approximately 19 miles south of Bend, is the best remaining, essentially undisturbed locality containing most of the forest communities characterizing the Pumice Zone of central Oregon. The Pumice Zone is a characteristic sub-region of the Cascade Ranges Natural Region where deep, excessively drained volcanic soils support a mosaic of ponderosa pine and lodgepole pine forest communities. Of the 17 pine types likely to be found below 5,000 feet in such communities, 12 are represented at Pringle Falls in undisturbed condition.

Wisconsin

Crawford County

Rush Creek Hill Prairie—This 620-acre site is located about 2 miles northwest of Ferryville along the Mississippi River and forms the core of the longest series of hill prairies in Wisconsin. The prairies are of exceptional size and quality and so represent some of the most extensive and best preserved dry-limestone bluff prairies remaining east of the Mississippi River and within the Central Lowlands Natural Region. This site also affords spectacular vistas of the Mississippi River 500 feet below.

[FR Doc. 86–7006 Filed 3–28–86; 8:45 am]
BILLING CODE 4310–70–M

Chesapeake and Ohio Canal National Historical Park Commission; Open Meeting

Notice is hearby given in accordance with Federal Advisory Committee Act that a meeting of the Chesapeake and Ohio Canal National Historical Prak Commission will be held Saturday, May 17, 1986 at 1:00 p.m. at the Williamsport American Legion, Williamsport, Maryland.

The Commission was established by *Pub. L. 91–664* to meet and consult with the Secretay of the Interior on general and specific matters related to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

Miss Carrie Johnson, chairman, Arlington, Virginia
Mr. Carl L. Shipley, Washington, D.C.
Ms. Polly Bloedorn, Bethesda, Maryland
Mr. James B. Coulter, Annapolis, Maryland
Mrs. Constance Lieder, Baltimore, Maryland
Mr. William H. Ansel, Jr., Romney, West Virginia
Mr. Silas Starry, Shepherdstown, West Virginia
Mr. Ted Tozell, Cumberland, Maryland
Mr. John D. Millar, Cumberland, Maryland
Mr. Rockwood H. Foster, Washington, D.C.

Mr. Barry Passett, Washington, D.C.
Ms. Barbara Yeamen, Brookmont, Maryland
Ms. Joan LaRock, Lovettsville, Virginia
Ms. Elise Heinz, Arlington, Virginia
Ms. Marjorie Standley, Siver Spring, Maryland
Mrs. Minny Pohlmann, Dickerson, Maryland
Dr. James H. Gilford, Federick, Maryland
Mr. R. Lee Downey, Williamsport, Maryland
Mr. Edward K. Miller, Hagerstown, Maryland

Matters to be discussed at this meeting include:

1. Old and new business
2. Superintendent's report
3. Committee reports
   Plans and Projects Committee
   Recreation Policies and Issues Committee
   Resource Protection Committee
   Resources Protection Committee
4. Public comments

The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact Richard L. Stanon, Superintendent, C&O Canal National Historical Park, P.O. Box 4, Sharpsbury, Maryland 21782.

Minutes of the meeting will be available for public inspection six (6) weeks after the meeting at park Headquarters, Sharpsburg, Maryland.

Dated: March 18, 1986.

Robert Stanton

Acting Regional Director, national capital Region.

[FR Doc. 7008 Filed 3-28-86; 8:46 am]

BILLING CODE 4130-70-M

Subsistence Resource Commission Meeting

AGENCY: National Park Service, Alaska Region.

ACTION: Subsistence Resource Commission meeting.

SUMMARY: The Alaska Regional Office of the National Park Service announces a forthcoming meeting of the Denali National Park Subsistence Resource Commission. The following agenda items will be discussed:

1. Call to order
2. Reading and approval of minutes
3. Results of hearings (Cantwell and Lake Minchumina)
4. Results of consultation process
5. Subsistence use zones
6. Other business
7. Adjourn

DATES AND ADDRESSES:

Public Hearing: Tuesday, April 15, 1986, 1:00 p.m., Bureau of Land Management Office, Lake Minchumina, Alaska.

Public Hearing: Wednesday, April 16, 1986, 7:00 p.m., Cantwell School Auditorium, Cantwell, Alaska.

Commission Meeting: Thursday, April 17, 1986, 9:00 a.m. to 5:00 p.m., Danali National Park, Headquarters Recreational Hall.

FOR FURTHER INFORMATION CONTACT: Bob Cunningham, Superintendent, Denali National Park, P.O. Box 9, McKinley Park, Alaska 99755, Phone (907) 683-2294.

SUPPLEMENTARY INFORMATION: The Denali National Park Subsistence Resource Commission is authorized under Title VIII, Section 808, of the Alaska National Interest Lands Conservation Act, Pub. L. 96-487.

Dated: March 19, 1986.

M.V. Finley,

Regional Director, Alaska Region.

[FR Doc. 86-7009 Filed 3-28-86; 8:45 am]

BILLING CODE 4310-70-M

Women's Rights National Historical Park Advisory Commission Meeting

AGENCY: National Park Service: Women's Rights National Historical Park Advisory Commission.

SUMMARY: This notice sets forth the date of the forthcoming meeting of Women's Rights National Historical Park Advisory Commission. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE:

April 9, 1986—9:00 a.m. to 4:00 p.m.
April 10, 1986—9:00 a.m. to 3:00 p.m.

ADDRESS: Women's Rights National Historical Park, 116 Fall Street, P.O. Box 70, Seneca Falls, New York 13148.

FOR FURTHER INFORMATION CONTACT: Judy Hart, Superintendent, Women's Rights National Historical Park, 116 Fall Street, P.O. Box 70, Seneca Falls, New York 13148, (315) 568-2991.

Steven H. Lewis,

Deputy Regional Director, North Atlantic Region.

March 24, 1986.

[FR Doc. 86-7010 Filed 3-28-86; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Exemption; Missouri Pacific Railroad Co.; Trackage Rights; Missouri-Kansas-Texas Railroad Co.

[Finance Docket No. 30801]

Missouri-Kansas-Texas Railroad Company (MKT) will agree to grant overhead trackage rights to Missouri Pacific Railroad Company (MP) between Wagoner, (MKT milepost 488.2) and Durant, (MKT milepost 641.0), in the State of Oklahoma. The trackage rights become effective on March 18, 1986.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

As a condition to use of this exemption any employee affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry. Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Dated: March 18, 1986.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 86-6972 Filed 3-28-86; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-No. 155)]

Seaboard System Railroad, Inc.; Abandonment in Worth, Tift, Berrien, and Atkinson Counties, GA; Findings

The Commission has issued a certificate finding that the public convenience and necessity permit Seaboard System Railroad, Inc. to abandon its 59.22-mile line between Pearson (milepost AP-618.45) and Sylvester, GA (milepost 677.67) in Worth, Tift, Berrien, and Atkinson Counties, GA. The abandonment certificate will become effective 30 days after this publication unless within 10 days after this publication the Commission also finds that: (1) A financially responsible person has offered 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 must 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 1152.27.

James H. Bayne,

Secretary.

[FR Doc. 86–6973 Filed 3–28–86; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Advisory Committee on Construction Safety and Health; Request for Nomination of Members

The Acting Assistant Secretary of Labor for Occupational Safety and Health requests nominations for the Advisory Committee on Construction Safety and Health. The function of the Committee is to advise the Assistant Secretary on occupational safety and health matters in construction. Nominations will be accepted in all categories which include: five employee representatives, five employer representatives, two State representatives, two public representatives, and a Federal representative. The term of office is two years.

Nominees must have specific experience and be actively engaged in work related to occupational safety or health in the construction industry. No member of the Committee (other than representatives of employers and employees) shall have an economic interest in any proposed rule. The category of membership for which the candidate is qualified should be specified in the nomination letter which should come from an organization representative of that particular category. A resume of the nominee's background experience and qualificiations with current address and telephone number should be included with the letter.

In addition, the nomination letter shall state that the nominee is aware of the nomination, is willing to serve as a Committee member and appears to have no conflict of interest that would preclude Committee membership.

Nominations should be submitted to Tom Hall, OSHA Division of Consumer Affairs, Room N3637, U.S. Department of Labor, Washington, DC 20210, no later than April 25, 1986.

Signed at Washington, DC, this 25th day of March 1986.

Patrick R. Tyson,

Acting Assistant Secretary.

[FR Doc. 86–7066 Filed 3–28–86; 8:45 am]

BILLING CODE 4570–26–M

National Advisory Committee on Occupational Safety and Health; Request for Nomination of Members

Nominations are requested for membership on the National Advisory Committee on Occupational Safety and Health. The Committee was established under section 7(a) of the Occupational Safety and Health Act of 1970 to advise the Secretary of Labor and the Secretary of Health and Human Services on matters relating to the administration of the Act.

The terms of six members of the 12 member committee will expire on June 30, 1986. Nominations will be accepted for the vacancies occurring in the following categories: Three public representatives, one management representative, one labor representative, and one safety representative.

Any interested person or organization may nominate one or more qualified persons for membership. Nominees should be identified by name, occupation or position, address, and telephone number. The category which the candidate would represent should be specified and a resume of the nominee's background experience and qualifications included. In addition, the nomination should state that the nominee is aware of the nomination and is willing to serve as a committee member.

Nominations should be submitted to Tom Hall, Division of Consumer Affairs, Occupational Safety and Health Administration, Room N3637, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 no later than April 25, 1986.

Signed at Washington, DC, this 25th day of March 1986.

Patrick R. Tyson,

Acting Assistant Secretary.

[FR Doc. 86–7065 Filed 3–28–86; 8:45 am]

BILLING CODE 4510–26–M

MERIT SYSTEMS PROTECTION BOARD

Cancellation of The Digest and "Federal Employee Appeals Decisions"

AGENCY: Merit Systems Protection Board.

ACTION: Notice that the Board is ceasing publication of *The Digest* and "Federal Employee Appeals Decisions".

EFFECTIVE DATE: March 31, 1986.

FOR FURTHER INFORMATION CONTACT: Ada R. Kimsey, Office of the Clerk of the Board, Merit Systems Protection Board, (202) 653–2505.

SUPPLEMENTARY INFORMATION: The Board announces that the Volume 5, Number 11, August 1985 issue of *The Digest*—the monthly summary and listing of Board opinions and orders, as well as summaries of relevant court cases—was the final issue. The Board is also cancelling "Federal Employee Appeals Decisions" (quarterly microfiche editions of Board initial decisions and paper index). The final issuance consists of decisions produced in the last quarter, 1985.

Dated: March 25, 1986.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 86–6932 Filed 3–28–86; 8:45 am]

BILLING CODE 7400–01–M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Grant Application Procedures Under the National Capital Arts and Cultural Affairs Program

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has established the application guidelines a form for the National Capital Arts and Cultural Affairs Program ["NCACAP"]. NCACAP was established by Congress in 1985 to provide operating support for qualifying institutions in the Nation's Capital. To be eligible to receive a NCACAP grant, organizations must be located in the District of Columbia, be not-for-profit, non-academic institutions of demonstrated national repute, and have annual operating budget in excess of $1 million for each of the three years prior to June 1, 1986. The grant period will be from June 1, 1986 through May 30, 1987.

FOR FURTHER INFORMATION CONTACT: Ms. Edythe Manza, National

Endowment for the Humanities, Challenge Grants, Room 429, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, (202–786–0361) from whom copies of forms are available.

Dated: March 31, 1986.

Susan Metts,

Director of Administration.

[FR Doc. 86–6971 Filed 3–28–86; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Responses to Safety Recommendations; Availability

Recommendation number	Respondent	Date	Subject
A–85–133 through –137	Japan Federation of Civil Aviation Workers' Union for Air Safety.	2/15/86	747 hydraulic systems and empennage stabilizer control surfaces.
A–85–129 through –132	Federal Aviation Administration (FAA).	2/20/86	Passenger Oxygen systems and cabin door opening mechanism on Lockheed L–1011 airplanes.
A–85–133 through –137	FAA	2/19/86	747 hydraulic systems and empennage stabilizer control surfaces.
A–85–15	FAA	2/19/86	Coordination of local and ground controllers' activities when vehicles are cleared to operate on the active duty runway.
A–85–125	FAA	2/19/86	Operating procedures for Wings West and Imperial Airlines for flights departing from San Luis Obispo County Airport.
A–85–115	FAA	2/19/86	Minimum landing runway lengths for general aviation transport category airplanes.
A–85–118 and –119	FAA	2/20/86	Collective sleeve assemblies on Bell 214B/214ST model helicopters.
A–85–120 and –121	FAA	2/21/86	Pratt & Whitney JT8D-series engines; high-pressure compressor rotor; removable sleeve spacers.
A–85–112 through –114	FAA	2/25/86	Localizer backcourse runway 19 instrument approach procedure at the New Orleans International Airport.
A–85–163	FAA	2/26/86	Takeoff criteria in the event of an engine power loss at or after reaching lowest decision speed.
A–85–28	FAA	2/26/86	Eastern Aero Marine Model GA–12 flotation devices; security of inflation cylinders, proper Technical Standard Order labeling, and leakage in test inflation chambers.
A–85–142 through –144	FAA	2/27/86	Control wheel switch wire ribbon installation on Cessna 182 model airplanes (manufactured between 1968 and 1981), 206 model airplanes (1970–1981), 207 model airplanes (1969–1981), 210 model airplances (1970–1979) and 337 model airplanes (1970–1980).
A–81–66	FAA	2/27/86	Adequacy of solid ice, snow, or slush corrected landing distances in operations.
A–83–73	FAA	2/27/86	Electrical circuit protection in lavatory flushing pump motor systems in transport category airplanes.
A–81–46 and –47	FAA	3/3/86	Helicopter dynamic rollover characteristics.
A–85–138 through –140	FAA	3/3/86	Fail-safe criteria for dome-shaped aft pressure bulkheads on transport category airplanes.
A–85–127 and –128	FAA	3/3/86	Reduction of the effective length of the runway at Dutch Harbor Airport, Unlalaska, Alaska, to 3,000 feet.
A–82–32	FAA	3/3/86	Biennial removal and inspection of all four tension bolts on each wing of specified model Beech aircraft (Specified in Beech Service Instruction Nos. 1140 and 1208).
A–82–136	FAA	2/27/86	Installation of the F–27 and FH–227 left mechanical moisture separator assembly.
A–82–92	FAA	3/6/86	Establishment of formal human performance criteria for the development and evaluation of instrument approach charts and procedures.
A–84–76 through –78	FAA	3/7/86	Flightcrews and flight attendants' training.
A–85–122, –124, and –125	FAA	3/7/86	Performance standards for seat/restraint systems in small airplanes.
A–85–93	FAA	3/7/86	Aircraft passenger safety education.
Railroad			
R–85–55 and –56	Federal Emergency Management Agency.	1/3/86	Emergency preparedness capbility at and around the nation's major railroad yards.
R–85–64	Federal Railroad Admininstration	1/9/86	Head protection on aluminum tank cars.
R–83–61	Chicago & Illinois	1/24/86	Fitness of operating employees while on duty; responsibility of operating employees to monitor the performance of other employees.
R–82–35, –39, and –42	New York City Transit Authority (NYCTA).	1/28/86	Differences between two train control systems on NYCTA system; modernization of train control system; procedures for notification of emergency and rescue personnel.
R–85–57 and –58	NYCTA	1/28/86	Posting and monitoring of restricted speed lights and signals throughout the system.
R–85–25 through –34	NYCTA	1/28/86	Tunnel fire prevention; action plan and reporting procedure.
R–85–71 and –72	U.S. Dept. of Labor Occupational Safety and Health Admin. (OSHA).	2/5/86	OSHA's inspection priorities regarding petrochemical plant loading facilities.
R–85–123	Conrail	2/7/86	Hazardous material yard emergencies.
R–85–61	Chicago & Illinois	2/11/86	Physical fitness of on-duty operating department employees.
R–85–119 and –120	Association of American Railroads	2/12/86	Pre-shipment and interchange inspection of "empty" placarded tank cars.
R–85–52	Brotherhood of Locomotive Engineers.	2/18/86	Crew qualifications and authority on freight trains.
R–85–53	The Atchison, Topeka and Santa Fe Railway Co.	2/14/86	Emergency planning and response procedures for handling releases of hazardous materials.
R–85–99	Federal Railroad Administration	2/18/86	Inspection of tank cars during their manufacture.
R–85–106	Chicago South Shore and South Bend R.R.	2/11/86	3-minute delay rule; call orders; tape monitoring system to record communications to and from dispatcher on dispatcher's telephone and radio circuits.
R–85–84	Association of American Railroads	2/24/86	Employee knowledge of operating rules and their application in normal and in emergency operating conditions.
R–83–13 and –25	Amtrak	2/26/86	Emergency lighting systems in passenger-carrying cars and system on passenger trains to inform crew members of overheating tranction motor support bearings.
R–82–55 through –77; R–82–8 through –18.	Washington Metropolitan Area Transit Authority.	2/27/86	WMATA operating rules for trains operated in other tha the fully automatic mode; communications equipment; rail transportation supervisors' training; passenger education; emergency procedures.
R–85–53	Richmond, Fredricksburg, and Potomac Railroad Co.	2/19/86	Emergency planning and response procedures for handling releases of hazardous materials.
Pipeline			
P–85–29	Dresser Industries	1/2/86	Intercompany communications practices.
P–72–11	Research and Special Programs Admin. (RSPA).	1/30/86	Handling, containing and disposing of liquefied petroleum proceducts resulting from pipeline failures.
P–85–31	RSPA	1/30/86	Design limitations on plastic pipe and couplings.
P–85–23 through –28	Nat'l Fuel Gas Company	2/13/86	Coordination and improvement of emergency response produres.
Highway			
H–83–51	State of Rhode Island and Providence Plantations.	2/18/86	Public information: misuse of child safety seats.
H–85–49 and –50	State of Delaware	2/6/86	Blood alcohol testing of drivers in fatal crashes.
H–85–59	State of North Carolina	2/17/86	Installation of a guardrail on North Carolina State Route 88 from 0.35 to 0.65 mile west of Jefferson, NC.
H–84–77 through –86	State of Nevada	2/14/86	Drunk drivers; repeat offenders.

Recommendation number	Respondent	Date	Subject
H-84-55	American Assn. of State Highway and Transportation Officials.	2/13/86	River bridges; skew induced loads.
H-83-39, -40, -46 and -47	State of Alaska	2/26/86	School bus safety.
H-84-78, -81, -83, -84 and -85	Ohio Dept. of Highway Safety	2/21/86	Drunk drivers; repeat offenders.
H-85-4 through -6	State of Maryland	2/27/86	School bus driver compliance with railroad crossing stop requirements.
H-85-56	State of Alabama	3/3/86	16- and 17-year old school bus drivers.
H-85-49 and -50	State of North Carolina	3/4/86	Improved reporting of alcohol involvement in highway crashes.
H-83-21	Federal Highway Administration	3/7/86	Tractor-Trailer Driver Training Standards.
Marine			
M-86-1 through -3	North Pacific Fishing Vessel Owners' Assn.	2/14/86	Vessel stability testing.
M-85-67 through -75	United States Coast Guard (USCG)	1/8/86	Stability standards for fishing vessels, licensing of captains of commercial fishing vessels, crew lists, contingency plans, frequent radio communications, search and rescue computer program, human factors affecting search operations, lifesaving equipment.
M-85-7, -8, 10, and -11	Mobil Oil Corporation	1/14/86	Ships' steering systems; maintenance, inspection, control instructions, operation.
M-85-92	Chevron U.S.A. Inc	1/27/86	Marking of natural gas lines and equipment; warning labels on portable pneumatic equipment and tools powered by natural gas; proper venting of such equipment and tools; sources of ignition.
M-85-94	United States Coast Guard	1/30/86	Vessel stability while operating in heavy seas with the outriggers up.
M-85-83 through -89	USCG	1/30/86	Insulation used on dry exhaust pipe installations on small passenger vessels, emergency air shutdown controls on diesel engines, fire protection equipment, life preserver stowage, vessel information.
M-85-103 through -106	Zapata Off-Shore Co	2/7/86	Gumbo box location, flow line degasser, gas evacuation procedures, fire fighting drills.
M-86-4 through -7	Alyeska Ocean, Inc	2/21/86	Stability testing.
M-85-116	U.S. Department of Labor	3/7/86	Self-elevating lift boats.

Single copies of these response letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, DC 20594. Please include respondent's name, date of letter, and recommendation number(s) in your request. The photocopies will be billed at a cost of 14 cents per page ($1 minimum charge).

Catherine T. Kaputa,

Federal Register Liaison Officer.

March 24, 1986.

[FR Doc. 86-6951 Filed 3-28-86; 8:45 am]

BILLING CODE 7533-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 70-364]

Issuance of Environmental Assessment and Proposed Finding of No Significant Impact; Amendment of Materials License No. SNM-414; Babcock & Wilcox Volume Reduction Services Facility; Parks Township, PA

Correction

The notice that appeared in the Thursday, March 20, 1986, **Federal Register** (51 FR 9729) contained a typographical error. One page 9730 the paragraph, *Proposed Finding of No Significant Impact*, should read:

The Commission's Division of Fuel Cycle and Material Safety has prepared an Environmental Assessment related to the amendment for the operation of the Volume Reduction Services Facility at Babcock & Wilcox's Parks Township site. On the basis of this Assessment, the Commission has determined not to prepare an Environmental Impact Statement for the proposed action and has concluded that a Proposed Finding of No Significant Impact is appropriate.

Dated at Silver Spring, Maryland, this 25th day of March 1986.

For the Nuclear Regulatory Commission.

L.C. Rouse,

Chief, Advanced Fuel and Spent Fuel Licensing Branch, Division of Fuel Cycle and Material Safety.

[FR Doc. 86-7028 Filed 3-28-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-237/249]

Environmental Assessment and Finding of No Significant Impact; Commonwealth Edison Company

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of schedular exemptions from the requirements of 10 CFR 50.48 to the Commonwealth Edison Company (CECo) (the licensee) for the Dresden Nuclear Power Station, Unit Nos. 2 and 3, located at the licensee's site in Grundy County, Illinois.

Environmental Assessment

Identification of the Proposed Action

The proposed action would grant schedular exemptions from requirements of 10 CFR 50.48 relating to the completion dates of modifications consisting mainly of additional suppression and detection and the upgrading of fire barriers and emergency lighting. These modifications were determined by the licensee to be necessary at Dresden during a reverification initiated in response to Commission clarification of Appendix R requirements.

The Need for the Proposed Action

When the reverification program indicated the need for additional modifications, necessary engineering and procurement were required by CECo. The magnitude of the work associated with the modifications is such that it does not allow the 10 CFR 50.48(c) schedule to be met. The exemptions are strictly schedular in that they allow the modification schedule to be extended, with interim compensatory measures in place which will provide the necessary fire protection, until the corresponding modifications are completed.

Environmental Impact of the Proposed Action

The proposed action only affects the length of time for the required modifications to be completed. The licensee has proposed interim compensatory measures to provide the necessary level of fire protection until the modifications are completed. Thus, fire-related radiological releases will not differ from those determined previously and the proposed exemption does not otherwise affect facility radiological effluent or occupational exposures. With regard to potential nonradiological impacts, the proposed exemption does not affect plant nonradiological effluents and has no other environmental impact. Therefore, the Commission concludes there are no measurable radiological or nonradiological environmental impacts associated with the proposed exemption.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed exemption, any alternatives with equal

or greater environmental impact need not be evaluated. The principal alternative to the exemption would be to require rigid compliance with the 50.48(c)(4) requirements. Such action would not enhance the protection of the environment and would result in unjustified costs for the licensee.

Alternative Use of Resources

This action does not involve the use of resources not considered previously in the Final Environmental Statement for Dresden Units 2 and 3.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption. Based upon the environmental assessment, the NRC staff concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this proposed action, see the licensee's letter dated March 1, 1985, as supplemented by letters dated December 4, 1985 and March 12, 1986. These letters are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC and at the Morris Public Library, 604 Liberty Street, Morris, Illinois 60451.

Dated at Bethesda, Maryland, this 25th day of March 1986.

For The Nuclear Regulatory Commission.

John A. Zwolinski,

Director, BWR Project Directorate No. 1, Division of BWR Licensing.

[FR Doc. 86-7029 Filed 3-28-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-353]

Issuance of Director's Decision Under 10 CFR 2.206; Philadelphia Electric Company; Limerick Generating Station, Unit 2

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has denied the Petition filed under 10 CFR 2.206 by Marvin I. Lewis and Citizen Action in the Northeast regarding Unit 2 of the Limerick Generating Station (the facility).

The petitioners requested that the NRC suspend the construction permit and institute proceedings to revoke Construction Permit No. CPPR-107, heretofore issued to the Philadelphia Electric Company (PECo) to authorize construction of the Limerick Unit 2 facility. Issues raised by the Petition included the economic viability and cost-benefit ratio associated with further construction and operation of the facility. The Director has concluded that the Petition did not provide a sufficient showing to warrant institution of proceedings.

The reasons for the above conclusions are fully described in a "Director's Decision Under 10 CFR 2.206", dated March 21, 1986, (DD-86-05) which is available for public inspection in the Commission's Public Document Room located at 1717 H Street NW., Washington, DC 20555, and at the Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

A copy of the Decision will be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c).

Dated at Bethesda, Maryland, this 24th day of March 1986.

For The Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 86-7030 Filed 3-28-86; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guides: Availability

Final regulatory guides published by the Nuclear Regulatory Commission (NRC) after public comment are no longer available on a subscription basis from the Superintendent of Documents, U.S. Government Printing Office (GPO). Copies of final regulatory guides will continue to be sold by GPO as individual publications. Information on availability and pricing may be obtained by contacting the U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013-7082, Telephone: (202) 275-2060 and (202) 275-2171.

NRC has made arrangements with the National Technical Information Service (NTIS) to provide a standing order service for regulatory guides. Anyone having a deposit account with NTIS may place standing orders through the NTIS Subscription Department for final regulatory guides in specified divisions as they are issued. Customer accounts will be billed $5.50 for each regulatory guide mailed by NTIS. For details on establishing an NTIS deposit account or for placing a standing order for regulatory guides, write to NTIS, 5285 Port Royal Road, Springfield, VA 22161.

Draft regulatory guides will continue to be available on request to the NRC. All current subscribers have been placed on NRC's mailing list to receive draft regulatory guides as they are published and, in addition, to receive notices of availability when new final regulatory guides are published.

Any inquiries concerning the availability of NRC's regulatory guides may be directed to Publication Services (P-130A), U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492-7333.

(5 U.S.C. 552(a))

Dated at Silver Spring, Maryland, this 24th day of March 1986.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 86-7031 Filed 3-28-86; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Solicitation of Public Comment on Heavyweight Motorcycle Import Relief

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: This notice solicits public comment in connection with the ongoing review of the import relief for heavyweight motorcycles having engines with total piston displacement over 700 cubic centimeters.

FOR FURTHER INFORMATION CONTACT: Steven Falken, Office of the United States Trade Representative (202) 395-4946.

SUPPLEMENTARY INFORMATION: On April 19, 1983, President Reagan proclaimed import relief for the U.S. heavyweight motorcycle industry by imposing a special *ad valorem* tariff on imports of heavyweight motorcycles. (Presidential Proclamation No 5050, 48 FR 16639). The President's Memorandum for the United States Trade Representative of April 1, 1983, (48 FR 17179), instructed the Trade Representative "to keep the issue under close review so that, should the U.S. motorcycle industry no longer need this level of relief, you may, in consultation with the Trade Policy Committee, obtain other necessary advice and propose changes in the terms of relief." The directed purpose of this review is "to assess the effectiveness of import relief and Harley-Davidson's trade adjustment efforts." In accordance with the President's directive, this Office has been reviewing the heavyweight motorcycle import relief program and welcomes public views relevant to the above-stated purpose of the review as directed by the President.

Interested parties are invited to submit comments. Written comments should be filed in accordance with the procedures set forth in 15 CFR 2003.2, 2003.5, and 2003.6, and, in not less than 20 copies, should be submitted to the Secretary, Trade Policy Staff Committee, office of the United States Trade Representative, Room 521, 600 Seventeenth Street, NW., Washington, DC 20506, no later than 45 days after the date of publication of this Notice in the **Federal Register**. Rebuttal must be submitted no later than 60 days after publication of such Notice.

Donald M. Phillips,

Chairman, Trade Policy Staff Committee.

[FR Doc. 86-6952 Filed 3-28-28; 8:45 am]

BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-15011; File No. 812-6273]

BCI Securities, L.P.; Application

March 25, 1986.

Notice is hereby given that BCI Securities, L.P. ("Partnership"), and its general partner, BCI Partners, L.P., both Delaware limited partnerships ("General Partner" and, together with the Partnership, "Applicants"), 9 West 57th Street, Suite 4170, New York, New York 10019, filed an application on December 30, 1985, and amendments thereto on March 12, 1986 and March 25, 1986, for an order of the Commission, pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting the Partnership from all provisions of the Act. BCI Partners is an affiliate of Kohlberg Kravis Roberts & Co. ("KKR") a New York general partnership. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and rules thereunder for the text of the applicable provisions thereof.

Applicants state that the Partnership was formed as part of a series of transactions pursuant to which KKR, which is engaged in the business of finding and investing in management buyouts, intends to effect a management buyout of Beatrice Companies, Incorporated ("Beatrice"), a Delaware corporation which markets food and consumer products. The sole business of the Patnership will be to acquire, hold and eventually dispose of: (i) 20,000,000 shares of common stock of BCI Holdings, Inc. ("Holdings"), a Delaware corporation also formed at the direction of KKR in connection with the Beatrice acquisition, (ii) warrants ("Warrants") to purchase an addition 2,086,956 shares of common stock of Holdings ("Holdings Common Stock"), and, assuming exercise of the Warrants, the shares of Holdings Common Stock underlying the Warrants. The Partnership will purchase 20,000,000 shares of Holdings Common Stock at a purchase price of $5.00 per share or $100,000,000 (approximately 14.4% on a fully diluted basis). It will simultaneously purchase the Warrants (which represent the right to acquire an additional 1.5% of Holdings Common Stock on a fully diluted basis) for an aggregate of $500,000. On December 23, 1985, BCI Equity Associates, L.P. ("BCI Equity"), another limited partnership which will hold certain warrants ("Other Warants") to purchase Holdings Common Stock, filed an application for an order of the Commission, pursuant to section 6(c), exempting it from all provisions of the Act.

Under the partnership agreement ("Partnership Agreement"), management of the Partnership's business will be the full and complete responsibility of the General Partner. The General Partner will also serve as general partner of BCI Equity. The four general partners of the General Partner are also the four general partners of KKR, and the limited partners of the General Partner are certain past and present employees of KKR and certain trusts and partnerships established for the benefit of the families of the general partners and such employees.

According to the application, Holdings, which is presently owned by another limited partnership affiliated with KKR, and Beatrice have entered into an agreement and plan of merger dated as of November 14, 1985 and modified as of February 2, 1986 ("Merger Agreement"). BCI Merger Corporation ("Merger Sub"), a Delaware corporation and indirect wholly owned subsidiary of Holdings, is also a party to the Merger Agreement. The Merger Agreement provides that upon the approval thereof by Beatrice sharehalders, and the satisfaction (or waiver, where permissible) of certain other conditions, at the effective time ("Effective Time") Merger Sub will merge into Beatrice ("Merger"), with the effect that all of the common stock of Beatrice will become directly and indirectly owned by Holdings. Each share of Beatrice Common Stock outstanding at the Effective Time (except for certain speicified categories of shares) will be converted into the right to receive a specified amount of cash and Holdings securities.

Applicants state that, upon consummation of the Merger, approximately 98.3% of the outstanding Holdings Common Stock will be owned by four limited partnerships affiliated with KKR, and the remaining 1.7% of Holdings Common Stock outstanding at the Effective Time will be owned by certain persons who are expected to become employees of Beatrice at the Effective Time ("Management Investors"), who are being offered the right to purchase Holdings Common Stock in connection with the Merger. After the Effective Time, on a fully diluted basis approximately 87.5% of the outstanding Holding Common Stock will be held by five limited partnerships affiliated with KKR (47.6% by BCI Associates, BCI Associates II, L.P., and KKR Partners II, L.P., 15.9% by the Partnership and 24% by BCI Equity) and 12.5% will be held by the Managaement Investors.

Applicants state that the financial requirements of the Merger are expected to be approximately $6.4171 billion. To meet these financial requirements, Holdings expects to borrow up to $3.5 billion under a bank credit agreement. Holdings also expects to receive approximately $407.1 million from the issuance of Holdings Common Stock to BCI Associates, BCI Associates II, and KKR Partners II, the Management Investors and the Partnership, approximately $2 million from the sale of warrants to BCI Associates, KKR Partners II and the Partnership, and approximately $8 million from the sale of the Other Warrants to BCI Equity. The balance, approximately $2.5 billion, will be raised in registered public offerings of debt securities ("Debt Securities") to be issued by Holdings.

Limited partnership interests ("Limited Partnership Interests") will be sold by the Partnership and Limited partnership interests will also be sold by BCI Equity ("Other Limited Partnership Interests") pursuant to separate registered offerings. The Partnership will use the estimated $99,495,000 in proceeds from the offering of the Limited Partnership Interests, together with the $1,005,000 contributed to its capital by its General Partner to purchase 20,000,000 shares of Holdings Common Stock as well as a portion of the Warrants from Holdings. BCI Equity will use the estimated $7,920,000 in proceeds from the offering of the Other Limited Partnership Interests, together with a capital contribution of $80,000 from the General Partner to purchase the Other Warrants from Holdings.

Even though the Appicants are arguably participating in a joint transaction on a different basis, they state that the reason that the

Partnership and BCI Equity are being offered different securities reflects no unfair treatment of one Partnership over the other, but rather the different investment objectives of the investors who are expected to purchase the liminted partnership interests in each. Accordingly, Applicants submit that the packaging of different investment vehicles to match different investment objectives simply does not contravene the policies of section 17(D) of the Act.

The Limited Partnership Interests will be offered directly by the partnership to a small group of sophisticated institutional investors who are associated with KKR and have invested or agreed to invest in interests in limited partnerships organized by KKR and which have KKR Associates or another affillate of KKR as the general partner. It is currently expected that no more than 15 such investors will acquire the Limited Partnership Interests.

In support of their exemption request, Applicants submit that the Partnership is precisely the kind of private investment company intended by Congress to be exempt from the Act by virtue of section 3(C)(1). There can be no question, According to the Applicants, that, but for the integration of the offering of the Limited Partnership Interests with the public offering of other securities involved in this transaction, the Partnership would fall squarely within the 3(c)(1) exemption. Applicants recognize that because the Limited Partnership Interests will be offered contemporaneously with the Other Limited Partnership Interests, it might be concluded that the number of holders of the Limited Partnership Interests should be aggregated with the number of holders of the Other Limited Partnership Interests for the purpose of determining whether the Partnership and BCI Equity, taken together, comply with the spirit of section 3(c)(1). To address this concern, Applicants represent (and BCI Equity and the General Partner are also representing in the Application relating to BCI Equity) that throughout the existence of the Partnership and BCI Equity, the Limited Partnership Interests and the Other Limited Partnership Interests will be beneficially owned by less than 100 persons in the aggregate, including persons to whom attribution rules of section 3(c)(1). Applicants also argue that if the Partnership would be required to register under the Act it would be eligible to apply for deregistration immediately upon completion of the public offering since at the time the Partnership would fall within section 3(c)(1). Applicants contend that accomplishment of the Act's objectives and policies does not require registraion of an entity that would be eligible, immediately thereafter, for an order declaring that it has ceased to be an investment company. Further, according to the Applicants, regulation of the Partnership under the Act is unnecessary to accomplish the Act's objectives and policies not only because the Partnership is, in effect, a private investment company, but also because the Partnership has been structured so as to maximize protection of investors. Applicants contend that the most important of these protections are the restrictions on initial investment in and subsequent transfer of the Limited Partnership Interests. Another factor relevant to the protection of investors is said to be the limited nature of the Partnership's business, and the resulting limited role of the General Partner. Over its life, the Partnership will have only two assets— Holdings Common Stock and the Warrants. Although the General Partner will have exclusive control over the disposition of these assets, it will not be investing Partnership capital in other, as yet unidentified, assets. In requesting a section 6(C) exemption, Applicants do not seek Commission approval or endorsement of the terms of the Merger or its financing or of management buyouts in general.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than April 14, 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, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants 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. 86-7051 Filed 3-28-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15010; File No. 812-6267]

BCI Equity Associates, L.P., Notice of Application

Notice is hereby given that BCI Equity Associates, L.P. ("Partnership"), a Delaware limited partnership, and its general partner, BCI Partners, L.P., also a Delaware limited partnership ("General Partner" and, together with the Partnership, "Applicants"), 9 West 57th Street, Suite 4170, New York, New York 10019, filed an application on December 23, 1985, and amendments thereto on March 13 and 25, 1986, for an order of the Commission, pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting the Partnership from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and rules thereunder for the text of the applicable provisions thereof.

Applicants state that the Partnership was formed as part of a series of transactions pursuant to which Kohlberg Kravis Roberts & Co. ("KKR"), a New York general partnership engaged in the business of finding and investing in management buyouts, intends to effect a management buyout of Beatrice Companies, Inc. ("Beatrice"), a Delaware corporation which markets food and consumer products. The sole business of the Partnership will be to acquire, hold and eventually dispose of warrants ("Warrants") and, assuming exercise of the Warrants by the Partnership, underlying common stock ("Holdings Common Stock") of BCI Holdings, Inc. ("Holdings"), a Delaware corporation also formed at the direction of KKR in connection with the Beatrice acquisition. Applicants further state that the Warrants will entitle the Partnership to purchase for $166,956,525 an aggregate of 33,391,305 shares of Holdings Common Stock at a purchase price of $5.00 per share (approximately 24% of the outstanding shares of Holdings on a fully diluted basis). On December 30, 1985, BCI Securities, L.P. ("BCI Securities"), another limited partnership which will hold Holdings Common Stock and certain warrants to purchase additional shares, filed an application for an order of the Commission, pursuant to section 6(c), exempting it from all provisions of the Act.

Under the partnership agreement ("Partnership Agreement"), management of the Partnership's business will be the full and complete responsibility of the

General Partner, which was formed to serve as general partner of the Partnership as well as of BCI Securities. The four general partners of the General Partner are also the four general partners of KKR, and the limited partners of the General Partner are certain past and present employees of KKR and certain trusts and partnerships established for the benefit of the families of the general partners and such employees.

According to the application, Holdings, which is presently owned by another limited partnership affiliated with KKR, and Beatrice have entered into an agreement and plan of merger dated as of November 14, 1985, and modified as of February 2, 1986 ("Merger Agreement"). BCI Merger Corporation ("Merger Sub"), a Delaware corporation and indirectly wholly owned subsidiary of Holdings, is also a party to the Merger Agreement. The Merger Agreement provides that upon the approval thereof by Beatrice shareholders, and the satisfaction (or waiver, where permissible) of certain other conditions, at the effective time ("Effective Time") Merger Sub will merge into Beatrice ("Merger"), with the effect that all of the common stock of Beatrice will become directly and indirectly owned by Holdings.

Applicants state that, upon consummation of the Merger, approximately 98.3% of the outstanding Holdings Common Stock will be owned by four limited partnerships affiliated with KKR, and the remaining 1.7% of Holdings Common Stock outstanding at the Effective Time will be owned by certain persons who are expected to become employees of Beatrice at the Effective Time ("Management Investors"), who are being offered the right to purchase Holdings Common Stock in connection with the Merger. After the Effective Time, on a fully diluted basis (which assumes: (1) The exercise of options which will be offered to the Management Investors, (ii) the sale of Holdings Common Stock to, or the grant and subsequent exercise of options to acquire Holdings Common Stock by, certain additional members of Beatrice management after the Effective Time, (iii) the exercise of certain warrants ("Other Warrants") to be held by BCI Securities, BCI Associates, L.P. ("BCI Associates") and KKR Partners II, L.P. ("KKR Partners, II") and (iv) exercise of the Warrants to be held by the Partnership), approximately 87.5% of the outstanding Holdings Common Stock will be held by five limited partnerships affiliated with KKR (47.6% by BCI Associates, Associates II and KKR Partners II, 15.9% by BCI Securities and 24% by the Partnership) and 12.5% will be held by the Management Investors and subsequent management investors.

Applicants state that the financial requirements of the Merger are currently expected to be approximately $6.4171 billion. To meet these financial requirements, Holdings expects to borrow up to $3.5 billion under a bank credit agreement. Holdings also expects to receive approximately $407.1 million from the issuance of Holdings Common Stock to BCI Associates, BCI Associates II, KKR Partners II, the Management Investors and BCI Securities, approximately $2 million from the issuance of their respective shares of the Other Warrants to BCI Associates, KKR Partners II and BCI Securities and approximately $8 million from the sale of the Warrants to the Partnership. The balance, approximately $2.5 billion, will be raised in registered public offerings of debt securities ("Debt Securities"), to be issued by Holdings.

Limited partnership interests ("Limited Partnership Interests") will be sold by the Partnership. Limited partnership interests will also be sold by BCI Securities ("Other Limited Partnership Interests") pursuant to separate registered offerings. BCI Securities will use the estimated $99,495,000 in proceeds from the offering of the Other Limited Partnership Interests, together with the $1,005,000 contributed to its capital by the General Partner, to purchase 20,000,000 shares of Holdings Common Stock as well as a portion of the Other Warrants from Holdings. The Partnership will use the estimated $7,920,000 in proceeds from the offering of the Limited Partnership Interests, together with a capital contribution of $80,000 from the General Partner, to purchase the Warrants from Holdings. Even though the Applicants are arguably participating in a joint transaction on a different basis, they state that the reason that the Partnership and BCI Securities are being offered different securities reflects no unfair treatment of one partnership over the other, but rather the different investment objectives of the investors who are expected to purchase the limited partnership interests in each. Applicants submit that the packaging of different investment vehicles to match different investment objectives simply does not contravene the policies of section 17(d) of the Act.

Applicants state that, despite the fact that the Limited Partnership Interests will be deemed to have been sold pursuant to a public offering, it is expected that only highly sophisticated institutional and other investors will be permitted to invest in the Partnership. It is expected that these investors, or their affiliates, will commit to purchase some combination of Debt Securities and Limited Partnership Interests in a substantial amount and will invest no more than 5% of their total assets in the Limited Partnership Interests. The investors (together with their affiliates) which have a net worth are expected to have a minimum positive net worth of $1 million. It is anticipated that only parties to whom certain Debt Securities are offered and their affiliates will be offered Limited Partnership Interests, and that only purchasers of those Debt Securities and their affiliates will be able to purchase Limited Partnership Interest.

Applicants recognize that because the Limited Partnership Interests will be offered contemporaneously with the Other Limited Partnership Interests, it might be concluded that the number of holders of the Limited Partnership Interests should be aggregated with the number of holders of the Other Limited Partnership Interests for the purpose of determining whether the Partnership and BCI Securities, taken together, comply with the spirit of section 3(c)(1). To address this concern, Applicants represent (and BCI Securities and the General Partner are also representing in the application relating to BCI Securities) that throughout the existence of the Partnership and BCI Securities, the Limited Partnership Interests and the Other Limited Partnership Interests will be beneficially owned by less than 100 persons in the aggregate, including persons to whom beneficial ownership will be imputed by operation of the attribution rules of section 3(c)(1).

According to the application, holders of Limited Partnership Interests will take no part in the management of the Partnership except under limited circumstances and will no control of the Partnership's sole assets, the Warrants, or the Holdings Common Stock acquired upon exercise of the Warrants. The General Partner has broad authority to perform any acts necessary to effectuate the purposes of the Partnership, including determining when, and at what price the Warrants will be sold, when the Warrants will be exercised (subject to certain restrictions), when and at what price any Holdings Common Stock acquired upon exercise of the Warrants will be sold or how any Holdings Common Stock will be voted.

In support of their exemption request, Applicants submit that the Partnership is precisely the kind of private investment company intended by

Congress to be exempt from the Act by virtue of section 3(c)(1). There can be no question, according to the Applicants, that, but for the integration of the offering of the Limited Partnership Interests with the public offering of Other securities, the Partnership would fall squarely within the section 3(c)(1) exemption. Applicants also argue that if the Partnership would be required to register under the Act it would be eligible to apply for deregistration immediately upon completion of the public offering since at that time the Partnership would fall within section 3(c)(1). Applicants contend that accomplishment of the Act's objectives and policies does not require registration of an entity that would be eligible, immediately thereafter, for an order declaring that it has ceased to be an investment company.

Further, according to the Applicants, regulation of the Partnership under the Act is unnecessary to accomplish the Act's objectives and policies not only because the Partnership is, in effect, a private investment company, but also because the Partnership has been structured so as to maximize protection of investors. Applicants contend that the most important of these protections are the expected restrictions on the character of the initial investors and on subsequent transfer on the Limited Partnership Interests by such investors. Another factor relevant to the protection of investors is the limited nature of the Partnerships business, and the resulting limited role of the General Partner. Applicants also emphasize that the General Partner and the holders of the Limited Partnership Interests share a common and overriding interest in maximizing the appreciation of the value of Holdings Common Stock. The General Partner's compensation from the Partnership depends exclusively on such appreciation and the subsequent realization of profits. The final factor relating to the protection of investors is the ample supply of information as to the business of Beatrice, Holdings and the Partnership.

In requesting a section 6(c) exemption, Applicants do not seek Commission approval or endorsement of the terms of the Merger or its financing or of management buyouts in general. Applicants respectfully submit that the Partnerships should be exempted from all provisions of the Act and the rules and regulations thereunder on the conditions that there continue to be less than 100 Limited Partners and that the Partnership does not subsequently make or propose to make a public offering.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than April 14, 1986, 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 Applicants 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.

Dated: March 25, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-7052 Filed 3-28-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23048; File No. SR-NASD-86-5]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

On March 14, 1986, the National Association of Securities Dealers, Inc. ("NASD") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] the proposed rule change described below. The Commission is publishing this order to solicit comments on and approve the proposed rule change.

The NASD proposes to permit new series of NASDAQ index options [3] to be opened for trading provided there are two registered market makers in the option. At present the NASD's rules require a minimum of three registered market makers for this purpose. The NASD would implement this change on a temporary basis for six months following the date of this order.[4] The NASD also indicates that it would use its best efforts to assure that there is at least one active market maker in the option through the expiration of all outstanding series.[5]

The NASD states that the purpose of the filing is to amend its index options rules to more closely approximate sections B(3)(g) and C(3)(f) of Part II, Schedule D of the NASDs By-laws, which permit equity securities to remain authorized if there is a single market maker. The NASD also indicates that at present there are only two registered market makers who are willing to commence market making in the new May series of NASDAQ 100 Index options should those series be added after the March 21, 1986, expiration of the March series, so that without Commission approval of the proposal, the May series, so that without series could not be added. The NASD also states that the proposal equals or exceeds the requirements of all options exchanges by requiring a minimum of two market makers in NASDAQ index options as a precondition to the addition of a new series. The NASD states that the proposal is consistent with sections 15A(b)(2) and 15A(b)(6) of the Act [6] in that it provides for a system of regulation for trading of NASDAQ index options.

The Commission believes that, in light of the NASD's commitment to attempt to ensure the continued presence of at least one active market maker through the expiration of all outstanding options series, a temporary six-month rule change allowing a minimum of two market makers as a precondition to the listing of additional series of NASDAQ 100 Index options is consistent with the protection of investors.[7] At the end of this six month pilot period, the NASD and the Commission can assess whether a continuation of the proposal is appropriate.[8]

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1985).

[3] The NASDAQ 100 Index Option currently is the only "NASDAQ index option," *i.e.*, an option for which quotations are disseminated through the facilities of NASDAQ.

[4] Letter from John T. Wall, Executive Vice President, Member and Market Services, NASD, to Brandon Becker, Assistant Director, Division of Market Regulation, SEC, dated March 18, 1985.

[5] *Id.*

[6] 15 U.S.C. 78o-3(b)(2) and (b)(6) (1982).

[7] The Commission would, of course, expect the NASD to take immediate action to inform investors if it appeared that there would not be an active options market maker in a particular series.

[8] In approving this proposal the Commission does not rely upon the NASD's suggested comparison with the NASD's minimum number of market makers requirements for NASDAQ equity securities nor with the NASD's comparison of its requirements with those of the options exchanges.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the proposal in light of (1) the limited, six-month duration of the proposal and (2) the fact that without accelerated approval the NASD will not be able to list May series of NASDAQ 100 Index options upon the March 21 expiration of the March series.

Interested persons are invited to submit written data, views and arguments concerning the proposal. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the NASD.

For the reasons discussed above, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association, and, in particular, the requirements of section 15A [9] and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act [10] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Dated: March 21, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-6977 Filed 3-28-86; 8:45 am]

BILLING CODE 8010-01-M

[9] 15 U.S.C. 78o-3 (1982).

[10] 15 U.S.C. 78s(b)(2) (1982).

[11] 17 CFR 200.30-3(a)(12) (1985).

DEPARTMENT OF STATE

[CM-8/957]

Shipping Coordinating Committee; Committee on Ocean Dumping; Meeting

The Committee on Ocean Dumping, a subcommittee of the Shipping Coordination Committee, will hold an open meeting on Monday, April 21, 1986, at the Environmental Protection Agency, Waterside Mall, 401 M Street SW., Washington, DC. The meeting will convene at 1:30 p.m. in the EPA Conference Center, room 4. The Conference Center is located on the first floor, with entrance through the central Mall area.

The purpose of the meeting is to review and discuss the draft U.S. position documents for the Ninth Meeting of the Scientific Group on Dumping, a technical advisory group of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, to be held in London on April 28–May 2, 1986.

For further information contact Ms. Norma Hughes, Executive Secretary, Committee on Ocean Dumping (WH-556M), Environmental Protection Agency, Washington, DC 20460. Telephone (202) 755-2927.

The Chairman will entertain comments from the public as time permits.

Richard C. Scissors,

Chairman, Shipping Coordination Committee.

March 20, 1986.

[FR Doc. 86-6955 Filed 3-28-86; 8:45 am]

BILLING CODE 4710-09-M

[CM-8/956]

Secretary of State's Advisory Committee on Private International Law; Meeting

The 39th meeting of the subject Advisory Committee will take place at 10:00 A.M. on Friday, April 25, 1986, in Room 413 of the Federal Mediation and Conciliation Service building at 2100 K Street, NW., Washington, DC. Members of the general public may attend up to the capacity of the meeting room and participate in the discussion subject to instructions of the Chairman.

The meeting agenda will include a report on the extraordinary session of the Hague Conference on Private International Law in October, 1985 and the Convention on the Law Applicable to Contracts for the International Sale of Goods adopted at that session. Other law unification/harmonization activities to be discussed include the 1984 Hague Convention on the Law Applicable to Trusts and on Their Recognition; the model law on international commercial arbitration prepared by a working group of the UN Commission on International Trade Law (UNCITRAL), the final text of which was adopted by the Commission at its 1985 session, and the prospects for early favorable action by the Congress on the 1980 Hague Convention on the Civil Aspects of International Child Abduction and the 1980 UN Convention on Contracts for the International Sale of Goods.

There will be a report on a Hague Conference meeting of representatives of Central Authorities under the Hague Evidence Convention and discussion of discovery pursuant to the Convention as opposed to discovery abroad pursuant to federal and State rules of procedure. Also discussed will be the draft convention on international bills of exchange and international promissory notes prepared by an UNCITRAL working group. The draft convention, providing a regime for an instrument for international payments that would be available to payors on an opt-in basis, will be given a final review by UNCITRAL during three weeks of its June/July 1986 plenary session. A meeting of the Advisory Committee's specialized Study Group on International Negotiable Instruments is planned for May, 1986 to advise the Department in the development of guidance for the U.S. delegation participating in the Commission's review of the draft convention.

Entry to the building at 21st and K Streets is controlled and will be facilitated by advance arrangements. Members of the general public planning to attend should, prior to April 25, notify the Office of the Assistant Legal Adviser for Private International Law (L/PIL), Department of State, Washington, DC 20520 (telephone: (202) 653-9851) of their name, affiliation, address and telephone number.

Peter H. Pfund,

Assistant Legal Adviser for Private International Law and Vice Chairman, Secretary of State's Advisory Committee on Private International Law.

[FR Doc. 86-6954 Filed 3-28-86; 8:45 am]

BILLING CODE 4710-08-M

DEPARTMENT OF TRANSPORTATION

Agreement Filed During the Week Ending March 21, 1986

Answers may be filed within 21 days from the date of filing.

Date filed	Docket No.	Parties	Subject	Proposed effective date
Mar. 17, 1986	43873	Members of International Air Transport Asociation	Creative Fares Board—Europe	Apr. 1, 1986
Mar. 17, 1986	43874	Members of International Air Transport Asociation	US—Europe Proportional—Fares	May 1, 1986.
Mar. 17, 1986	43875	Members of International Air Transport Asociation	N/A—Europe Proportional structure	May 1, 1986.
Mar. 20, 1986	43886, R-1-R-2	Members of International Air Transport Asociation	Amend Brazilian currency rounding rules	Apr. 1, 1986.
Mar. 20, 1986	43887, R-1-R-3	Members of International Air Transport Asociation	Increase BEY-DAM fares to DAM-BEY levels	Apr. 1, 1986.
Mar. 20, 1986	43888, R-1-R-5	Members of International Air Transport Asociation	Currency Rules for new Guinean franc	Apr. 1, 1986.
Mar. 20, 1986	43889	Members of International Air Transport Asociation	Increases GCRs/SCRs from PRC to Japan	Apr. 1, 1986.
Mar. 30, 1986	43890	Members of International Air Transport Asociation	Amend Reso 033c exchange rate for Polish Zloty	Apr. 1, 1986.
Mar. 20, 1986	43891	Members of International Air Transport Asociation	Revise U.S.-Africa/Mid East proportional fares	May 1, 1986.
Mar. 20, 1986	43892	Members of International Air Transport Asociation	Revises U.S.-Europe proportional fares	May 1, 1986.
Mar. 21, 1986	43897, R-1-R-8	Members of International Air Transport Asociation	Canada-Europe, Europe—USA fares	Apr. 1, 1986.
Mar. 21, 1986	43898, R-1-R-21	Members of International Air Transport Asociation	USA Europe fares	Apr. 4, 1986.
Mar. 21, 1986	43900	Members of International Air Transport Asociation	TC1 Computer Constructed fares	Apr. 1, 1986.
Mar. 21, 1986	43901	Members of International Air Transport Asociation	Cargo Rates from Syria	Feb. 24, 1986.
Mar. 19, 1986	43883	Air Traffic Conference of America, c/o Nestor N. Pylypec, 1709 New York Avenue, NW., Washington, DC 20006. Application of Air Traffic Conference of America pursuant to Sections 412 and 414 of the Act, on behalf of the members of the Air Traffic Conference of America, for prior Department of Transportation approval of the resolution related to Airline Designators, and grant of antitrust immunity to any person affected by the order of approval.		

Phyllis T. Kaylor,
Chief, Documentary Services Division.
[FR Doc. 86-7063 Filed 3-28-86; 8:45 am]
BILLING CODE 4910-62-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits filed under Subpart Q of Department of Transportation's Procedural Regulations; Week Ended March 21, 1986

Subpart Q Applications

The due date for answers, conforming application or motions to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show cause order, a tentative order, or in appropriate cases a final order without further procedings. See 14 CFR 302.1701 et. seq.

Date filed	Docket No.	Description
Mar. 21, 1986	43902	Western Airlines, Inc., c/o James T. Lloyd, Preston, Thorgrimson, Ellis & Holman, 1735 New York Ave., NW., Suite 500, Washington, DC 20006. Application of Western Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Regulations requests that its authority to provide service to Mexico on U.S. Route A.3 (Los Angeles-Mazatlan, Puerto Vallarta, Manzanillo, and Zihuatanejo) be renewed for at least a five-year period. Conforming Applications, Motions to Modify Scope and Answers may be filed by April 18, 1986.

Phyllis T. Kaylor,
Chief, Documentary Services Division.
[FR Doc. 86-7064 Filed 3-28-86; 8:45 am]
BILLING CODE 4910-62-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 86-023]

Proposed Bridge Construction; Danvers River, MA

AGENCY: Coast Guard, DOT.

ACTION: Notice of public hearing.

SUMMARY: Notice is hereby given that the Commandant has authorized a public hearing to be held by the Commander, First Coast Guard District, at Salem, Massachusetts. The purpose of the hearing is to consider an application from the Commonwealth of Massachusetts for Coast Guard approval of the location and plans of a proposed fixed highway bridge across the Danvers River, mile 0.0, between Salem and Beverly, Massachusetts.

All interested parties may present data, views and comments, orally or in writing, concerning the impact of the proposed bridge on navigation and the human environment. The Federal Highway Administration (FHWA) is the lead federal agency and in 1981 prepared an Environmental Impact Statement (EIS). The FHWA is presently preparing a reevaluation of the EIS. Of particular concern at this time are the effects that a fixed bridge with a vertical clearance of 48.7 feet above mean high water would have on navigation on the Danvers River. Comments that the proposed clearance is indadequate should, if possible, recommend a specific minimum vertical clearance and include appropriate justification. Desirable information would include: description of vessel, owner's name and address, height of highest fixed point above the waterline (exclusive of appurtenances unessential to navigation or easily lowered), mooring location and frequency of operation. Presentations should include factual data to support comments received.

DATE: May 1, 1986 commencing at 7:00 p.m., until 11:00 p.m.

ADDRESS: Salem High School, 77 Wilson Street at Salem, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Mr. William Naulty, Chief, Bridge Branch, First Coast Guard District, 408 Atlantic Ave., Boston, Massachusetts, 02210-2209, (617) 223-8347.

SUPPLEMENTARY INFORMATION: The character of the proposed work is to

replace the existing swing span bridge with a fixed highway bridge at the existing alignment. The Coast Guard approved a similar fixed highway replacement bridge at this same location on September 15, 1982. No work was accomplished and the permit expired on September 15, 1985. The existing swing span bridge provides a vertical clearance in the closed position of eight feet above mean high water and in the open position, an unlimited clearance. The horizontal clearance is 40 feet. The proposed bridge would be 1,180 feet in length and provide a vertical clearance of 48.7 feet above mean high water and a horizontal clearance of 100 feet normal to the channel.

The hearing will be informal. A Coast Guard representative will preside at the hearing, make a brief opening statement describing the proposed bridge project and announce the procedures to be followed at the hearing. Each person who wishes to make an oral statement should notify the Commander (obr), First Coast Guard District, at the above address by April 25, 1986. Such notification should include the approximate time required to make the presentation.

It may be necessary to limit the time available to individual speakers in order to provide all commenters the opportunity to speak. Speakers are encouraged to provide written copies of their oral statements to he hearing officer. A transcript will be made of the hearing and may be purchased or reviewed by the public in the First Coast Guard District office approximately 30 days after the hearing date.

Interested persons who are unable to attend this hearing may also participate in the consideration of the bridge permit application by submitting their comments in writing to the Commander (obr), First Coast Guard District, by May 16, 1986. Each written comment should identify the proposed project, clearly state the reasons for any objections, comments or proposed changes to the plans and include the name and address of the person or organization submitting the comment.

Copies of all written communications will be available for examination by interested persons at the office of the Commander (obr), First Coast Guard District, between 8:00 a.m. and 4:00 p.m., Monday through Friday, except federal holidays. All comments received whether at the public hearing or in writing will be fully considered before final action is taken on the proposed bridge permit application.

(Sec. 502, Act of August 2, 1946, as amended; 33 U.S.C. 525, 49 U.S.C. 1655 (G)(6)(C); 49 CFR 1.46(c)(10))

Dated: March 26, 1986.

T.J. Wojnar,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation.

[FR Doc. 86-7034 Filed 3-28-86; 8:45 am]

BILLING CODE 4910-14-M

[CGD 86-022]

Environmental Impact Statement, Proposed Bridge Construction Across New Rochelle Harbor, at New Rochelle, NY

AGENCY: U.S. Coast Guard, DOT.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Coast Guard is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared in conjunction with agency action related to construction of a bridge across New Rochelle Harbor at New Rochelle, New York.

ADDRESS: Written comments should reference this notice and be addressed to: Commander, Third Coast Guard District, Aids to Navigation Branch, Governors Island, New York, New York 10004-5098.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Kassof, Supervisory Bridge Management Specialist, Bridge Section, Aids to Navigation Branch, at the address shown above or by telephone at (212) 264-7165.

SUPPLEMENTARY INFORMATION: Xanadu Properties Associates, has submitted an application to the Coast Guard for a bridge permit to construct the subject bridge project. The Coast Guard is the lead Federal agency for the preparation of the EIS and the City of New Rochelle is the lead state agency. The purpose of the proposed bridge project is to facilitate the development of Davids Island. Davids Island (formerly known as Fort Slocum), is located in Western Long Island Sound, 0.6 miles north of the Bronx-Westchester County boundary. The proposed development of Davids Island, includes 1,500-2,000 housing units, a mariana, support commercial and institutional facilities and a bridge linking the Island to the Mainland at the Fort Slocum dock area in New Rochelle. A formal scoping meeting is scheduled for Wednesday, April 16, 1986 at 11:00 a.m. to discuss the possible impacts of this project. The meeting will be held in Room F-44, City Hall, 515 North Avenue, New Rochelle, New York. Interested persons and affected Federal, State and local agencies are invited to attend. To ensure that the full range of impacts related to the proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning the proposed action and EIS should be addressed to the Coast Guard during the scoping meeting or to the above address.

Dated: March 26, 1986.

T.J. Wojnar,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation.

[FR Doc. 86-7019 Filed 3-28-86; 8:45 am]

BILLING CODE 4910-14-M

[CGD 86-021]

Houston/Galveston Navigation Safety Advisory Committee

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I.) notice is hereby given of the eleventh meeting of the Houston/Galveston Navigation Safety Advisory Committee. The meeting will be held on Friday, May 16, 1986, in the Concorde Room of the Lincoln Hotel Post Oak, 2001 Post Oak, Houston, Texas. The meeting is scheduled to begin at approximately 2:00 p.m. and end at approximately 5:00 p.m. The agenda for the meeting consists of the following items:

1. Call of Order
2. Discussion of previous recommendations made by the Committee
3. Presentation of any additional new items for consideration of the Committee
4. Adjournment.

The purpose of this Advisory Committee is to provide recommendations and guidance to the Commander, Eighth Coast Guard District on navigation safety matters affecting the Houston/Galveston area.

Attendance is open to the public. Members of the public may present written or oral statements at the meeting.

Additional information may be obtaind from Commander D. F. Withee, USCG, Executive Secretary, Houston/Galveston Navigation Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (mps), Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130-3396, telephone number (504) 589-6901.

Dated: March 19, 1986.

E.B. Acklin,

Captain, U.S. Coast Guard, Commander, Eighth Coast Guard District, Acting.

[FR Doc. 86-7017 Filed 3-28-86; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA); Special Committee 158—Airborne Loran-C Receiving Equipment; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 158 on Airborne Loran-C Receiving Equipment to be held on April 17-18, 1986, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC, commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Update of FAA Loran-C Nonprecision Approach Program; (3) Review of SC-137 Loran-C RNAV MOPS Revised Final Draft to Determine Adequacy Toward Fulfilling SC-158 Terms of Reference and Replacement of RTCA/DO-159; (4) Define Further Scope of Work; (5) Task Assignments; and (6) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on March 17, 1986.

S.B. Poritzky,

Designated Officer.

[FR Doc. 86-6934 Filed 3-28-86; 8:45 am]

BILLING CODE 4910-13-M

[Summary Notice No. PE-86-5]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

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

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously recevied and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: April 21, 1986.

ADDRESS: Send comments on any petition in triplicate to:

Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on March 25, 1986.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
13203	Boeing Commercial	14 CFR 25.807(c)(1), (5) & 25.809(f)(1)	To permit carriage on the upper deck of the 747-100 series airplane, of up to five noncrewmembers with a limit of eight including the flight deck crew.
24899	Aero Mod General, Inc.	14 CFR 21.19(b)(1)	To allow petitioner to remove the existing Continental IO 360 front and rear engines from the Cessna Model 337 Super Sky Master airplane and to replace them with a single front tractor—mounted Pratt and Whitney PT6A-27 turbine engine and obtain approval through the Supplemental Type Certificate procedure.
20549	Boeing Commercial Airplane Company	14 CFR 25.1301(a) & 21.601	To permit type certification of the Model 747-21AC airplane with the location of the flap position indicator in the lower left-hand corner of the pilot's center instrument panel and with the servo altimeter configured with dial markings at 50 ft. increments rather than at 20 ft.
21780	Civil Air Patrol	14 CFR 61.118	Extension of Exemption 4042, to allow petitioner's members who hold private pilot certificates to be reimbursed for fuel, oil, and maintenance while serving on official CAP missions.
24041	Butler Aircraft Co.	14 CFR 91.211(a)(1)	Extension of Exemption 2989B, to allow petitioner to conduct operations with its McDonnel Douglas DC-6, DC-7, and DC-7B aircraft without a required flight engineer flight crewmember holding a flight engineer certificate.
24904	Omniflight Helicopters, Inc.	14 CFR 133.1 &	To allow petitioner to carry properly trained personnel below the helicopter for the accomplishment of routine maintenance and construction on powerline utility projects.

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relied sought—Disposition
24613	Continental West Airlanes, Inc.	14 CFR 121.3	To permit petitiner to operate as a domestic air carrier and a flag air carrier without a Federal Aviation Administration (FAA) air carrier operating certification when using airplanes maintained and operated by petitioner. *Withdrawn 7/19/85.*

DISPOSITIONS OF PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relied sought—Disposition
20314	Flight Training Devices	14 CFR 61.63(d)(2)	To allow petitioner's trainees to complete a portion of the practical test for the issuance of an airplace transport pilot certificate or a type rating to be added to any grade of pilot certificate, by substituting the flight test requirement of § 61.1576(a) for those of § 61.63(d)(2) and (3), limited to the items and procedures for testing in an airplane simulator as set forth in Appendix A Part 61. *Granted 2/28/86.*
24858	Pumpkin Air, Inc.	14 CFR 135.267(b) & (d)	To allow petitinoer to assign pilots for flight times in excess of eight (8) hours for a flighcrew consisting of one (1) pilot and ten (10) hours of rest during the twenty-four (24) hour period that precede the planned completion time of the assignment. *Denied 2/27/86.*
24135–1	Icelandiar	14 CFR 91.303	To exempt petitioner from the January 1, 1985, noise level compliance date. *Amended Grant 2/26/86.*
24372	Linea Aerea Nacionale-Chile, S.A.	14 CFR 91.303	To exempt petitioner from the January 1, 1985, noise level compliance date. *Amended Partial Grant 2/28/86.*
24639	Florida West Airlines, Inc.	14 CFR 91.303	To exempt petitioner from the January 1, 1985, noise level compliance date. *Amended Grant 2/27/86.*
23982–1	Independent Air, Inc.	14 CFR 91.303	To exempt petitioner from the January 1, 1985, noise level compliance date. *Amended Partial Grant 2/25/86.*
20635	Beech Aircraft Corp.	14 CFR 21.197	To permit petitioner to fly aircraft from one facility to another for purpose of completion and certification. *Granted 2/26/86.*
24681 and 24880	Omniflight Offshore, Inc.	14 CFR 43.3(g)	To permit pilots of petitioner to remove, check, and reinstall cowlings and replenish hydraulic fluids on its Bell 206 helicopters. *Denied 3/12/86.*
24891	Air Midwest, Inc.	14 CFR 135.337 135.339	To permit petitioner to use certain instructor pilots of Embraer Aircraft Corporation to train petitioner's initial cadre of pilots in the Embraer 120 (EMB–120) type airplane without holding U.S. certificates and ratings and without meeting all of the applicable training requirements of Subpart H of Part 135 of the FAR. *Granted 3/11/86.*
24724	Mr. George E. Farrell	14 CFR 313(a), 601(c) & 603	To permit the use of a Federal Aviation Administration (FAA)-approved minimum equipment list (MEL). *Granted 3/13/86.*
22706	Bankair, Inc.	14 CFR 135.225(e)(1)	To allow petitioner to operate from certain military airfields using lower than standard takeoff visibility minimums of less than 1 statute mile provided the takeoff visibility minimums are equal to or greater than the landing visibility minimums established for the airfields, subject to certain conditions and limitation. *Granted 3/7/86.*
24146–1	South Pacific Island Inc.	14 CFR 91.303	To extend the January 1, 1985, noise level compliance date, to cover operations among various poits in the South Pacific. *Granted 2/26/86.*

[FR Doc. 86–6933 Filed 3–28–86; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Income Taxes; 1987 Electronic/Magnetic Media Filing Test; Form 1065 and Form 1041 Returns

AGENCY: Internal revenue Service, Treasury.

ACTION: Electronic/magnetic media filing test.

SUMMARY: A growing number of tax preparation firms use computers to prepare tax return. To take advantage of this trend, the Internal Revenue Service (IRS) is planning to conduct a pilot test in 1987 in which qualified preparers may file calendar year 1986 Form 1065 and 1041 via electronic transmission or on magentic medic. These returns will be filed in the IRs Service Center in Andover, Massachusetts, beginning in January 1987.

DATE: Comments and suggestions as well as expressions of interest should be submitted by April 30, 1986.

ADDRESS: Assistant Commissioner (Planning, Finance and Research), Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (Attn: Electronic Filing Office). Telephone 202–566–7541 (not a toll-free number).

SUPPLEMENTARY INFORMATION: Electronic/magnetic media filing eliminates most of the manual processes required to handle paper returns, thus reducing the time required to complete processing the returns and increasing the quality of the final product. Firms that prepare the foregoing returns as well as those that are interested in participating in the pilot should write to the IRS at the above address.

The IRS is currently preparing the draft version of a revenue procedure which will spell out the requirements for participation in this test. Interested return-preparer input will help guide the development of the specifications. The draft revenue procedure should be available by late April 1986. Generally, the revenue procedure will call for the transmission, either electronically or via magnetic media, of all the data currently supplied on the paper return, including the appropriate schedules, such as Schedule K–1. In addition, return preparers will be required to transmit to the IRS, either with a magnetically filed return or subsequent to the transmission of an electronic return, an separate form with certain key tax information from the return and the signatures of both the preparer and taxpayer, as well as the various supporting documents which normally accompany a return.

John L. Wedick, Jr.,

Assistant Commissioner, (Planning, Finance and Research).

[FR Doc. 7053 Filed 3–28–86; 8:46 am]
BILLING CODE 4830–01–M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 61
Monday, March 31, 1986

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

FEDERAL COMMUNICATIONS COMMISSION

March 27, 1986.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, April 3, 1986, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, DC.

Agenda, Item No., and Subject

Private Radio—1—Title: Reorganization and revision of Parts 81 and 83 of the rules to provide a new Part 80 governing the maritime radio services. Summary: In the Report and Order the FCC will consider whether to revise and reorganize the existing Parts 81 and 83 of its rules to produce a new Part 80 governing the maritime radio services. The objective is to review these regulations and eliminate unnecessary language and rules.

Private Radio—1—Title: Amendment of Parts 0, 1, 2, 13, 21, 63, 87, 90 and 94 of the Commission's rules to reflect reorganization of the maritime rules into a new Part 80. Summary: The Commission will decide whether to adopt an Order to make minor, non-substantive changes to conform Commission regulations to the reorganization of the maritime rules (Parts 81 and 83) into the new Part 80.

Private Radio—2—Title: In the Matter of Frequency Coordination in the Private Land Mobile Radio Services. Summary: The FCC will consider whether to revise its private land mobile frequency coordination rules and policies and to what extent the private sector will be involved in the overall licensing process.

Common Carrier—1—Title: Establishment of Separate Satellite Systems Providing International Commissions. Summary: The Commission will consider the issues raised in several petitions for reconsideration of its Report and Order in CC Docket 84-1299, as well as in petitions for reconsideration of orders conditionally granting six separate system applications.

Common Carrier—2—Title: In the Matter of Petitions for Waiver of Various Sections of Part 69 of the Commission's Rules, filed by the Mountain States Telephone and Telegraph Company, Northwestern Bell Telephone Company, Pacific Northwest Bell Telephone Company, the Bell Atlantic Telephone Companies, Pacific Bell, New England Telephone and Telegraph Company, and BellSouth Corporation. Summary: The Commission will consider whether to grant these petitions for waiver of various sections of Part 69 of the Commission's Rules in order to collect their interstate non-traffic-sensitive carrier common line revenue requirements through charges other than the Carrier Common Line Charge.

Common Carrier—3—Title: Separation of costs of regulated telephone service from costs of nonregulated activities. Amendment of Part 31, the Uniform System of Accounts for Class A and Class B Telephone companies, to provide for nonregulated activities and to provide for transactions between telephone companies and their affiliates. Summary: The Commission will consider whether to adopt a Notice of Proposed Rulemaking seeking comment on rules for allocating costs between the regulated and nonregulated activities of telephone companies; amendments to the current rules for accounting for nonregulated activities and rules for recording transactions between telephone companies and their affiliates.

Mass Media—1—Title: Amendment of Part 74 of the Commission's Rules to Provide for Satellite and Terrestrial Microwave Feeds to Noncommercial Educational FM Translators (RM-5219). Summary: The Commission will consider a Petition for rule Making filed by the Moody Bible Institute of Chicago that requests the expansion of noncommercial educational FM translator authority to permit the rebroadcast of signals fed by satellite or terrestrial microwave.

Mass Media—2—Title: Report on the Status of the AM Broadcast Rules. Summary: The Mass Media Bureau staff has prepared a report on the status of AM broadcasting for consideration by the Commission.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Judith Kurtich, FCC Office of Congressional and Public Affairs, telephone number (202) 254-7674.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-7143 Filed 3-27-86; 3:02 pm]

BILLING CODE 6712-01-M

2

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

March 26, 1986.

TIME AND DATE: 2:00 p.m., Tuesday, April 1, 1986.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Closed (pursuant to 5 U.S.C. 552b(c)(10)).

MATTERS TO BE CONSIDERED: In addition to the previously announced item, the Commission will also discuss the following:

2. Secretary of Labor on behalf of Clarke v. T.P. Mining, Inc., Docket No. LAKE 83-97-D. (Issues include consideration of a motion for reconsideration of the Commission's decision reported at 7 FMSHRC 1010 (July 1985).)

3. UMWA on behalf of Rowe, et al. v. Peabody Coal Co., etc., Docket Nos. KENT 82-103-D, etc. [Issues include consideration of a motion for reconsideration of the Commission's decision reported at 7 FMSHRC 1136 (August 1985).]

It was determined by a unanimous vote of Commissioners that these items be added to the agenda and that no earlier announcement of the addition was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-5629.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 86-7103 Filed 3-27-86; 12:04 am]

BILLING CODE 6735-01-M

3

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

March 26, 1986.

TIME AND DATE: 10:00 a.m., Wednesday, March 26, 1986.

PLACE: Room 600, 1730 K St., NW., Washington, DC.

STATUS: Closed (pursuant to 5 U.S.C. § 552b(c)(10)).

MATTERS TO BE CONSIDERED: In addition to the previously announced items, the Commission also discussed the following:

4. Robert Simpson v. Kenta Energy, Inc., & Roy Dan Jackson, Docket No. KENT 83-155-D. (Consideration of a petition for reconsideration of a prior Commission order issued on January 31, 1986.)

It was determined by a unanimous vote of Commissioners that this item be added to the agenda and that no earlier announcement of the addition was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5629.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 86–7014 Filed 3–27–86; 12:04 pm]

BILLING CODE 6735–01–M

4

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Thursday, April 3, 1986.

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: March 27, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86–7071 Filed 3–27–86; 10:12 am]

BILLING CODE 6210–01–M

5

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Friday, April 4, 1986.

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: March 27, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86–7184 Filed 3–27–86; 4:00 pm]

BILLING CODE 6210–01–M

6

UNITED STATES INSTITUTE OF PEACE

TIMES AND DATES:

9:00 a.m.–5:00 p.m.—April 8, 1986
9:00 a.m.–5:00 p.m.—April 9, 1986
9:00 a.m.–5:00 p.m.—April 29, 1986
9:00 a.m.–5:00 p.m.—April 30, 1986

PLACE: April 8, 9, 29 and 30, 1986—National Trust for Historic Preservation, 1785 Massachusetts Avenue, NW., Washington, DC, 2d Floor Board Room.

STATUS: Open.

AGENDA (TENTATIVE):

April 8, 1986. Board meeting convened. Introduction to National Trust for Historic Preservation, J. Jackson walter, President. Organization and Administration Committee. 12:30–2:00, lunch. Research and Studies Committee.

April 9, 1986. Information Services Committee. 12:00–1:30 lunch. 1:30–4:30, Board meeting.

April 29, 1986. Board meeting convened. Education and Training Committee. 12:30–2:00, lunch. Personnel Committee.

April 30, 1986. Institutional Planning Committee. 12:00–1:30, lunch. 1:30–4:30, Board meeting.

CONTACT: Donna Ganoe. Telephone (804) 924–7441.

Dated: March 24, 1986

John Norton Moore,

Chairman, Board of Directors, United States Institute of Peace.

[FR Doc. 86–7141 Filed 3–27–86; 2:36 pm]

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Federal Register

Monday
March 31, 1986

Part II

Department of Commerce

National Telecommunications and Information Administration

Grants for Planning and Construction of Public Telecommunications Facilities; Acceptance of Applications for Filing

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Grants for Planning and Construction of Public Telecommunications Facilities; Acceptance of Applications for Filing

I. New Applications and Major Amendments to Deferred Applications

Notice is hereby given that the following described applications for Federal financial assistance are accepted for filing under provisions of Title III, Part IV, of the Communications Act of 1934, as amended (47 U.S.C. 390–94) and in accordance with 15 CFR Part 2301. All of the applications listed in this section were received by January 15, 1986. The effective date of acceptance of these proposals, unless otherwise indicated herein, is "Date Received". Applications are listed by their State.

The acceptance of applications for filing is a procedure designed for making preliminary determinations of eligibility and for providing the opportunity for public comment on applications. Acceptance of an application does not preclude subsequent return or disapproval of an application if it is found to be not in accordance with the provisions of either the Act or 15 CFR Part 2301, or if the applicant fails to file any additional information requested by the Public Telecommunications Facilities Program (PTFP). Acceptance for filing does not assure an application of being funded; it merely qualifies it to compete for funding with other applications which have also been accepted for filing.

Pursuant to 15 CFR 2301.9, applicants were required to publish in a newspaper of general circulation, in a community to be served by the applicant, a notice that such applications has been tendered to the PTFP of the National Telecommunications and Information Administration. The notice shall have been published once a week for two consecutive weeks on or before January 15, 1986. The notice included (1) information as to where within the community to be served a copy of the application, and any amendments hereto, may be inspected by the public during normal business hours; and (2) an invitation for parties supporting or opposing the application to file comments with the Administrator, National Telecommunications and Information Administration, Public Telecommunications Facilities Program, Washington, DC 20230. All comments must be filed within fifteen (15) calendar days from the date of the public notice of acceptance of the applications and must be accompanied by written assurance that a copy of the comments has been mailed to the applicant.

Scott Mason,

Chief, Management Branch.

Alaska

File No. 6034 PTB. Kodiak Public Broadcasting Corp., 718 Mill Bay Road, Kodiak, AK 99615. Signed By: Mr. Alan Schmitt, President. Funds Requested: $26,727. Total Project Cost: $26,727. To investigate the alternative means available to construct and operate a noncommercial TV station on Kodiak Island, in the south of Alaska. The signal would be broadcast over Ch. 9 and would bring a first public TV service, with local origination capability, to over 10,000 Kodiak residents. The project will be performed in close cooperation with Kodiak Community College.

File No. 6064 CTB. University of Alaska, Fairbanks, AK 99775–1420. Signed By: Mr. Jerome Trojan, Vice Chancellor for Administra. Funds Requested: $49,537. Total Project Cost: $66,050. To improve the computer-assisted videotape editing capabilities of pulic TV station KUAC, Ch. 9, licensed to the Unviersity of Alaska at Fairbanks. The project will pruchase a video switcher with Key-Mem and audio mixer options, an audio mixer, and audio tape recorder with an appropriate synchronizer, and four Intelligent Interfaces to link these items and other 1" video tape recorders already in the studio.

File No. 6075 CRB. Dillingham City School District, Box 670, Dillingham, AK 99576. Signed By: Ms. Dorothy Larsen, President, Dillingham City Sch. Funds Requested: $69,487. Total Project Cost: $94,487. To purchase a new transmitter and related monitoring and test equipment for noncommercial radio station KDLG–AM, 670 kHz, Dillingham, AK. The project will increase KDLG's tranmitter power from 5 kw to 10 kw and thus protect its status as a Class 1–N station. The project will also bring a first public radio signal to nearly 2,000 residents of southwestern Alaska, most of them are Native Americans in remote, isolated villages.

File No. 6076 CRN. Alaska Info. Radio Reading, 120 E. 3rd Ave., Anchorage, AK 99510. Signed By: Ms. Louise Rude, President of Board. Funds Requested: $20,700. Total Project Cost: $27,600. To purchase 300 subcarrier receivers to extend the coverage of the programming for the print handicapped produced by the Alaska Information Radio Reading and Education Services, Anchorage. The programming is transmitted on the subcarrier frequency of FM radio station KSKA, 91.1 MHz, Anchorage.

File No. 6082 CRN. Narrows Broadcasting Corporation, 503 2nd Street, P.O. Box 149, Petersburg, AK 99833. Singed By: Ms Cynthia Flora, President and Chair. Funds Requested: $24,530. Total Project Cost: $32,707. To activate an SCA dissemination and production facility at public radio station KFSK–FM, 100.9 MHz, Petersburg, AK. The programming will be designed to meet the needs of the elderly, the physically handicapped, and the print handicapped of the Petersburg area. KFSK will produce some programs; other programming will be drawn from a variety of sources nationwide, delivered via satellite. The project will also purchase 50 receivers.

File No. 6083 CRB. Rainbird Comm. Brdcsting. Corp., 716 Totem Way, Ketchikan, AK 99901. Signed By: Mr. Jose Mateu, President. Funds Requested: $30,095. Total Project Cost: $40,133. To replace worn-out studio equipment—particularly tape recorders, cartridge machines, and an audio console—at noncommercial radio station KRBD-FM, 105.9 MHz, in Ketchikan, Alaska.

File No. 6199 CRB. Kashunamiut School District, P.O. Box 6144, Chevak, AK 99563. Signed By: Mr. Alex Tatum, Superintendent. Funds Requested: $135,480. Total Project Cost: $180,642. To construct a noncommercial FM repeater station, with local origination capability, on 88.1 MHz, in Chevak, AK and an associated FM translator in Scammon Bay, AK, to bring the first public radio signal to approximately 1830 residents of western Alaska, most of them Native Americans. The repeater station will rebroadcast the signal of noncommercial station KYUK–AM, Bethel, AK.

File No. 6237 CRB. Gwandak Public Broadcasting, Inc, P.O. Box 189, Fort Yukon, AK 99740. Signed By: Mr. Barry Wallis, President. Funds Requested: $177,339. Total Project Cost: $236,452. To activate a noncommercial public AM radio station in Fort Yukon, AK, with local origination capability to bring a first noncommercial radio signal to approximately 1200 residents of the Yukon Flats Region of the interior of Alaska. Over 75 percent of the people living in the proposed coverage area are Athabaskan Indians. The new station will operate at 900 kHz.

File No. 6335 CRB. Kuskokwim Public Brdcstng. Corp., P.O. Box 70, McGrath, AK 99627. Signed By: Mr. Ken Chase, President. Funds Requested: $110,327. Total Project Cost: $165,327. To purchase a new AM transmitter and STL and construct a new antenna for public radio

station KSKO–AM, 870 kHz, in McGrath, AK. The project will increase KSKO's transmitter power from 5kw to 10kw and will thus preserve KSKO's status as a Class 1–N "Clear Channel" station. The project will also bring a first public radio signal to 1227 residents of west central Alaska, most of them Native Americans.

Alabama

File No. 6013 CRB. Sable Community Brdcsting Corp., 711 Church Street, P.O. Box 3197, Hobson City, AL 36203. Signed By: Ms. Maudine Holloway, President. Funds Requested: $98,721. Total Project Cost: $131,629. To activate a new educational public radio station on 91.3 MHz in Hobson City, Alabama. Station will serve an estimated 119,761 residents of Hobson City, Anniston, and Calhoun County.

File No. 6128 CRB. Alabama State University, 915 South Jackson Street, Montgomery, AL 36195–0301. Signed By: Mr. Leon Howard, President. Funds Requested: $162,408. Total Project Cost: $216,544. To expand and improve noncommercial educational radio station WVAS–FM, operating 90.7 MHz, in Montgomery. WVAS–FM seeks to acquire tower and other dissemination equipment plus origination equipment in order to improve service to Montgomery and surrounding areas.

File No. 6143 CTB. Alabama ETV Commission, 2101 Magnolia Avenue, Birmingham, AL 35256. Signed By: Mr. Wilbur Hinton, General Manager. Funds Requested: $1,309,421. Total Project Cost: $1,745,895. To replace and upgrade the transmission and origination equipment of the Alabama ETV Network. Network serves 3,991,026 residents of the state of Alabama. Project seeks funding for the improvement of nine TV stations, replacement of the state microwave interconnection system and equipment for network telecommunications center and tape delay center. Application supplements request in file No. 6043.

File No. 6144 CTN. University of Alabama, University Blvd., University, AL 35486. Signed By: Mr. Robert Wright, Vice President & Treasurer. Funds Requested: $376,467. Total Project Cost: $502,018. To improve/upgrade the production capabilities of the University Television Services. UTS provides major production facilities in support of the Alabama educational television network which serves approximately 4 million residents of the state. In addition, proposal seeks equipment to outfit an instructional TV classroom which will allow production of ITV programming without interfering with public TV productions.

File No. 6233 CRB. Alabama Community Colleges, 100 George Wallace Drive, Gadsden, AL 35999–9990. Signed By: Mr. Robert Howard, President. Funds Requested: $55,575. Total Project Cost: $74,100. To increase the coverage area of public radio station WSGN–FM by increasing station power, raising antenna height and changing frequency. Station serves an area in the Appalachian region of northeast Alabama.

File No. 6259 CRB. University of Alabama, University Station, Birmingham, AL 35294. Signed By: Mr. Kenneth Pruitt, Ph.D, Associate Vice President, Rese. Funds Requested: $25,884. Total Project Cost: $34,513. To replace worn out reel-to-reel and cartridge tape equipment at public radio station WBHM–FM, operating on 90.3 MHz, in Birmingham. Station serves approximately 900,000 residents of Birmingham and the surrounding areas.

File No. 6276 CRN. University of Alabama, 1028 7th Ave., South, Birmingham, AL 35924. Signed By: Mr. Kenneth Pruitt, Ph.D, Associate Vice President, Rese. Funds Requested: $15,000. Total Project Cost: $20,000. To acquire 237 new SCA receivers for use by four public radio stations in Alabama. Stations are WBHM—Birmingham, WUAL—Tuscaloosa, WLRH—Huntsville and WTSU—Montgomery. Receivers will allow print handicapped individuals to receive radio reading service of WBHM–FM located in Birmingham.

File No. 6290 CRB. The University of Alabama, #7 Bryce Lawn, Tuscaloosa, AL 35486. Signed By: Mr. Robert Wright, President. Funds Requested: $32,730. Total Project Cost: $43,641. To construct a new noncommercial educational FM station in Muscle Shoals, Alabama. Station would repeat the signal of WUAL–FM, Tuscaloosa and would provide a first public radio service to an estimated 191,379 residents of northwest Alabama. This project supplements grant number 01–01–55108 awarded in 1985.

Arkansas

File No. 6101 CTB. Arkansas ETV Network Comm., 350 South Donaghey, Conway, AR 72032. Signed By: Mr. Raymond Ho, Executive Director, AETN. Funds Requested: $642,687. Total Project Cost: $856,917. To replace transmitter, antenna, transmission line, and acquire test equipment for KETS–TV, channel 2, in Little Rock. Station serves approximately 1,220,500 residents of central Arkansas.

File No. 6159 CRB. Little Rock Public Schools, 7701 Scott Hamilton Drive, Little Rock, AR 72209. Signed By: Mr. Edward Kelly, Superintendent of Schools. Funds Requested: $117,210. Total Project Cost: $156,280. To increase power of public radio station KLRE–FM from 40,000 watts to 100,000 watts. KLRE provides public radio service to Little Rock on 90.5. Request includes antenna, STL and conversion of two year old transmitter.

File No. 6261 CRB. University of Central Arkansas, Bruce & Donaghey Streets, Conway, AR 72032. Signed By: Mr. Jefferson Farris, President. Funds Requested: $66,620. Total Project Cost: $88,827. To improve and upgrade noncommercial radio station KUCA–FM, operating on 91.3 MHz, in Conway. KUCA–FM seeks funding to replace worn out/obsolete production equipment and at the same time convert to a FM stero service. Station serves an estimated 350,000 residents of central Arkansas.

American Samoa

File No. 6058 CTB. American Samoa Government, Pago Pago, AS 96799. Signed By: Mr. Leo'o Va'a Ma'o, Director, Funds Requested: $503,995. Total Project Cost: $503,995. To improve the facilities of KVZK, channel 2, serving American Samoa, by providing studio lighting, switching and other production equipment. The project would also provide for a portable microwave system to enable the station to provide live programming from throughout the island of American Samoa.

Arizona

File No. 6033 CRB. Northern Arizona University, Box 5764, Flagstaff, AZ 86011. Signed By: Mr. Eugene Hughes, President. Funds Requested; $24,802. Total Project Cost: $33,070. To upgrade the facilities and extend the signal of noncommercial FM station KNAU operating on 88.7, Flagstaff, Arizona by supplying news and studio and downlink equipment backup transmitter parts and placing translators in Page and Kingman to provide first public radio service to 16,800 residents of northern and northwestern Arizona.

File No. 6184 CTB. Navajo Community College, Tsaile, AZ 86556. Signed By: Mr. Dean Jackson, President. Funds Requested: $421,847. Total Project Cost; $562,463. To continue the development of the Navajo Nation Network based in Tsaile, Arizona. To provide a first public television service to the Navajo reservation in Arizona, New Mexico and Utah.

File No. 6288 CTB. Arizona State University, Stauffer Building, Tempe, AZ 85287. Signed By: Dr. Brent Brown, Vice

President University Rela. Funds Requested: $137,025. Total Project Cost: $182,700. To improve the production and transmission facilities of public television station KAET operating on channel 8 in Tempe/Phoenix, Arizona by replacing their obsolete master control switching systems with a state of the art system.

California

File No. 6001 CRB. Cal. State Univ., Northridge, 18111 Nordhoff Street, Northridge, CA 91330. Signed By: Dr. Bob Suzuki, Vice President. Funds Requested: $51,041. Total Project Cost: $68,850. To extend the signal of public radio station KCSN, operating on 88.5 MHz in Northridge CA, to the residents of the Santa Clarita Valley by relocating the stations's transmission facility to Loop Canyon. The relocation would provide first public radio service to 96,986 people in the Santa Clarita Valley, and additional service to 345,173 people in the San Fernando Valley area of Los Angeles county.

File No. 6010 PRB. UHURU Communications, Inc., 349 W. 45th Street, Los Angeles, CA 90037. Signed By: Mr. Sylvester Rivers, Chief Executive Officer. Funds Requested: $53,591. Total Project Cost: $53,591. To plan for the establishment of an audio production facility in Los Angeles to provide programming about blacks to public radio stations on a national level.

File No. 6016 CTB. Northern Cal. Ed. TV Assoc., Inc., 825 Industrial St., P.O. Box 9, Redding, CA 96002. Signed By: Mr. Victor Hogstrom, General Manager. Funds Requested: $374,929. Total Project Cost: $499,906. To improve the facilities of KIXE–TV, operating on Ch. 9 in Redding, by replacing obsolete master control, switching, videotape and production equipment for use in a new studio facility. KIXE–TV serves some 520,000 people in nine counties in Northern California.

File No. 6035 CTN. Imperial County Office of Ed., 1398 Sperber Road, El Centro, CA 92243. Signed By: Dr. William Fisher, Assistant Superintendent. Funds Requested: $389,837. Total Project Cost: $519,783. To establish a two channel ITFS system to serve the schools and citizens of Imperial County, California.

File No. 6099 CTB. Santa Clara County Brd. of Ed., 100 Skyport Drive, San Jose, CA 95115. Signed By: Mr. Maynard Orme, General Manager. Funds Requested: $80,250. Total Project Cost: $108,100. To improve the facilities of public television station KTEH, operating on Ch. 54 in San Jose, by purchasing four ½" videotape recorders to replace obsolete equipment. KTEH serves some three million residents in the San Francisco Bay area of California.

File No. 6131 CRB. Radio Bilingue, 1044 Fulton Mall, Fresno, CA 93721. Signed By: Mr. Hugo Morales, Executive Director. Funds Requested: $89,432. Total Project Cost: $119,243. To establish a new public radio station operating on 90.1 MHz to serve the Spanish speaking residents of the Bakersfield area. The station would rebroadcast programs from KSJV Fresno, and would have studios for local originations.

File No. 6135 CTB. Minority Television Project, Inc, 353 Sacramento Street, San Francisco, CA 94111–3626. Signed By: Ms. Marvell Allen, Chief Financial Officer. Funds Requested: $350,748. Total Project Cost: $467,665. To establish a public television station operating on Ch. 32, San Francisco, to serve Bay area black and minority audiences. Applicant is opposing the renewal of KQEC–TV, which currently broadcasts on Ch. 32, San Francisco. Applicant proposes to purchase used Ch. 32 transmission equipment, new production equipment and a satellite receive terminal. Station would provide service to 4.5 million residents of the Bay area, including 1.5 million members of minority groups.

File No. 6156 CTN. Cal. State Univ. Foundation, 400 Golden Shore, Long Beach, CA 90802–4275. Signed By: Dr. Herb Carter, Assistant Treasurer. Funds Requested: $603,919. Total Project Cost: $946,899. to establish a four channel Instructional Television Fixed Service system in Bakersfield and extend the Central Valley Microwave Network to California State College, Bakersfield. The project will serve some one million people in eight counties in the San Joaquin Valley.

File No. 6160 CTB. Los Angeles Unified School Dist., 1061 West Temple Street, Los Angeles, CA 90012. Signed By: Mr. Joseph Linscomb, Associate Superintendent. Funds Requested: $361,530. Total Project Cost: $482,040. To improve the production facilities of public television station KLCS–TV, operating on Ch. 58 in Los Angeles, by replacing obsolete quadroplex videotape recorders with modern one inch and three quarter inch videotape recorders. KLCS–TV serves 1.6 million students and adults in the greater Los Angeles area.

File No. 6185 CTB. KQED, Inc., 500 Eighth Street, San Francisco, CA 94103. Signed By: Mr. Anthony Tiano, President & General Manager. Funds Requested: $455,300. Total Project Cost: $607,070. To improve the facilities of public television stations KQED, operating on Ch. 9, and KQEC, operating on Ch. 32, by replacing obsolete cameras and routing switchers. Both stations serve some four million people in the San Francisco Bay area.

File No. 6188 CRB. University of Southern CA, 3716 South Hope Street, Los Angeles, CA 90007. Signed By: Mr. Cornelius Pings, Senior Vice President, Funds Requested: $100,955. Total Project Cost: $134,607. To establish a noncommercial FM radio station operating on 91.7 MHZ. to serve the 133,097 residents of the Coachella Valley in Riverside County, including the communities of Palm Desert, Palm Springs, Rancho Mirage, Indio, Thousand Palms, Mecca and others. The station will have local studios in Palm Desert and will also rebroadcast programs from KUSC–FM Los Angeles.

File No. 6278 PRB. Community Media, Inc., 1155 East 148th Street, Compton, CA 90220. Signed By: Mr. Everson Esters, President, Board of Directors. Funds Requested: $69,905. Total Project Cost: $87,905. To plan for a minority operated public radio station to serve the residents of Compton and surrounding communities in the Los Angeles metropolitan area. The plan would investigate construction of a new FM station, use of SCA channels, and cooperation with existing educational and broadcast entities. The project would serve an estimated 800,000 people.

File No. 6307 CTB. Rural California Brdcstng. Corp., Box 2638, Rohnert Park, CA 94928. Signed By: Mr. James Alexander, President. Funds Requested: $6,120. Total Project Cost: $8,160. To improve the ability of public television station KRCB–TV, operating on Ch. 22 in Rohnert Park, to provide uninterrupted service to the 600,000 residents of Sonoma, Napa and Marin counties by purchasing spare tubes for the transmitter.

File No. 6308 CRN. Unique Services for the Blind, 744 P Street, M/S 5–134, Sacramento, CA 95814. Signed By: Ms. Lynda Bardis, Project Director. Funds Requested: $77,318. Total Project Cost: $103,091. To establish a Sacramento Radio Information Service for the blind using the Second Audio Program channel of public television station KVIE–TV, operating on Ch. 6, in Sacramento. SRIS will supply three hundred SAP decoders, and will provide readings of newspapers, news, and information to the print handicapped.

File No. 6336 CTB. Community TV of Southern CA, 4401 Sunset Blvd., Los Angeles, CA 90027. Signed By: Mr. Donald Youpa, Senior Vice President. Funds Requested: $249,933. Total Project Cost: $333,244. To improve the facilities of public television station KCET,

operating on Ch. 28, Los Angeles, by replacing an obsolete routing switcher and Studio-Transmitter Link. The project would also enable KCET to add stereo audio and a second audio program channel for broadcast in Spanish and other languages to serve the multicultural audiences of the greater Los Angeles area.

Colorado

File No. 6022 CRB. KUTE, Inc., P.O. Box 737, Ignacio, CO 81137. Signed By: Mr. Jack McDonald, General Manager. Funds Requested: $16,464. Total Project Cost: $21,952. To extend and improve the signal of noncommercial FM radio station KSUT–FM operating on 91.3 by replacing an obsolete transmitter and installing new translator facilities to improve the public radio signal to the southern Ute reservation and to bring a first public radio service to 15,650 new listeners in Durango, Colorado.

File No. 6148 CRB. The Colorado College, 14 E. Cache La Poudre Street, Colorado Springs, CO 80903. Signed By: Mr. Gresham Riley, President. Funds Requested: $50,576. Total Project Cost: $68,751. To extend the signal of noncommercial FM radio station KRCC–FM, operating on 91.5 by increasing power and providing translator service to 145,700 new first service listeners in south central Colorado.

File No. 6186 CTB. National Technological Univ., 601 S. Howes St., P.O. Box 700, Fort Collins, CO 80522. Signed By: Mr. Lionel Baldwin, President. Funds Requested: $1,021,538. Total Project Cost: $1,909,113. to expand a national satellite based network through National Technological University in Fort Collins, Colorado to provide a system for continuing graduate level engineering and technical education at work sites from 10 additional uplinks nationally.

File No. 6220 CRB. San Miguel Education Fund, 107 West Columbia Ave., Telluride, CO 81435. Signed By: Mr. Robert Allen, Station Manager. Funds Requested: $104,579. Total Project Cost: $140,686. To extend and improve the signal of public radio station KOTO–FM, operating on 91.7, Telluride, Colorado, by increasing power, installing a satellite receiving dish to receive NPR programming and adding additional remote and studio production capability.

File No. 6318 CRB. State Board of Agriculture, Colorado State University, Fort Collins, CO 80523. Signed By: Mr. Eugene Petrone, Executive Director. Funds Requested: $24,948. Total Project Cost: $33,263. To upgrade the facilities of public radio station KCSU–FM, operating on 90.5, Fort Collins, Colorado by replacing an obsolete antenna, production and control room consoles.

File No. 6322 CTB. Garfield County, 109 8th St., Suite 300, Glenwood Springs, CO 81601. Signed By: Mr. Larry Schmueser, Chairman, Garfield County Comm. Funds Requested: $37, 875. Total Project Cost: $50,500. To replace two originating translators which feed KRMA–TV, channel 6, Denver to 21 other translators throughout west central Colorado with state of the art transmission facilities.

Connecticut

File No. 6067 CTB. Connecticut Ed. T/C Corporation, 24 Summit Street, Hartford, CT 06106. Signed By: Mr. Jerry Franklin, President. Funds Requested: $292,800. Total Project Cost: $552,800. To improve programming capabilities of noncommercial telecommunication entity serving the state of Connecticut by replacing obsolete editing equipment, switching, audio consoles, telecine and other production equipment.

File No. 6068 CRB. Connecticut Ed. T/C Corporation, 24 Summit Street, Hartford, CT 06106. Signed By: Mr. Jerry Franklin, President. Funds Requested: $113,614. Total Project Cost: $213,614. To establish a noncommercial FM radio station operating on 88.5 in Stanford, Connecticut which will provide first local service to the area.

File No. 6343 CRB. Sacred Heart University, 5229 Park Avenue, Fairfield, CT 06430. Signed By: Mr. Thomas Melady, President. Funds Requested: $130,800. Total Project Cost: $180,800. To increase power of noncommercial WSHU–FM in Fairfield to 12.5 kw. This increase would provide a first public radio signal to the counties of Suffolk and Nassau in New York.

District of Columbia

File No. 6200 CRB. Pacifica Foundation, Inc., 700 H Street, NW, Washington, DC 20001–3794. Signed By: Ms. Marita Rivero, Vice Chair. Funds Requested: $65,945. Total Project Cost: $95,445. To improve WPFM–FM, 89.3 MHz, in Washington, D.C., by acquiring a new antenna and necessary equipment to allow it to provide adequate production, control and editing studios. Station provides programming that is disseminated locally as well as to the other Pacifica stations.

File No. 6217 CTN. NITV—Net. for Instructional TV, P.O. Box 18656, Washington, DC. Signed By: Mr. John Curtis, President. Funds Requested: $407,699. Total Project Cost: $569,229. To establish a national satellite network to serve 151,000 public and private schools. Local distribution will be achieved through CATV and ITFS.

File No. 6242 CTN. Howard University, P.O. Box 961, Admin. Building, Washington, DC 20059. Signed By: Dr. Caspa Harris, Vice President for Business. Funds Requested: $1,071,448. Total Project Cost: $1,426,587. To purchase additional satellite transmission equipment and receive only satellite TV dishes for installation at fifty-five historically black colleges and universities that are participating in a telecommunications network that will provide a broad range of academic and career development programming for the students and faculties.

File No. 6265 CRB. Greater Wash. Ed. T/C Asso., Inc, Box 2626, Washington, DC 20013. Signed By: Mr. F. Kim Hodgson, Vice President & Gen. Manager. Funds Requested: $154,385. Total Project Cost: $205,850. To replace aging and/or obsolete equipment in the air and production control rooms of public radio station WETA–FM. 90.9 MHz, in Washington, D.C. Station serves an estimated 4,125,300 residents of the metropolitan Washington, D.C. area.

File No. 6349 CTB. Greater Wash. Ed T/C Asso., Inc., P.O. Box 2626, Washington, DC 20013. Signed By: Mr. Robert Ruggiero, Senior Vice President. Funds Requested: $401,250. Total Project Cost: $535,000. To replace air and production switchers of WETA–TV serving the greater Washington, D.C. area with a noncommercial television signal.

Florida

File No. 6007 CTB. The University of Florida, 219 Grinter Hall, Gainesville, FL 32611. Signed By: Mr. Dillard Marshall, Assistant Director of Research. Funds Requested: $102,652. Total Project Cost: $136,870. To improve public TV station WUFT–TV, channel 5, by replacing a worn out, obsolete film chain. WUFT–TV serves approximately 600,000 resident of north central Florida.

File No. 6121 CTN. Florida Jr. College-Jacksonville, 501 West State Street, Jacksonville, FL 32202. Signed By: Mr. Charles Spence, President. Funds Requested: $171,354. Total Project Cost: $228,473. To activate a third ITFS channel to serve senior citizens and minorities located in public housing projects and low income areas in and around Jacksonville. Project will potentially benefit an estimated 67,960 residents.

File No. 6202 CTB. The University of South Florida, 4202 Fowler Avenue, SVC 116, Tampa, FL 33620. Signed By: Mr. Frank Lucarelli, Acting Director. Funds Requested: $705,942. Total Project Cost: $941,257. To replace worn out and obsolete broadcast equipment at public

television station WUSF–TV, channel 16, in Tampa, Florida. WUSF–TV provides a public TV service to approximately 2.4 million residents of Tampa and the surrounding counties.

File No. 6205 CTB. The University of South Florida, 4202 Fowler Avenue, SVC 116, Tampa, FL 33620. Signed By: Mr. Frank Lucarelli, Acting Director Div. of Sponso. Funds Requested: $692,428. Total Project Cost: $923,239. To acquire production and satellite reception equipment for public television station WSFP–TV, channel 30, in Fort Myers. Equipment will allow for first local orgination for the Fort Myers area and will be of benefit to approximately 500,000 residents of a five county area.

File No. 6211 CTB. Coastal Educational Broadcasters, 421 N. Woodland Blvd., Deland, FL 32720. Signed By: Dr. H. Douglas Lee, President. Funds Requested: $1,172,415. Total Project Cost: $1,803,716. To activate a new public television station on channel 15 in New Smyrna Beach, Florida. Station will provide service to an estimated 1,096,377 residents of Volusia, Flagler, Seminole, Orange and Lake Brevard counties.

File No. 6240 CRN. School Board of Dade County, FL, 172 NE 15 Street, Miami, FL 33132. Signed By: Mr. Leonard Britton, Superintendent of Schools. Funds Requested: $60,000. Total Project Cost: $80,000. To acquire SCA receivers to extend the radio reading services provided by WLRN–FM in Miami, Florida. WLRN–FM provides ratio reading service to the print handicapped in Dade, Broward, Monroe and Palm Beach counties.

File No. 6248 CRB. Indian River Community College, 3209 Virginia Avenue, Fort Pierce, FL 33454. Signed By: Mr. Herman Heise, President. Funds Requested: $66,273. Total Project Cost: $88,365. To replace worn out production equipment at public radio station WQCS–FM, operating on 88.3 MHz in Fort Pierce, Florida. WQCS–FM also seeks to acquire a satellite earth station. Station provides service to Indian River, St. Lucie, Martin and Okeechobee counties.

File No. 6266 CRB. School Board of Dade County, FL, 172 NE 15 Street, Miami, FL 33132. Signed By: Mr. Leonard Britton, Superintendent of Schools. Funds Requested: $54,750. Total Project Cost: $73,000. To improve the facilities of noncommercial public radio station WLRN–FM, 91.3 MHz, in Miami, Florida, by purchasing additional production equipment. Station serves approximately 2,700,000 residents of Dade, Broward, Monroe and Palm Beach counties.

File No. 6321 CTB. School Board of Dade County, FL, 172 NE 15 Street, Miami, FL 33132. Signed By: Mr. Leonard Britton, Superintendent of Schools. Funds Requested: $848,400. Total Project Cost: $1,131,200. To acquire production equipment to augment the facilities of WLRN–TV, channel 17, in Miami, Florida. Project also seeks funding for portable microwave facilities to support live and local television programming. WLRN–TV serves approximately 2.7 million residents of the Miami area.

Georgia

File No. 6171 CTB. Georgia Public T/C Commission, 1540 Stewart Avenue SW., Atlanta, GA 30310. Signed By: Mr. Richard Ottinger, Executive Director. Funds Requested: $1,619,329. Total Project Cost: $2,159,106. To replace transmitter, antenna, waveguide and related equipment at public television stations WCES–TV, channel 20, in Wrens, and WDCO–TV, channel 15, in Cochran. Stations provide service to approximately 1,045,800 in the cities of Macon and Augusta, as well as the surrounding areas.

File No. 6268 CTB. Atlanta Board of Education, 740 Bismark Road, NE., Atlanta, GA 30324. Signed By: Mr. Alonza Crim, Superintendent. Funds Requested: $525,000. Total Project Cost: $700,000. To improve public television station WPBA–TV, channel 30, in Atlanta, Georgia by replacing broadcast operations/master control center equipment. Project will allow WPBA–TV to increase the quantity and quality of local minority instructional programming and community broadcasting. Station serves approximately 2,500,000 residents of the Atlanta metropolitan area.

Guam

File No. 6063 CTB. Guam Ed. T/C Corporation, Sesame St., P.O. Box 21449, G.M.F., GU 96921. Signed By: Mr. K.K. Woo, General Manager. Funds Requested: $74,250. Total Project Cost: $99,000. To improve the facilities of KGTF–TV, Guam, by providing new cameras, improved mobile production facilities, and stereo audio. The project would also improve station reliability by providing a standby exciter, standby microwave link, and emergency power.

Iowa

File No. 6097 CTB. Iowa Public Broadcasting Board, 2801 Bell Avenue, Des Moines, IA 50321. Signed By: Mr. George Carpenter, III, Executive Director. Funds Requested: $135,113. Total Project Cost: $180,150. To replace worn and obsolete dissemination and test facilities of the Iowa public broadcasting network especially those of noncommercial public television station KDIN–TV, Des Moines, Iowa by improving station equipment in order to provide needed program service to the communities of Iowa.

File No. 6100 CTB. Iowa Public Broadcasting Board, 2801 Bell Avenue, Des Moines, IA 50321. Signed By: Mr. George Carpenter, III, Executive Director. Funds Requested: $145,215. Total Project Cost: $193,620. To replace worn and obsolete origination facilities of Iowa public broadcasting's noncommercial public television station KDIN–TV, channel 11, Des Moines, Iowa by replacing video tape recording, editing on-line equipment in order to maintain local and network programming quality needed to serve Iowa's communities.

File No. 6120 CTN. Iowa State Univ. Science & Tech., Beardshear Hall, Ames, IA 50011. Signed By: Mr. Richard Hasbrook, Contracts & Grants Officer. Funds Requested: $85,800. Total Project Cost: $114,400. To establish a satellite distribution network for the Iowa State University cooperative extension service in order to disseminate nonbroadcast instructional and information program services to twelve reception sites located at established area extension offices regionally placed to serve the communities of rural Iowa.

File No. 6137 CRB. Iowa Community Radio, Inc., 205 E. Burlington Street, Fairfield, IA 52556. Signed By: Mr. Andrew Bargerstock, President. Funds Requested: $199,453. Total Project Cost: $265,938. To establish a noncommercial public FM radio station on a frequency of 90.5 MHz, Fairfield, Iowa, to provide first local service to the rural and isolated communities in south central Iowa.

File No. 6293 CRB. Luther College, Decorah, IA 52101. Signed By: Mr. A. Thomas Kraabel, Vice President. Funds Requested: $16,458. Total Project Cost: $21,945. To replace a worn and obsolete transmitter of student operated AM radio station KWLC–AM, Decorah, Iowa in order to improve the dissemination of needed cultural and informational programming to the communities of northeast Iowa and southeastern Minnesota.

Idaho

File No. 6282. CTB. ID Ed. Pub. Brdcsting. System, 1910 University Drive, Boise, ID 83725. Signed By: Mr. Jerold Garber, General Manager. Funds Requested: $654,955. Total Project Cost: $873,274. To upgrade the transmission and production facilities of the three public television stations of the Idaho

Educational Public Broadcasting System by replacing obsolete apparatus needed to deliver programming to residents of Idaho.

File No. 6332 CRB. Wood River Public Brdcsting., Co., 120 Little Indio Lane, Hailey, ID 83333. Signed By: Ms. Gretchen Guard, President of Board, Operations. Funds Requested: $77,242. Total Project Cost: $102,989. To establish a noncommercial FM station operating on 95.3 MHz in Sun Valley, Idaho, to provide first local origination service to five counties of central Idaho.

File No. 6341 CRB. Boise State University, 1910 University Drive, Boise, ID 83725. Signed By: Dr. John Keiser, President. Funds Requested: $152,774. Total Project Cost: $203,699. To extend and improve the signal of public radio station KBSU–FM, operating on 91.3 MHz, Boise, Idaho, by changing the frequency to 90.9 MHz moving the transmitter site increasing the power to 60 kw and upgrading the studio facilities.

Illinois

File No. 6077 CTB. Chicago ETV Association, 5400 North St. Louis Avenue, Chicago, IL 60625. Signed By: Mr. John Rahmann, Senior Vice President. Funds Requested: $412,500. Total Project Cost: $550,000. To improve the origination and dissemination facilities of noncommercial public television station WTTW, channel 11, Chicago, Illinois by replacing worn and obsolete equipment in order to provide programming to the Illinois, Wisconsin, Michigan and Indiana communities of the Chicago metropolitan areas.

File No. 6297 CTB. University of Illinois, 354 Administration Building, Urbana, IL 61801. Signed By: Mr. H.J. Stapleton, Secretary Campus Research. Funds Requested: $141,989. Total Project Cost: $189,319. To replace worn and obsolete origination facilities of noncommercial public television station WILL–TV, channel 12, Urbana, Illinois, in order production equipment for locally originated educational, cultural and network programs for communities in east central Illinois and west central Indiana.

File No. 6350 CTN. Governors State University, University Parkway, University Park, IL 60466. Signed By: Dr. Leo Malamuth, President. Funds Requested: $258,705. Total Project Cost: $344,940. To extend the services of Governors State University educafional and cultural network by establishing a microwave interconnection to Northwest Indiana Public Broadcasting's television channel 50, WACE–TV, Gary, Indiana and to activate two instructional television fixed service transmitters on channels B3 and B4, University Park, Illinois in order to provide needed programs to the communities in northeast Illinois and northwest Indiana.

Indiana

File No. 6094 CRB. Purdue University, West Lafayette, IN 47907. Signed By: Ms. Cheryl Maurana, Assistant Director Div. of Spo. Funds Requested: $14,121. Total Project Cost: $18,828. To improve the dissemination facilities of noncommercial public AM radio station WBAA, 920 KHz, West Lafayette, Indiana by providing studio to transmitter signal capabilities to render needed program services to communities in the West Lafayette area.

File No. 6110 CRB. Goshen College, 1700 South Main Street, Goshen, IN 46526. Signed By: Mr. William Zuercher, Business Manager. Funds Requested: $6,620. Total Project Cost: $8,827. To improve the dissemination, origination and satellite reception capabilities of noncommercial public radio station WGCS–FM, 91.1 MHz, Goshen, Indiana, in order to provide programming service to the Indiana communities of Elkhart, St. Joseph, Noble, Marshall and Kosciusko counties and the Michigan counties of Cass and St. Joseph.

File No. 6210 CTB. NW Indiana Pub. Brdcstng., Inc., 8149 Kennedy Avenue, Highland, IN 46322. Signed By: Mr. Gerald Fitzgerald, Chairman. Funds Requested: $197,961. Total Project Cost: $263,950. To replace and refurbish worn and obsolete dissemination and origination facilities for noncommercial public television station WACE–TV, channel 50, Gary, Indiana in order to enable local origination and network programming services to the communities of northwest Indiana.

File No. 6238 CTB. NW Indiana Pub. Brdcstng., Inc., 8149 Kennedy Avenue, Highland, IN 46322. Signed By: Mr. Gerald Fitzgerald, Chairman. Funds Reguested: $440,212. Total Project Cost: $586,950. To replace and refurbish worn and obsolete dissemination and origination facilities for noncommercial public television station WACE–TV, channel 50, Gary, Indiana in order to enable local origination and network programming services to the communities of northwest Indiana.

File No. 6294 PRB. Bloomington Community Radio, Inc, 104½ E. Kirkwood #25, Bloomington, IN 47402. Signed By: Mr. James Manion, Director. Funds Requested: $7,750. Total Project Cost: $13,150. To plan for the establishment of a noncommercial public FM radio station in the city of Bloomington, Indiana to provide alternative service programming for miniorities in the Bloomington metropolitan area.

Kansas

File No. 6036 CRB. Hutchinson Community College, 815 N. Walnut, Suite 300, Hutchinson, KS 67501. Signed By: Dr. James Stringer, President. Funds Requested: $285,774. Total Project Cost: $381,032. To construct an FM transmission station in Abilene, KS that will repeat the signal of noncommercial radio station KHCC–FM, 89.5 MHz, located on the campus of Hutchinson Community College, Hutchinson, KS. The Abilene repeater station will transmit with a 100kw ERP and will bring the first full-service public radio signal to over 192,000 residents of north central Kansas.

File No. 6041 CTB. Kansas Public T/C Service, Inc., 320 West 21 St., P.O. Box 288, Wichita, KS 67201. Signed By: Mr. Zoel Parenteau, President & General Manager. Funds Requested: $35,918. Total Project Cost: $47,893. To improve the signal of public TV station KPTS, Ch. 8, in Wichita, KS, by replacing an obsolete studio-to-transmitter link and a worn-out intercom system.

File No. 6052 CTB. Washburn University of Topeka, 301 N. Wanamaker Road, Topeka, KS 66606. Signed By: Dr. John Green, President. Funds Requested: $264,027. Total Project Cost: $352,036. To improve the program production capability of public TV station KTWU, Ch. 11, licensed to Washburn University, Topeka, KS, by replacing obsolete and worn-out studio equipment. Specifically, the project will purchase ENG/EFP cameras, field video recorders, an editing system, and EFP switcher, an EFP mixer, and a digital still-store system.

File No. 6136 CRB. Kansas State University, 104 Kedzie Hall, Manhattan, KS 66506. Signed By: Mr. John Moore, Jr., Controller. Funds Requested: $43,450. Total Project Cost: $67,750. To purchase a new transmitter and related control and monitoring equipment to allow noncommercial radio station KSDB–FM, 88.1 MHz, on the campus of Kansas State University, Manhattan, to extend its coverage to an additional 16,000 presently unserved residents of north central KS, many of them associated with the Ft. Riley U.S. Army post. The project involves a change of antenna site and a change of frequency to 91.9 MHz.

File No. 6163 CTB. Smoky Hills Public Television, 6th & Elm Sts., P.O. Box 9, Bunker Hill KS 67626. Signed By: Mr. Kenneth Gardner, Vice President & General Manag. Funds Requested: $899,724. Total Project Cost: $1,402,372.

To establish a public TV station on Ch. 4 in Colby, KS. The station will repeat the signal of KOOD–TV, Ch. 9, Bunker Hill, KS. The new station will bring the first public TV signal with local origination capability to over 70,000 people in northwest Kansas. The project will purchase the equipment of the commercial TV station presently operating on Ch. 4 in Colby; the Ch. 4 license assignment will be transferred to Smoky Hills Public Television.

File No. 6215 CTB. Kansas State University, 104 Kedzie Hall, Manhattan, KS 66506. Signed By: Mr. John Moore, Jr., Controller. Funds Requested: $295,255. Total Project Cost: $393,674. To construct a noncommercial full-service TV station licensed to and operating from the campus of Kansas State University, Manhattan. The station's signal will be transmitted on Ch. 21, with an ERP of 5.8 kw. The station will provide locally originated programming to over 41,000 residents of the city of Manhattan and the area immediately surrounding the city.

File No. 6245 CRB. Kanza Society Incorporated, One Broadcast Plaza, P.O. Box 57, Pierceville, KS 67868. Signed By: Mr. John Crump, President. Funds Requested: $67,393. Total Project Cost: $89,858. To construct FM translators to bring the first public radio signal to McDonald, Atwood, and Herndon, KS. The translators will carry the signal of KZNA–FM, which will shortly begin operations in Hill City, KS as part of the Kanza Society's public radio network. The project will also purchase a new antenna and diverse studio, interconnect, and test equipment to improve the signal quality and reliability of the Society's originating station, KANZ–FM, Pierceville, KS.

Kentucky

File No. 6138 CTB. Kentucky Authority for ETV, 600 Cooper Drive, Lexington, KY 40502. Signed By: Ms. Sandra Welch, Deputy Executive Director. Funds Requested: $574,838. Total Project Cost: $884,366. To acquire seven new field cameras, seven one inch VTR's and a new master control switcher for use by the state ETV network. This replacement equipment will benefit approximately 3,660,777 residents of Kentucky.

File No. 6281 CTN. Western Kentucky University, 153 Academic Complex, Bowling Green, KY 42101. Signed By: Mr. Harry Largen, Vice President for Business Af. Funds Requested: $47,895. Total Project Cost: $63,860. To establish an instructional television fixed service (ITFS) system on the campus at Bowling Green. Facility will serve a 20–30 mile radius including parts of seven counties. Facility can potentially benefit an estimated 179,802 residents of Kentucky.

Louisiana

File No. 6191 CRB. Louisiana State University, 8515 Youree Drive, Shreveport, LA 71115. Signed By: Mr. E. Grady Bogue, Chancellor. Funds Requested: $100,152. Total Project Cost: $133,536. To extend the signal of public radio station KDAQ–FM, Shreveport, Louisiana, by constructing a new noncommercial educational FM repeater station in El Dorado, Arkansas, on 90.9 MHz. The station will provide a first public radio signal to approximately 120,684 residents of El Dorado, Union County, Arkansas and surrounding areas.

File No. 6192 PRB. Louisiana State University, 8515 Youree Drive, Shreveport, LA 71115. Signed By: Mr. E. Grady Bogue, Chancellor. Funds Requested: $13,528. Total Project Cost: $13,528. To plan for the establishment of a new noncommercial educational FM radio station to provide first service to the residents of the Monroe, Louisiana area.

File No. 6207 CTB. Greater N.O. ETV Foundation, 916 Navarre Avenue, New Orleans, LA 70124. Signed By: Mr. Vincent Saele, CEO and President. Funds Requested: $126,650. Total Project Cost: $170,000. To improve public television station WYS–TV, channel 12, in New Orleans by acquiring two one-inch VTR's. The new equipment will replace older machines that are 20–25 years old and are at the end of their useful lives.

Massachusetts

File No. 6046 CRB. Boston University, 630 Commonwealth Avenue, Boston, MA 02215. Signed By: Mr. Kenneth Condon, Vice President. Funds Requested: $89,146. Total Project Cost: $118,862. To improve and expand coverage of WBUR–FM, noncommercial radio serving the Boston area, by replacing its antenna and installing 2 STL's needed because of transmitter relocation and by acquiring various test equipment.

File No. 6061 CRB. WCUW, Inc., 910 Main Street, Worcester, MA 01610. Signed By: Mr. David Goldberg, President, Board of Directors. Funds Requested: $32,973. Total Project Cost: $43,965. To augment remote broadcast facilities of noncommercial radio station WCUW–FM in order to increase community participation.

File No. 6229 CRB. WICN Public Radio, Inc., 75 Grove Street, Worcester, MA 01605. Signed By: Mr. Erwin Miller, President. Funds Requested: $47,887. Total Project Cost: $63,850. To expand the signal of WICN–FM providing public radio to Worchester by building a new tower and replacing current antenna and STL.

File No. 6247 CTB. WGBH Educational Foundation, 125 Western Avenue, Boston, MA 02134. Signed By: Mr. Henry Becton, Jr., President & General Manager. Funds Requested: $752,775. Total Project Cost: $1,003,700. To improve on air and production quality of programming produced by WGBH, channel 2, serving the Boston area by replacing obsolete routing and switching systems.

Maryland

File No. 6164 CTB. Maryland Center Public Broadcasting, 11767 Bonita Avenue, Owings Mills, MD 21117. Signed By: Mr. Stephen Kimatian, Executive Director. Funds Requested: $111,425. Total Project Cost: $230,200. To improve public television stations WMPB–TV, channel 67, in Owings Mills and WWPB–TV, channel 31, in Hagerstown. Equipment will replace worn out dissemination equipment. Stations serve an estimated 2,000,000 residents of Baltimore and Washington counties in Maryland.

Maine

File No. 6084 CTB. University of Maine, 65 Texas Avenue, Bangor, ME 04401. Signed By: Mr. William Sullivan, Treasurer. Funds Requested: $390,845. Total Project Cost: $521,127. To improve microwave distribution system for statewide radio and television network by replacing unreliable microwave repeaters and adding additional sites.

Michigan

File No. 6165 CRB. Eastern Michigan University, 426 King, Ypsilanti, MI 48197. Signed By: Ms. Joan Connell, Associate Provost. Funds Requested: $87,570. Total Project Cost: $116,770. To replace worn and obsolete dissemination and origination facilities of noncommercial public radio station WEMV–FM, 89.1 MHz, Ypsilanti, Michigan, in order to render needed telecommunications services to communities in the southeastern area of Michigan.

File No. 6172 CTB. Northern Michigan University, Presque Isle Avenue, Marguette, MI 49855. Signed By: Mr. Llye Shaw, Vice President Finance & Admin. Funds Requested: $1,096,810. Total Project Cost: $1,462,414. To establish a noncommercial microwave transmission system interconnecting the communities of Houghton, Baraga, Herman, Three Lakes, Mud Lake, Metropolitan, Iron Mountain, Cedar River, Escanaba, Dead River, Marquette and Gwinn, all in the

upper peninsula of Michigan in order to provide public television, educational and informational program services of WNMU–TV, channel 20 & WMNV–FM, 90.1 MHz, Marquette, Michigan to this remote rural area of the state.

Minnesota

File No. 6039 CTB. N. Minnesota Public TV, Inc., Fourteenth St. & Birchmont Dr., Bemidji, MN 56601. Signed By: Mr. Paul Stankavich, General Manager. Funds Requested: $911,000. Total Project Cost: $1,214,668. To extend the signal of noncommercial public television station KAWE–TV, channel 9, Bemidji, Minnesota by establishing a repeater station on channel 22, Brainerd, Minnesota, with a microwave system to serve both locations in order to provide the communities in the counties of Wadend, Todd, Morrison, Crow, Wing, Cass, Aitkin, and Ottertail with first service programming.

File No. 6142 CRB. University of Minnesota, 10 University Drive, Duluth, MN 55812. Signed By: Ms. Mary Lou Weiss, Assistant Director Office of R. Funds Requested: $53,925. Total Project Cost: $71,900. To replace worn and obsolete origination facilities and install a studio to transmitter link for noncommercial public radio station, KUMD–FM, 103.3 MHz, Duluth, Minnesota in order to provide locally originated and network programming to the communities in the metropolitan Duluth area of Minnesota and Wisconsin.

File No. 6146 CTB. Twin Cities Public TV, Inc., 1640 Como Avenue, St. Paul, MN 55108. Signed By: Mr. Richard Moore, President. Funds Requested: $583,906. Total Project Cost: $778,541. To replace worn and obsolete origination facilities of noncommercial public television station KTCA–TV, channel 2, St. Paul, Minnesota by replacing studio cameras necessary to provide needed programming service to the Minneapolis and St. Paul metropolitan areas and rural communities serviced by the stations regional network.

File No. 6193 PTN. Woodland Cooperative Center #952, NE 5th Street & Chicago Avenue, Staples, MN 56479. Signed By: Mr. James Hofer. Funds Requested: $33,000. Total Project Cost: $33,000. To plan to extend the noncommercial low power television signal of instructional and cultural programming station K45AR, channel 45, Eagle Bend, Minnesota in order to serve the telecommunications need of the communities of Pillager, Motley, and Staples in the north central rural and isolated sections of Minnesota.

File No. 6231 CRB. Minnesota Public Radio, Inc., 45 E. Eighth Street, St. Paul, MN 55101. Signed By: Mr. Thomas Kigin, Vice President. Funds Requested: $144,635. Total Project Cost: $192,850. To replace worn dissemination facilities and improve dissemination and origination equipment for noncommercial public radio station WSCD, 92.9 MHz, Duluth, Minnesota, one of the Minnesota public radio network stations, in order to provide educational and cultural programming to the communities of the Duluth and Superior, Wisconsin metropolitan area.

File No. 6262 PTB. Alexandria AVTI, 1601 Jefferson, P.O. Box 308, Alexandria, MN 56308. Signed By: Mr. Frank Starke, Director. Funds Requested: $43,740. Total Project Cost: $71,430. To plan for a telecommunications network to interconnect five area vocational technical institutes, a community college and a public broadcasting station in order to provide locally originated and area network programming to schools and agencies in the Alexandria/St. Cloud areas of Minnesota.

Missouri

File No. 6002 CTB. Central Missouri State Univ., College and Clark Streets, Warrensburg, MO 64093. Signed By: Dr. Ed Elliott, President. Funds Requested: $374,658. Total Project Cost: $499,545. To replace worn and obsolete dissemination and related test equipment and improve the origination capacity of noncommercial public television station KMOS, channel 6, Warrensburg, Missouri, in order to provide programming for communities in the Warrensburg area in west central Missouri.

File No. 6299 CRB. University of Missouri, University of Missouri Rolla, Rolla, MO 65401. Signed By: Mr. Neil Smith, Vice Chancellor for Admin. Funds Requested: $18,762. Total Project Cost: $25,016. To replace worn and obsolete dissemination and origination facilities at noncommercial public radio station KUMR–FM, 88.5 MHz, Rolla, Missouri in order to improve local programming to the communities in and around the Rolla area in south central Missouri.

File No. 6305 PRB. Tsa La Gi-Wa Sha She Ind. Cent., P.O. Box 581, Stockton, MO 65785. Signed By: Mr. J.C. Thompson, Project Administrator. Funds Requested: $32,855. Total Project Cost: $32,855. To plan for a noncommercial public radio FM service which will serve the communities in the Stockton, Missouri area with cultural and educational programming.

Mississippi

File No. 6134 PRB. Rust College, 1 Rust Avenue, Holly Springs, MS 38635. Signed By: Mr. W.A. McMillan, President. Funds Requested: $36,550. Total Project Cost: $43,000. To plan for a new noncommercial public radio station to provide first local origination to Holly Springs, Mississippi. Proposed station will serve approximately 30,000 residents of Marshall and Benton counties.

Montana

File No. 6027 CRB. Sweet Grass County, P.O. Box 1188, Big Timber, MT 59011. Signed By: Mr. James Tulley, Deputy County Attorney. Funds Requested: $4,387. Total Project Cost: $5,850. To establish an FM translator operating on 91.7 FM in Big Timber, Montana to bring first public radio service to Sweet Grass County, translating KEMC–FM from Billings, Montana.

File No. 6155 CRTB. Northern Montana College, Cowan Drive, Havre, MT 59501. Signed By: Dr. William Merwin, President. Funds Requested: $228,188. Total Project Cost: $304,251. To establish a noncommercial TV/FM station operating on 90.1 FM and channel 18 TV, in Havre, Montana to provide through northern Montana College a first public broadcast service to northcentral Montana.

File No. 6213 CTB. Bitterroot Valley Public TV, 212 South Third Street, Hamilton, MT 59840. Signed By: Ms. Helen Bibler, President. Funds Requested: $124,488. Total Project Cost: $165,985. To establish a noncommercial low-power TV station K21AN operating on channel 21 Darby, Mt. to provide first over the air public television service to Ravalli County, Montana.

File No. 6232 CRB. Dawson Community College, 300 College Drive, Glendive, MT 59330. Signed By: Mr. Charles Kintz, Dean of Administrative Service. Funds Requested: $4,479. Total Project Cost: $5,972. To extend the signal of public radio station KEMC–FM, Billings, Montana, by constructing a translator facility in Glendive, Montana to provide first public radio service to Dawson County, Montana.

File No. 6270 PRTBN. State of Montana, 219 Mitchell Building, Helena, MT 59620. Signed By: Mr. Mike Trevor, Administrator Information Serv. Funds Requested: $123,600. Total Project Cost: $159,500. To plan for the establishment of a state wide public telecommunications system for Montana to coordinate the delivery of public broadcast programming throughout this predominantly unserved state.

North Carolina

File No. 6310 CRB. University of NC at Chapel Hill, 205 Swain Hall 044A, Chapel Hill, NC 27514–0644. Signed By: Mr. Tom Scott, Director of Research Services. Funds Requested: $120,000. Total Project Cost: $160,195. To activate a new noncommercial public radio station on 88.3 MHz in Greenville, North Carolina. Station will repeat the signal of WUNC–FM, Chapel Hill. The station will benefit approximately 987,245 people and will provide a first public radio signal to an estimated 220,000 residents of the area.

North Dakota

File No. 6072 CRB. Dakota Radio Information Service, Liberty Memorial Building, Bismarck, ND 58505. Signed By: Ms. Sally Oremland, President. Funds Requested: $6,360. Total Project Cost: $8,480. To extend the SCA service provided by the Dakota Information Service Bismark, North Dakota by interconnecting stations in Bismark and Williston to provide service to visual handicapped residents of Williston, North Dakota.

File No. 6073 CRS. University of North Dakota, Centennial Drive, Grand Forks, ND 58202. Signed By: Mr. Lyle Beiswenger, Vice President for Finance. Funds Requested: $25,336. Total Project Cost: $27,226. To extend the signal of KFJM–FM, operating on 89.3 MHz, Grand Forks, North Dakota, by constructing translators in Lakota, Crary and Devils Lake, North Dakota to bring first public radio service to 16,000 residents of North Dakota.

File No. 6346 CRB. Prairie Public Broadcasting, Inc., 207 N. 5th Street, P.O. Box 3240, Fargo, ND 58108. Signed By: Mr. Dennis Falk, President. Funds Requested: $85,453. Total Project Cost: $113,938. To establish a full power public radio station operating on 89.9 MHz in Dickinson, North Dakota, to provide first signal to residents of southwestern North Dakota.

File No. 6351 CTB. Prairie Public Broadcasting, Inc., 207 N. 5th Street, Fargo, ND 58108. Signed By: Mr. Dennis Falk, President. Funds Requested: $149,771. Total Project Cost: $199,695. To upgrade the facilities of the production center for Prairie Public Broadcasting, KFME–TV, channel 13, Fargo, North Dakota, by replacing obsolete camera and switching equipment needed to deliver programming to North Dakota and portions of Montana and Minnesota.

Nebraska

File No. 6045 CTB. Creighton University, California at 24th Street, Omaha, NE 68178. Signed By: Michael Morrison, S.J., President. Funds Requested: $269,136. Total Project Cost: $358,982. To purchase a satellite uplink earth station to transmit foreign language programming, much of it imported from other countries, to educational institutions nationwide. The earth station will be located at Creighton Univ., Omaha, NE. The University is serving as the leader of a consortium of colleges and universities called Satellite Communications for Learing, Associated (SCOLA).

File No. 6086 CTN. Metropolitan Technical Comm. Col, P.O. Box 3777, 30th & Fort Sts., Omaha, NE 68103. Signed By: Mr. Richard Gilliland, President. Funds Requested: $253,445. Total Project Cost: $337,933. To construct an Instructional Television Fixed Service system originating from Metropolitan Technical Community College, Omaha, NE. The main production studios will be at the College's Elkhorn campus. The system will provide instructional programming to diverse school, cable TV systems, and business sites in Dodge, Douglas, Sarpy, and Washington Counties in eastern Nebraska, many of whose residents do not now receive such televised educational materials.

File No. 6208 CRN. Radio Talking Book Service, Inc., 3230 Burt Street, Omaha, NE 68131. Signed By: Mr. David Robinson, Director. Funds Requested: $87,468. Total Project Cost: $110,225. To extend the signal of Radio Talking Book Service (RTBS), Omaha, NE, to the remainder of the State. To achieve this, RTBS will use the Second Audio Program channel of the many stations associated with the Nebraska Educational Telecommunications Commission, which administers the statewide public TV network. This extension will bring RTBS's reading service to approximately 16,750 of the print-handicapped throughout Nebraska.

File No. 6289 CTB. University of Nebraska, 1800 N. 33rd St., P.O. Box 83111, Lincoln, NE 68501. Signed By: Mr. Earl Freise, Assistant Vice Chancellor. Funds Requested: $105,750. Total Project Cost: $141,000. To replace worn-out and obsolete audio tape recorders and audio consoles at public TV station KUON, Ch. 12, licensed to the University of Nebraska, Lincoln. KUON's studios produce the local programming for the statewide public TV network of the Nebraska Educational Telecommunications Commission. The project will purchase 3¼" ATRs with timecode capability and 2 high quality audio consoles.

File No. 6316 CTB. Nebraska Ed. T/C Commission, 1800 N. 33rd St., P.O. Box 83111, Lincoln, NE 68501. Signed By: Mr. Jack McBride, Secretary & General Manager. Funds Requested: $320,771. Total Project Cost: $427,695. To purchase 2 1" Type-C video tape recorders, a production switcher, and associated editing equipment for the Nebraska Educational Telecommunications Commission, Lincoln. The requested items will replace obsolete equivalent production equipment. The equipment will be located at the Nebraska Educational Telecommunications Center, which originates programming for the statewide public TV network.

File No. 6326 CRB. University of Nebraska at Omaha, 60th & Dodge Street, Omaha, NE 68182–0234. Signed By: Mr. Del Weber, Chancellor. Funds Requested: $28,950. Total Project Cost: $38,605. To improve the production capabilities of noncommercial radio station KVNO–FM, 90.7 MHz, at the University of Nebraska at Omaha, by replacing worn-out and obsolete studio equipment. The project will purchase 3 audio tape recorders, 2 audio consoles, and cartridge machines.

New Hampshire

File No. 6329 CTB. University of New Hampshire, Pettee Brook Lane, Durham, NH 03824. Signed By: Mr. Lennard Fisk, Vice President. Funds Requested: $515,212. Total Project Cost: $686,950. To improve operation of WENH–TV, channel 11, serving Durham and the state by replacing obsolete microwave and production equipment.

New Jersey

File No. 6124 PTB. NJ Public Broadcasting Authority, 1573 Parkside Ave., CN 777, Trenton, NJ 08625. Signed By: Mr. Hendrix Niemann, Executive Director. Funds Requested: $50,000. Total Project Cost: $50,000. To design transmitter building, tower, foundation, utilities, access road and to complete soil borings for proposed channel 66 which would provide public television service to West Milford.

File No. 6312 CTB. NJ Public Broadcasting Authority, 1573 Parkside Ave., CN 777, Trenton, NJ 08625. Signed By: Mr. Hendrix Niemann, Executive Director. Funds Requested: $998,610. Total Project Cost: $2,234,460. To replace worn out portion of STL system which feeds signals to the network's four transmitters located in Trenton, Camden, Montclair and New Brunswick, to also upgrade the UHF transmitting systems of these same four stations, and to activate four channel ITFS systems in Cherry Hill, Trenton, New Brunswick and Montclair.

New Mexico

File No. 6196 CTB. University of New Mexico, 1130 University Blvd., NE, Albuquerque, NM 87102. Signed By: Ms. Ann Powell, Research Coordinator. Funds Requested: $262,500. Total Project Cost: $350,000. To replace worn-out video tape recorders (and associated editing equipment) and an obsolete remote pickup TV microwave system at public TV station KNME, Ch. 5, operated by the University of New Mexico, Albuquerque.

File No. 6223 CTB. Eastern New Mexico University, Portales, NM 88130. Signed By: Mr. Duane Ryan, Director of Broadcasting. Funds Requested: $413,531. Total Project Cost: $551,375. To improve the production capability of public TV station NENW, Ch. 3, Portales, NM, by purchasing a production switcher, 1" VTRs, a spectrum analyzer, an audio console, and diverse stereo equipment. The project will also construct a translator that will rebroadcast the KENW–TV signal to the Ruidoso-Capitan area of southern NM, bringing the first public TV signal to approximately 5000 people.

File No. 6241 CRB. Eastern New Mexico University, Portales, NM 88130. Signed By: Mr. Duane Ryan, Director of Broadcasting. Funds Requested: $28,125. Total Project Cost: $37,500. To extend the signal of public radio station KENW–FM, 89.5 MHz, Portales, NM, by constructing FM translators in Ruidoso and Tucumcari, NM. The project will bring a first public radio signal to approximately 19,000 residents of these two communities.

File No. 6314 CTB. New Mexico State University, Jordan St., Milton Hall 100, Las Cruces, NM 88003. Signed By: Ms. Mary Nunez, Acting Director. Funds Requested: $232,500. Total Project Cost: $310,000. To replace worn-out studio cameras and an obsolete character generator at public TV station KRWG, Ch. 22, located on the campus of New Mexico State University, Las Cruces. The project will also replace KRWG's transmitter remote control system and purchase an associated video test signal generator.

Nevada

File No. 6112 CTN. University of Nevada, Education Building, Room 102, Reno, NV 89557. Signed By: Mr. Ashok Dhingra, Vice President of Finance & A. Funds Requested: $544,560. Total Project Cost: $726,079. To interconnect the University of Nevada, Reno with public television and public radio stations in Reno and Las Vegas, Nevada to create a multipurpose statewide telecommunication service for the state.

File No. 6175 CTB. N. Lake Tahoe Comm. Foundation, 774 Mays Blvd., Incline Village, NV 89450. Signed By: Mr. John Campbell, Vice President. Funds Requested: $78,300. Total Project Cost: $104,400. To improve the production and transmission capabilities of K14AJ, operating on channel 14, Incline Village, Nevada by supplementing the existing production and network recording capability and providing remote production facilities.

File No. 6222 CTB. Rural Television System, 6205–A Franktown Road, Carson City, NV 89701. Signed By: Mr. Daniel Tone, RTS Administrator. Funds Requested: $153,069. Total Project Cost: $204,092. To establish a mobile production facility for Rural Television System, operating from Carson City, Nevada, to support the local program origination activities of their affiliates throughout the Rocky Mountain area.

File No. 6230 CRB. University of Nevada, Reno, Education Bldg., Room 106, Reno, NV 89557. Signed By: Mr. Ashok Dhingra, Vice President for Finance & A. Funds Requested: $10,651. Total Project Cost: $14,468. To extend the signal of public radio station KUNR–FM, operating on 88.7 in Reno, Nevada, by constructing a translator located in south Lake Tahoe, California to serve Douglas County and the lakefront areas not presently served by the present transmitter.

File No. 6243 CTB. Fallon Community TV, Inc., P.O. Box 657, Fallon, NV 89406. Signed By: Ms. Myrl Nygren, Chairman Board of Directors. Funds Requested: $25,708. Total Project Cost: $34,277. To upgrade the programming capabilities of low power TV station K25AK operating on channel 25, Fallon, Nevada, by installing local production capability for local origination programming.

File No. 6269 CRB. Nevada Public Radio Corp., 5151 Boulder Highway, Las Vegas, NV 89122. Signed By: Mr. Lamar Marchese, General Manager. Funds Requested: $57,526. Total Project Cost: $76,702. To extend the signal of public radio station KNPR–FM operating on 89.5 Las Vegas, Nevada by creating to new microwave feed stations in Tonapah and Panaca, Nevada and two translators in Scotty's Junction and Beatty, Nevada thus completing a multi-year expansion of public radio service to southern Nevada.

File No. 6300 CTN. Clark County School District, 2832 E. Flamingo Road, Las Vegas, NV 89121. Signed By: Mr. John Hill, Director of TV Services. Funds Requested: $375,000. Total Project Cost: $500,000. To extend and improve the ITFS system of the Clark County School District, KLVX–TV 10, Las Vegas, Nevada, by installing 16 transmitters which would replace 8 current obsolete units and establish additional 9-channel capacity in the Las Vegas area.

New York

File No. 6029 CTB. NE New York Public T/C Council, Beekman and Broad Streets, Plattsburgh, NY 12901. Signed By: Mr. Gerald Bates, President & General Manager. Funds Requested: $269,931. Total Project Cost: $359,909. To improve the facilities of public television station WCFE–TV, operating on channel 57, which is being forced to relocate to new studios. The project would replace studio lighting being retained by the present studio owner, replace obsolete switching and production equipment, add a backup studio transmitter link and video recorder, and provide the station with its own satellite receive terminal. WCFE–TV serves some half a million viewers in northeast New York and northern Vermont.

File No. 6108 CRB. Long Island University, Northern Blvd., Greenvale, NY 11548. Signed By: Dr. David Steinberg, President. Funds Requested: $943,065. Total Project Cost: $1,257,420. To establish a radio network to provide first service to Nassau and Suffolk Counties of Long Island by increasing power of WPBX–FM, 91.3 in Southampton and WCWP, 88.1 in Brookville, NY and interconnecting via microwave. Also proposes to timeshare with FM station WXBA owned by Brentwood School District.

File No. 6147 PRB. Public Broadcasting Council, 506 Old Liverpool Road, Liverpool, NY 13088. Signed By: Mr. Richard Russell, President & General Manager. Funds Requested: $18,750. Total Project Cost: $25,000. To plan for the establishment of new FM public radio station in the unserved communities of Ithaca and Oneonta, New York and to research improvements needed in WCNY's present signal coverage in Cortland and Aubum, New York.

File No. 6173 CRN. In Touch Networks, Inc., 322 West 48th Street, New York, NY 10036. Signed By: Mr. Jasha Levi, Executive Director. Funds Requested: $25,161. Total Project Cost: $32,215. To improve the facilities of In Touch Networks, a radio reading service distributed nationwide via satellite. The project would replace satellite distribution and production equipment. The project would also convert 500 donated receivers for use by visually impaired viewers in the New York area.

File No. 6190 CRB. WAMC, 318 Central Avenue, Albany, NY 12206. Signed By: Dr. Alan Chartock, Chairman. Funds Requested: $292,263.

Total Project Code: $389,685. To extend the service of public radio station WAMC, operating on 90.3 MHz in Albany, by establishing two repeater stations. Ulster and Dutchess counties in the mid-Hudson Valley would be served from a station in Kingston, operating on 90.9 MHz. Montgomery county in the Mohawk valley would be served from a station in Canajoharie operating on 93.3 MHz. The two stations would provide first public radio service to 247,400 persons.

File No. 6228 CRN. Niagara Frontier Radio Reading, 43 Tillotson, P.O. Box 575, Buffalo, NY 14225. Signed By: Mr. Robert Sikorski, Executive Director. Funds Requested: $112,425. Total Project Cost: $149,900. To establish a radio reading service for the blind to serve visually impaired residents of Western New York. The Radio Reading Service will utilize the SCA channel of WBFO–FM, operating on 88.7 MHz in Buffalo.

File No. 6235 CFB. Mohawk-Hudson Council on ETV, 17 Fern Avenue, P.O. Box 17, Schenectady, NY 12301. Signed By: Mr. Donald Schein, President & General Manager. Funds Requested: $34,860. Total Project Cost: $49,800. To extend the service of public radio station WMHT–FM, Schenectady, operating on 98.1 MHz., to 322,000 residents of the mid-Hudson valley by establishing a repeater station in Poughkeepsie which would operate on 99.7 MHz.

File No. 6309 CRTB. Rochester Area ETV Assoc., Inc., 280 State Street, Rochester, NY 14614. Signed By: Mr. William Pearce, President. Funds Requested: $291,750. Total Project Cost: $389,000. To improve the production facilities of public broadcast stations WXXI AM/FM/TV, which serve 1.2 million people in a ten county area surrounding Rochester. The radio stations would replace obsolete consoles, tape recorders and add a routing switcher. The television facility would replace a character generator and camera pedestals. Master control console and test equipment would be added to enable the television station to broadcast in stereo.

File No. 6315 CTB. Mohawk-Hudson Coun. on ETV, Inc., 17 Fern Avenue, P.O. Box 17, Schenectady, NY 12301. Signed By: Mr. Donald Schein, President & General Manager. Funds Requested: $129,717. Total Project Cost: $185,310. To improve WMHT–TV, channel 17, providing public television to the Schenectady area, by replacing worn out production equipment. Request includes still store, audio console, and various other production equipment.

File No. 6320 CTB. Long Island ETV Council, Inc., 1425 Old Country Road, Plainview, NY 11803. Signed By: Mr. Samuel Francis, President & General Manager. Funds Requested: $508,680. Total Project Cost: $678,240. To improve the facilities of public television station WLIW–TV, operating on Ch. 21, which serves two million residents of Long Island, by replacing obsolete videotape recorders and switching equipment. The project will also enable the station to begin stereo audio broadcasts.

File No. 6328 CTB. Educational Broadcasting Corp., 356 West 58th Street, New York, NY 10019. Signed By: Mr. George Miles, Jr., Executive Vice President. Funds Requested: $533,908. Total Project Cost: $821,397. To improve on air and production quality of WNET-TV, serving greater New York replacing obsolete equipment. Request includes three character generators, a studio digital video effects unit, and four feed cameras.

File No. 6340 PRB. Syracuse University, 215 University Place, Syracuse, NY 13244. Signed By: Mr. William Patrick, Comptroller. Funds Requested: $2,100. Total Project Cost: $2,800. To conduct an engineering study regarding a power increase and tower relocation because of possible RF radiation risk at the current transmitter site.

File No. 6347 CRB. St. Lawrence University, Park Street, Payson Hall, Canton, NY 13617. Signed By: Ms. Ellen Rocco, Acting Station Manager. Funds Requested: $11,820. Total Project Cost: $15,760. To extend the broadcast service of public radio station WSLU-FM, operating on 89.5 MHz. Canton, by the construction of three FM translators. The translators would serve 35,000 people in the areas of Lake Placid on 89.5 MHz, Malone on 91.7 MHz, and Fort Drum on 88.5 MHz.

Ohio

File No. 6004 CTB. Bowling Green State University, 245 Troup Street, Bowling Green, OH 43403–0060. Signed By: Mr. Louis Katzner, Interim Assoc. Vice President. Funds Requested: $229,519. Total Project Cost: $306,025. To improve noncommercial television station WBGU-TV, channel 57, Lima, Ohio operated by Bowling Green State University with studio and field cameras to replace worn and obsolete origination equipment. Replacement equipment will improve production capabilities of the station to serve communities in west cental Ohio.

File No. 6020 PTB. Shawnee State Community College, 940 Second Street, Portsmouth, OH 45662. Signed By: Mr. Frank Taylor, President. Funds Requested: $100,000. Total Project Cost: $100,000. To plan for local origination noncommercial television service at Shawnee State Community College, Portsmouth, Ohio by determining the feasibility of establishing a public television station to serve 15 counties in south central Ohio and seven counties in northeastern Kentucky. To meet the programming need of the rural communities in that area.

File No. 6047 CRB. Xavier University, 3800 Victory Parkway, Cincinnati, OH 45207. Signed By: Fr. Charles Currie, President. Funds Requested: $66,487. Total Project Cost: $88,649. To extend the noncommercial public radio signal of station WVXU–FM, 91.7 MHz, Xavier University, Cincinnati, Ohio by establishing a repeater radio station on 89.3 MHz, Chillicothe, Ohio to provide first service and local program origination capability to the communities in the south central Ohio area.

File No. 6098 CRB. Miami University, Spring & Oak Streets, Oxford, OH 45056. Signed By: Mr. Edward Demske, Vice President Finance & Busin. Funds Requested: $147,313. Total Project Cost: $196,813. To improve the origination facilities of noncommercial public radio station WMUB–FM, 88.5 MHz, Oxford, Ohio by replacing worn and obsolete studio facilities and adding expanded production equipment in order to meet the programming need of the rural communities in southwestern Ohio.

File No. 6239 CTB. Public Broadcastng. Found. of OH, 136 North Huron Street, Toledo, OH 43604. Signed By: Mr. Robert Smith, President & General Manager. Funds Requested: $306,930. Total Project Cost: $472,200. To replace worn and obsolete origination facilities of noncommercial public television station WGTE–TV, channel 30, Toledo, Ohio with studio cameras, production switcher and audio console in order to deliver needed telecommunications services to the communities of northwest Ohio and southeast Michigan.

File No. 6323 CTB. Greater Cincinnati TV Ed. Found., 1223 Central Parkway, Cincinnati, OH 45214. Signed By: Mr. Charles Vaughan, President & General Manager. Funds Requested: $164,208. Total Project Cost: $218,945. To replace worn and obsolete origination facilities and improve test monitoring equipment of noncommercial public television station, WCET–TV, channel 48, Cincinnati, Ohio in order to serve the programming needs of the communities in the Cincinnati metropolitan area of southwest Ohio and northeastern Kentucky.

File No. 6344 CTB. Ohio University, 9 S. College Street, Athens, OH 45701.

Signed By: Mr. Ronald Barr, Associate Provost. Funds Requested: $360,210. Total Project Cost: $480,280. To replace worn and obsolete origination facilities for noncommercial public television stations WOUB–TV, channel 20, Athens, Ohio and WOUC–TV, channel 44, Cambridge, Ohio in order to provide needed local programming services to communities in rural southeastern Ohio.

File No. 6345 CTB. Ohio University, 9 S. College Street, Athens, OH 45701. Signed By: Mr. Ronald Barr, Associate Provost. Funds Requested: $344,393. Total Project Cost: $459,190. To establish a noncommercial public FM radio station on 89.1 MHz, Ironton, Ohio, and build an interconnection system to network radio broadcast services from radio station WOUB–FM, Athens, Ohio in order to provide locally originated and network programs services for the first time to the rural Appalachian communities in Lawrence, Scioto and Gallia counties of south central Ohio.

Oklahoma

File No. 6044 CRB. Cameron University, 2800 W. Gore Blvd., Lawton, OK 73505. Signed By: Mr. Don Davis, President. Funds Requested: $129,359. Total Project Cost: $172,478. To establish a first noncommercial FM radio station KCCU–FM, operating on 90.3 MHz, Lawton, Oklahoma, to provide first local service to the Lawton, Fort Sills area of southwestern Oklahoma.

Oregon

File No. 6051 CTB. Oregon Comm. on Public Brdcsting, 2828 SW Front Avenue, Portland, OR 97201. Signed By: Mr. Gerard Appy, Executive Director. Funds Requested: $95,250. Total Project Cost: $127,000. To improve the facilities of KOAC–TV, operating on Ch. 7, Corvallis by replacing a twenty year old transmitter exciter. KOAC–TV provides the only public television service to 464,200 residents of four Oregon counties.

File No. 6053 CTB. Oregon Comm. on Public Brdcsting, 2828 SW Front Avenue, Portland, OR 97201. Signed By: Mr. Gerard Appy, Executive Director. Funds Requested: ($380,625. Total Project Cost: $507,500.) To improve the television local production capabilities of Oregon Public Broadcasting by replacing four studio cameras located at the system's main production center at KOAP–TV Portland. Local productions will serve a statewide audience of over two million pesons through four television stations and a score of repeater translators.

File No. 6055 CRB. Tillicum Foundation, 1129 Commercial/Box 269, Astoria, OR 97103. Signed By: Mr. Ken Eiler, Board Chairman. Funds Requested: $25,845. Total Project Cost: $34,461. To improve the facilities of public radio station KMUN–FM, operating on 91.9 MHz in Astoria by installing a satellite receiving dish to receive NPR/APR programming. KMUN–FM serves 100,000 residents in northwest Oregon and southwest Washington states.

File No. 6141 CTB. Southern Oregon Public TV, Inc., 34 South Fir Street, Medford, OR 97501. Signed By: Mr. Arthur Knoles, Vice President. Funds Requested: $119,175. Total Project Cost: $158,900. To improve and extend the service of public television station KSYS, Medford, by replacing a low power translator operating on Ch. 22 in Klamath Falls with a microwave fed 1000 watt repeater station. The repeater station would provide clear broadcast signals to 45,000 people who currently receive an inferior signal off-air or on cable, and would provide first public television to 8,000 additional people. The project would also interconnect KSYS with programming originating from Oregon Public Broadcasting stations in Portland.

File No. 6319 CRB. Oregon Comm. on Pub. Brdcstng., 2828 SW Front Avenue, Portland, OR 97201. Signed By: Mr. Gerard Appy, Executive Director. Funds Requested: $74,760. Total Project Cost: $149,520. To provide first public radio service to 48,300 residents of northeast Oregon. Oregon Public Broadcasting will assume the license and upgrade the transmission facilities of KRBM-FM, operating on 90.9 in Pendleton. Station program service will combine OPB programming from KOAP-FM Portland with local productions provided by the radio broadcast curriculum of Blue Mountain Community College.

File No. 6331 CTB. Oregon Comm. on Pub. Brdcstng., 2828 SW Front Avenue, Portland, OR 97201. Signed By: Mr. Gerard Appy, Executive Director. Funds Requested: $24,500. Total Project Cost: $35,000. To improve the facilities of public radio station KOAC-AM, operating on 550 Khz in Corvallis, by replacing obsolete transmission equipment. KOAC serves 1.8 million Oregonians.

Pennsylvania

File No. 6024 CRB. Pittsburgh Public Brdcstng., 4802 Fifth Avenue, Pittsburgh, PA 15213. Signed By: Mr. Lloyd Kaiser, President. Funds Requested: $257,610. Total Project Cost: $343,480. To improve programming quality of WQED-TV of Pittsburgh by replacing 4 obsolete VTR's.

File No. 6106 CRB. WHYY, Inc., 150 North 6th Street, Philadelphia, PA 19106. Signed By: Mr. Frederick Breitenfeld, Jr., President. Funds Requested: $126,638. Total Project Cost: $168,850. To replace obsolete production equipment of public radio station WHYY-FM serving Philadelphia.

File No. 6203 CRB. University of Pennsylvania, 3905 Spruce Street, Philadelphia, PA 19104. Signed By: Dr. James Bishop, Vice Provost. Funds Requested: $109,591. Total Project Cost: $146,122. To improve pulic radio station WXPN-FM serving Philadelphia, by replacing obsolete transmission and production equipment.

File No. 6225 CRB. WITF, Inc., 1982 Locust Lane, Harrisburg, PA 17109. Signed By: Mr. John Blair, Vice President, Broadcasting. Funds Requested: $62,400. Total Project Cost: $83,200. To replace worn out transmitter and obsolete studio control board of WITF-FM, a public radio station providing service to Harrisburg.

File No. 62227 CTB. WITF, Inc, 1982 Locust Lane, Harrisburg, PA 17109. Signed By: Mr. John Blair, Vice President Broadcasting. Funds Requested: $729,525. Total Project Cost: $972,700. To improve facilities of noncommercial WITF–TV serving Harrisburg and an 11 county area in south central Pennsylvania. Request includes cameras, VTR's, time base correctors and other studio equipment.

File No. 6260 CRB. Pittsburgh Comm. Brdcstng. Corp., P.O. Box 71048, Pittsburgh, PA 15213. Signed By: Mr. Peter Rosenfeld, President. Funds Requested: $82,662. Total Project Cost: $110,216. To upgrade facilities of WYEP–FM, a noncommercial public radio station serving Pittsburgh, by replacing unreliable transmitter, antenna, and other dissemination equipment. Project includes request for remote pickup and test equipment.

File No. 6263 CRB. Temple University, 100 Annenberg Hall, Philadelphia, PA 19122. Signed By: Mr. H. Patrick Swygert, Vice President for University. Fund requested: $150,734. Total Project Cost: $201,234. To increase ERP of Philadelphia WRTI–FM on 90.1 from 20,000 watts at 370 feet to 14,450 watts at 500 feet. Project also requests funds to extend WRTI's signal via translators to Allentown as well as Reading which is unserved.

File No. 6264 CTB. Lehigh Valley Pub. T/C Corp., Mountain Drive, Bethlehem, PA 18015. Signed By: Mr. Sheldon Siegel, President. Funds requested: $211,731. Total Project Cost: $282,308. To improve the facilities of WLVT–TV, public channel 39 serving Allentown, by replacing obsolete 2 inch VTR's with four 1 inch machines.

Puerto Rico

File No. 6158 CRTB. P.R. Department of Education, Tte. Cesar Gonzalez & Calaf Sts., Hato Rey, PR 00919. Signed By: Mrs. Awilda Roque, Secretary of Education. Funds Requested: $1,000,000. Total Project Cost: $1,354,968. To improve the facilities of the Commonwealth of Puerto Rico Radio and Television Services, which serve the island of Puerto Rico through WIPR–TV, operating on Ch. 6 in San Juan, WIPM–TV, operating on Ch. 3 in Mayaguez, and WIPR AM/FM. The project would replace obsolete production equipment, including videotape recorders, cameras and switchers and also replace an obsolete microwave interconnection between the two stations. The two stations serve the three million residents of the island. Obsolete audio equipment at the radio stations would also be replaced.

File No. 6280 CTB. Fundacion Educativa Ana Mendez, P.O. Box 21345, Rio Piedras, PR 00924. Signed By: Mr. Jose Mendez, President. Funds Requested: $318,989. Total Project Cost: $425,319. To improve the facilities of public television stations WMTJ–TV, operating on Ch. 40, Farjado, and WQTO–TV, under construction on Ch. 26 in Ponce, by constructing a satellite receive terminal and equipping a second production studio. The satellite receive terminal will enable the stations to receive programs from the Public Broadcasting Service. The studio, located in Rio Piedras, is intended to provide local programs to Ponce. The stations serve some two and a half million residents of the island of Puerto Rico.

South Carolina

File No. 6011 CTB. South Carolina Ed. TV Comm., 2712 Millwood Ave., PO Drawer L, Columbia, SC 29205. Signed By: Mr. Henry Cauthen, President & General Manager. Funds Requested: $320,000. Total Project Cost: $480,000. To improve the South Carolina ETV Commission State TV Network by replacing obsolete and worn out video tape recording equipment. Network serves approximately 3.5 million people.

South Dakota

File No. 6003 CRB. Sioux Falls College, 1501 South Prairie Avenue, Sioux Falls, SD 57105. Signed By: Mr. Samuel Kvasnica, Vice President. Funds Requested: $39,637. Total Project Cost: $52,850. To purchase an antenna, transmitter and associated dissemination equipment for noncommercial radio station KCFS–FM, which operates from the campus of Sioux Falls College, Sioux Falls, SD. KCFS will shortly change frequencies, from 90.1 MHz to 101.1 MHz, and wishes to increase its transmitter power from 100w to 3000w. The project would also improve KCFS's program production capabilities by purchasing an audio console.

File No. 6125 CTB. South Dakota ETV Board, 414 East Clark Street, Vermillion, SD 57601. Signed By: Mr. David Leonard, Executive Director. Funds Requested: $352,500. Total Project Cost: $470,000. To replace an obsolete transmitter at public TV station KESD, Ch. 8, Brookings, SD. KESD brings the only public TV signal with local origination to approximately 187,000 residents of east-central SD. The project will also purchase associated test and remote control equipment as well as antenna impedence matching devices.

File No. 6249 CRB. Lakota Communications, Inc., P.O. Box 150/ Porcupine Butte, Porcupine, SD 57772. Signed By: Mr. Dale Means, Treasurer, Board of Directors. Funds Requested: $65,024. Total Project Cost: $86,699. To construct five FM translators to extend the signal of public radio station KILI–FM, 90.1 MHz, located at Porcupine Butte on the Pine Ridge Sioux Reservation, SD, to the Rosebud and Cheyenne River Sioux Reservations and the communities of Bridger and Cherry Creek, all in SD. The translators will be placed at Rosebud, Billsburg, Dupree, Eagle Butte and La Plante. The project will also purchase a remote pick-up unit for KILI.

Tennessee

File No. 6021 CTB. Memphis Community TV Foundation, 900 Getwell Street, PO Box 80000, Memphis, TN 38152. Signed By: Mr. Wayne Godwin, President & Treasurer. Funds Requested: $549,064. Total Project Cost: $1,098,129. To replace and improve transmitter and origination equipment at public television station WKNO–TV, channel 10, in Memphis, Tennessee. Station provides service to an estimated 1,200,000 residents of Memphis and the surrounding areas.

File No. 6212 CRB. University of Tennessee, 108 Cadek Hall, Chattanooga, TN 37403. Signed By: Dr. Frederick Obear, Chancellor. Funds Requested: $18,309. Total Project Cost: $24,413. To upgrade the production facilities of public radio station WUTC–FM, operating on 88.1 MHz in Chattanooga, Tennessee. Improved facility will be used to expand production of programming for regional distribution. Project would serve approximately 1,000,000 people in parts of Tennessee, Georgia, Alabama and North Carolina.

File No. 6275 CTB. E. Tennessee Pub. Comm. Corp., 209 Communications Building, Knoxville, TN 37996–0321. Signed By: Mr. Charles Davis, Chairman of the Board. Funds Requested: $1,117,878. Total Project Cost: $1,490,505. To activate public television station channel 15 in Knoxville, Tennessee. Station will be sister station to WSJK–TV, channel 2, and will share production facilities. New station will provide first service to approximately 800,000 residents presently unable to adequately receive WSJK–TV, which transmits from Sneedville, Tennessee, about 50 miles northeast of Knoxville.

File No. 6333 CTN. Columbia State Community College, P.O. Box 1315, Hampshire Pike, Columbia, TN 38401. Signed By: Mr. L. Paul Sands, President. Funds Requested: $1,314,571. Total Project Cost: $1,752,762. To establish a four channel Instructional Television Fixed Service system to meet the needs of nine counties of southern middle Tennessee. System will provide first signal to parts of proposed coverage area not reached by existing public television stations.

Texas

File No. 6017 CTN. Ed. Service Center Region 10, 400 E. Spring Valley, Richardson, TX 75083–1300. Signed By: Dr. Joe Farmer, Executive Director. Funds Requested: $185,970. Total Project Cost: $247,966. To construct an ITFS repeater station at Ennis, TX, to bring the instructional programming of the Region 10 Education Service Center, based in Richardson, TX, to approximately 40,000 students in 19 school districts to the east and south of Dallas.

File No. 6030 CTB. Navarro College, P.O. Box 1170, West Highway 31, Corsicana, TX 75110. Signed By: Mr. Darrell Raines, Vice President for Finance. Funds Requested: $120,562. Total Project Cost: $160,750. To construct a new tower, with a directional antenna, for the noncommercial low-power TV station operating on Ch. 29 at Navarro College, Corsicana, TX. The new tower site is necessitated by the FCC's assignment of full-service TV on Ch. 29 in nearby Decatur, TX. Without a change in tower site, the predicted interference with the full-service station will force the Navarro College station off the air. Navarro College's station brings the only public TV signal to much of the population of the Corsicana-Fairfield area.

File No. 6054 CTB. South Texas Public Broadcasting, 4455 S. Padre Island Drive, Corpus Christi, TX 78411. Signed By: Mr. Terrel Cass, President and General Manager. Funds Requested: $87,750. Total Project Cost: $117,000. To replace obsolete and worn-out mechanical routing switchers at public TV station KEDT, Ch. 16, Corpus Christi, TX.

File No. 6059 CTB. South Texas Public Broadcasting, 4455 S. Padre Island Drive, Corpus Christi, TX 78411. Signed By: Mr. Terrel Cass, President and General Manager. Funds Requested: $44,049. Total Project Cost: $58,732. To replace a worn-out and obsolete studio-to-transmitter link (STL) at public TV station KEDT–TV, Ch. 16, Corpus Christi, TX.

File No. 6069 CTB. South Texas Public Broadcasting, 4455 S. Padre Island Drive, Corpus Christi, TX 78411. Signed By: Mr. Terrel Cass, President and General Manager. Funds Requested: $226,500. Total Project Cost: $302,000. To purchase three additional 1" video tape recorders, with an associated editing system, to improve the program production capabilities of public TV station KEDT–TV, Ch. 16, Corpus Christi, TX.

File No. 6070 CTB. South Texas Public Broadcasting, 4455 S. Padre Island Drive, Corpus Christi, TX 78411. Signed By: Mr. Terrel Cass, President and General Manager. Funds Requested: $133,800. Total Project Cost: $178,400. To replace an obsolete and worn-out transmission line at public TV station KEDT–TV, Ch. 16, Corpus Christi, TX.

File No. 6071 CTB. South Texas Public Broadcasting, 4455 S. Padre Island Drive, Corpus Christi, TX 78411. Signed By: Mr. Terrel Cass, President & General Manager. Funds Requested: $93,000. Total Project Cost: $124,000. To replace obsolete and worn-out PE–240 film chains at public TV station KEDT, Ch. 16, Corpus Christi, TX.

File No. 6089 CTBN. S.W. Texas Public Broadcasting, 2504–B Whitis Street, Austin, TX 78705. Signed By: Mr. Bill Arhos, Acting Chief Operating Officer. Funds Requested: $551,390. Total Project Cost: $735,187. To purchase an automated recording and routing/master control switching facility to replace obsolete equipment at public TV station KLRU, Ch. 18, Austin, TX, whose signal is also broadcast over KLRN–TV, Ch.9, San Antonio. The project will also purchase equipment for the transmission of instructional materials via an ITFS system (the first to be activated in Austin), a dedicated channel of the Austin cable TV system, and a cable system on the University of Texas Austin campus.

File No. 6090 CRN. Taping for the Blind, Inc., 3935 Essex Lane, Houston, TX 77027. Signed By: Mr. Ted Lofton, President. Funds Requested: $6,000. Total Project Cost: $8,000. To purchase 100 SCA receivers to extend the signal of Taping for the Blind, Inc., which uses the subcarriers frequency of public radio station KUHF, Houston, to bring radio reading services to the print-handicapped in the greater Houston area.

File No. 6145 CRTB. Central Texas College, Highway 190 West, Killeen, TX 76542. Signed By: Mr. Phillip Swartz, President. Funds Requested: $75,375. Total Project Cost: $100,500. To replace obsolete and worn-out studio-to-transmitter link systems serving public TV station KNCT, Ch. 46, and public radio station KNCT–FM, 91.3 MHz, both licensed to Central Texas College, Killeen. The project includes equipment for associated microwave links to be used for telemetry transmission.

File No. 6152 CTN. Frank Phillips College, 1301 West Roosevelt, Borger, TX 79008–5118. Sign By: Mr. Andy Hicks, President. Funds Requested: $200,000. Total Project Cost: $491,371. To construct a two-way interactive video microwave system for Frank Phillips College, Borger, TX. In its initial phase, the system will bring the College's courses to the communities of Canadian, Dalhart, and Perryton in the northern panhandle region of Texas.

File No. 6161 CRB. Texas Southern University, 3100 Cleburne Avenue, Houston, TX 77004. Signed By: Mr. Leonard Spearman, President. Funds Requested: $52,500. Total Project Cost: $70,000. To replace a worn-out transmitter and an obsolete audio mixing board at noncommercial radio station KTSU–FM, 90.9 MHz, licensed to and located on the campus of Texas Southern University, Houston.

File No. 6209 CRB. University of Texas at Austin, Austin, TX 78712–1090. Signed By: Mr. G.J. Fonken, Executive Vice President. Funds Requested: $149,950. Total Project Cost: $199,950. To equip noncommercial radio station KUT–FM, 90.5 MHz, located on the campus of the University of Texas at Austin, with a multitrack recording studio. The project will install a 24-track/36-channel recording console, a 24-track tape recorder, two 2-track mastering recorders, and other studio equipment items. The equipment will enhance KUT's ability to record and broadcast live local music.

File No. 6214 PRTBN. Texas Education Agency, 1701 North Congress Avenue, Austin, TX 78701. Signed By: Mr. W.N. Kirby, Commissioner of Education. Funds Requested: $156,940. Total Project Cost: $224,204. To plan a comprehensive telecommunications network to serve the public school system of Texas. The network might encompass standard broadcasting as well as ITFS, satellite transmission, cable TV, and FM radio. It would be used for courses of study, teacher education, community and school communications, supplemental instructional materials, library services, adult/community education, and vocational education. The study will be coordinated by the Texas Education Agency in Austin.

File No. 6226 CRB. Odessa Junior College District, 201 West University, Odessa, TX 79764. Signed By: Dr. Bernhard Sedate, Vice President for Instruction. Funds Requested: $173,250. Total Project Cost: $231,000. To improve the production capability of public TV station KOCV, Ch. 36, at Odessa College, Odessa TX, by purchasing 3 1" video tape recorders and 3 time base correctors.

File No. 6251 CTN. University of Houston System, 4513 Cullen Boulevard, Houston, TX 77004. Signed By: Ms. Julie Norris, Assistant Provost. Funds Requested: $305,590. Total Project Cost: $407,461. To establish an Instructional Television Fixed Service (ITFS) system based at pubic TV station KUHT, Ch. 8, at the University of Houston, Houston, TX. In its initial phase, the system will link the University's four campuses, which are located throughout greater Houston.

File No. 6258 CTB. Texas Tech University, 17th & Indiana, Lubbock, TX 79409. Signed By: Mr. Donald Haragan, Vice President. Funds Requested: $227,700. Total Project Cost: $303,600. To replace worn-out quadraplex video tape recorders and a video routing switcher at public TV station KTXT, Ch. 5, operating from the campus of Texas Tech University, Lubbock. The project will purchase 1" "C" Type VTRs and a 40 x 20 routing switcher.

Utah

File No. 6104 CRTB. University of Utah, 205 James Talmage Building, Salt Lake City, UT 84112. Signed by: Mr. Ted Capener, Vice President University Rela. Funds Requested: $2,265,734. Total Project Cost: $3,020,979. To extend and improve the signals of public television stations KQED and KWBR and public radio station KUER–FM operating on channels 7, 9 and 90.1 respectively by completing the microwave interconnection of various public telecommunications entities statewide and developing remote production capabilities to provide public

telecommunication service to unserved areas of Utah.

File No. 6117-CRB. Weber State College, 3750 Harrison Blvd., Ogden, UT 84408. Signed by: Mr. Alan Dayley, Director. Funds Requested: $27,090. Total Project Cost: $36,120. To upgrade the production facilities of public radio station KWRC–FM operating on 88.1, Ogden, Utah by replacing obsolete apparatus to deliver programming to Ogden.

Virginia

File No. 6026 CTB. Blue Ridge ETV Association, 1215 McNeil Drive, SW, Roanoke, VA 24015. Signed by: Mr. E. V. Rexrode, Jr., Executive Vice President & Gen. Funds Requested: $85,194. Total Project Cost: $113,592. To replace obsolete four-hop microwave system which carries the signal of WBRA–TV of Richmond to Norton and Marion in southwest Virginia. This system provides the only public television signal to those areas.

File No. 6088 CTB. Central Virginia ETV Corp., 23 Sesame St., P.O. Box 35026, Richmond, VA 23235–0026. Signed by: Mr. Richard Hall, Vice President, Broadcasting. Funds Requested: $590,000. Total Project Cost: $789,141. To activate a new noncommercial television station on channel 41 in Charlottesville. The facility will provide first service to Albemarble County and parts of eight other Virginia counties.

File No. 6123 PTB. Nat'l Captioning Institute, Inc., 5203 Leesburg Pike, Suite 1500, Falls Church, VA 22041. Signed by: Mr. John Ball, President. Funds Requested: $90,000. Total Project Cost: $360,000. To plan for a Spanish captioning service, which would provide service to the approximately 21 million Hispanics living in the United States.

File No. 6271 CRB. Virginia Tech Foundation, Inc., 4200 Avenham Avenue SW, Roanoke, VA 24014. Signed by: Mr. Charles Forbes, Executive Vice President. Funds Requested: $119,693. Total Project Cost: $159,591. To improve signal of public radio station WVTF–FM, 89.1 serving southwest Virginia, north central North Carolina and southeast West Virginia by replacing an obsolete transmitter and modifying a 10 bay antenna to a 6 bay.

File No. 6272 CRN. VA Voice for Print Handicapped, 401 Azalea Avenue, Richmond, VA 23227. Signed By: Mr. W.O. Jones, III, President. Funds Requested: $5,925. Total Project Cost: $7,900. To extend the services of this radio reading service for the print handicapped by purchasing 100 SCA receivers. Receivers will be placed in the greater Richmond area.

File No. 6279 CTB. Hampton Roads Ed. T/C Assoc., 5200 Hampton Boulevard, Norfolk, VA 23508. Signed By: Mr. John Morison, President & General Manager. Funds Requested: $365,610. Total Project Cost: $487,481. To improve facilities of WHRO–TV providing public television to the city of Norfolk as well as eastern Virginia and northeast North Carolina by replacing obsolete and worn out equipment. Request includes STL, ½ inch editing equipment, lighting and transmitter stereo modification.

File No. 6324 CTB. Shenandoah Valley Ed. TV Corp., Port Republic Road, Harrisonburg, VA 22801. Signed By: Mr. Arthur Albrecht, Executive Vice President & Gen. Funds Requested: $279,021. Total Project Cost: $372,029. To establish a noncommercial television transmitter, channel 41, in Albemarle County, which will primarily retransmit the signal of WVPT–TV in Harrisonburg. This project will provide over-the-air service to Charlottesville, which is currently served by cable, and to the rest of the county which is unserved.

File No. 6325 CTB. Shenandoah Valley ETV Corp., Port Republic Road, Harrisonburg, VA 22801. Signed By: Mr. Arthur Albrecht, Executive Vice President & Gen. Funds Requested: $221,341. Total Project Cost: $295,122. To improve facilities of WVPT–TV, channel 51, serving 14 counties in the Shenandoah Valley by replacing obsolete and outdated equipment. Request includes 3 VTR's, a routing switcher and a master control switcher.

Virgin Islands

File No. 6157 CTB. Virgin Island PTV System, Barbel Plaza, P.O. Box 7879, Charlotte Amalie, VI 00801. Signed By: Mr. Dana Orie, Chairman, Board of Directors. Funds Requested: $96,247. Total Project Cost: $128,330. To improve the operation of WTJX–TV, operating on Ch. 12 in Charlotte Amalie, United States Virgin Islands, by replacing obsolete test and monitoring equipment required to maintain station operations. WTJX–TV serves some 100,000 people in the U.S. Virgin Islands.

Vermont

File No. 6065 CTB. Vermont ETV, 88 Ethan Allen Avenue, Winooski, VT 05404. Signed By: Mr. Gerald Francis, Interim Vice President for Aca. Funds Requested: $230,025. Total Project Cost: $306,700. To expand and improve the signal of noncommercial WVER–TV, channel 28, located in Rutland by replacing failing 2 kw transmitter with a new 10 kw transmitter.

File No. 6198 CRB. Vermont Public Radio, 107.9 Ethan Allen Avenue, Winooski, VT 05404. Signed By: Mr. Raymond Dilley, Executive Vice President. Funds Requested: $116,832. Total Project Cost: $155,776. To activate an FM transmitter in Rutland which will repeat the signal of WVPR in Windsor and will provide first public radio service to 42,000. Request includes antenna, transmitter and various test and interconnection equipment.

Washington

File No. 6224 CRB. Northern Sound Public Radio, 119 N. Commercial, Bellingham, WA 98225. Signed By: Mr. Richard Baum, President. Funds Requested: $116,489. Total Project Cost: $155,319. To establish a new radio station operating on 91.3 MHz in Bellingham, to provide the first public radio service to 200,000 people living in the northern Puget Sound area of Washington State. The station would rebroadcast the public radio service of KUOW, Seattle and provide for local origination of programs from Bellingham. The project also includes the construction of translators to extend the stations signal to Anacortes, Mt. Vernon, Sequim, Friday Harbor and Coupeville.

File No. 6334 CTB. The University of Washington, 4045 Brooklyn Ave., NE, Seattle, WA 98105. Signed By: Mr. Donald Allen, Director, Grants & Contracts. Funds Requested: $745,047. Total Project Cost: $993,397. To improve the transmission facilities of public television station KCTS, operating on Ch. 9 Seattle, by replacing a twenty year old transmitter. The new transmitter will enable KCTS to increase power, thereby providing first service to 25,000 people, as well as continuing current service to 2,912,667 people in Washington State.

File No. 6339 CRB. Pacific Lutheran University, Inc. 121st & Park Avenue, Tacoma, WA 98447. Signed By: Mr. William Rieke, President. Funds Requested: $38,210. Total Project Cost: $67,885. To improve the production facilities of KPLU–FM, operating on 88.5 MHz in Tacoma, by providing a microwave interconnection to the station from an auxiliary studio in Seattle. The microwave will replace an inadequate telephone line and will provide high quality audio for Seattle based news and music program to the two million residents of western Washington State.

Wisconsin

File No. 6023 CTB. Milwaukee Area Dist. Bd. of VTAE, 1015 North 6th Street, Milwaukee, WI 53203. Signed By: Mr. John Possell, Director, Administrative Servi. Funds Requested: $180,832. Total

Project Cost: $241,110. To improve the dissemination and origination facilities of television station WMVT–TV, channel 36, Milwaukee, Wisconsin. To provide needed programming in stereo to the communities in the Milwaukee metropolitan area.

File No. 6028 CTB. Wisconsin Ed. Communications Bd., 3319 West Beltline Highway, Madison, WI 53713. Signed By: Mr. Paul Norton, Executive Director. Funds Requested: $416,362. Total Project Cost: $643,257. To improve origination facilities of the Wisconsin state television Network by replacing worn and obsolete video recording facilities in order to prove necessary program services to the five broadcasting stations on the network serving the community areas of Green Bay, La Crosse, Menomonie, Park Falls and Wausau in Wisconsin.

File No. 6085 CTN8. Lakeshore Technical Institute, 1290 North Avenue, Cleveland, WI 53015. Signed By: Mr. Frederick Nierode, District Director. Funds Requested: $81,059. Total Project Cost: $107,745. To extend the programming services of the Lakeshore Institute ITFS network by activating ITFS channels C–1 and B–1 in Cato and Cleveland, Wisconsin, respectively in order to serve the educational needs of communities in the Manitonoc County area of Wisconsin.

File No. 6126 CRB. University of Wisconsin System, 750 University Avenue, Madison, WI 53706. Signed By: Mr. Robert Erickson, Director Research and Administration. Funds Requested: $75,500. Total Project Cost: $101,000. To replace worn and obsolete origination facilities of noncommercial public radio station WHA–AM, 970 KHz, Madison, Wisconsin in order to deliver local and network programming to communities in the Madison area and to those in the state.

File No. 6127 CTB. University of Wisconsin, 821 University Avenue, Madison, WI 53706. Signed By: Mr. Robert Erickson, Director, Research Administrat. Funds Requested: $195,600. Total Project Cost: $260,800. To replace worn and obsolete origination facilities and augment video tape recording equipment for noncommercial public television station WHA–TV, channel 21, Madison, Wisconsin in order to enable the production of local programming to serve the communities in the metropolitan area.

West Virginia

File No. 6060 CTB. WV Ed. Brdcsting. Authority, 1900 Washington St., Suite B424, Charleston, WV 25305. Signed By: Mr. Presley Holmes, Executive Director. Funds Requested: $577,342. Total Project Cost: $769,790. To replace 10 obsolete 2 inch VTR's in state wide public television system which include stations at Morgantown, Huntington and Beckley.

File No. 6107 CRB. Pocahontas Comm. Coop. Corp., Route 2, Box 39, Dunmore, WV 24934. Signed By: Mr. Gibbs Kinderman, General Manager. Funds Requested: $44,100. Total Project Cost: $58,810. To increase power of WVMR–AM serving parts of Pocohontas County from 2500 watts to 5000 watts. Power increase will provide first noncommercial radio signal to remaining parts of county as well as unserved isolated communities outside the county.

Wyoming

File No. 6256 CTB. Central Wyoming College, 2660 Peck Avenue, Riverton, WY 82501. Signed By: Mr. Edward Donovan, President. Funds Requested: $160,387. Total Project Cost: $213,849. To extend the signal of public television station KCWC–TV, operating on channel 4, Riverton, Wyoming, by constructing the first leg of a microwave distribution system to bring the first public television signal to the residents of northwestern Wyoming.

Alabama

New file no. 6043CTB; old file no. 5425 Alabama Ed. TV Commission, Birmingham.

New file no. 6066CTN; old file no. 5375 Alabama Ed. TV Commission, Birmingham.

New file no. 6304PTN; old file no. 5013 Jefferson State Junior College, Birmingham.

New file no. 6353PTB; old file no. 5201 Americus Rural Ed. Foundation, Hamilton.

Arkansas

New file no. 6180CRB; old file no. 5137 Arkansas Brdcsting Found., Inc., Little Rock.

Arizona

New file no. 6118CTB; old file nos. 5063, 4054, 3144, 2362 University of Arizona, Tucson.

New file no. 6306CTB; old file no. 5240 Rock Point School, Inc., via Chinle.

California

New file no. 6018PRB; old file no. 5069 Mendocino Cty. Public Brdcsting., Boonville.

New file no. 6095CTN; old file no. 5399 Comm. Media Res. & Train. Center, San Diego.

New file no. 6132CRB; old file no. 5324 Radio Bilinque, Fresno.

New file no. 6287CTB; old file nos. 5143, 4271, 3167 California Community TV Network, Oakland.

Colorado

New file no. 6122CTB; old file no. 5396 Front Range Ed. Media Corp., Broomfield.

Connecticut

New file no. 6056CTB; old file no. 5139 Connecticut Ed. T/C Corp., Hartford.

Florida

New file no. 6006CTN; old file no. 5044 WJCT, Inc., Jacksonville.

New file no. 6012CRB; old file no. 5077 WJCT, Inc., Jacksonville.

New file no. 6154CRTN; old file nos. 5055, 4066, 3129 State of Florida, Tallahassee.

New file no. 6182CTB; old file no. 5326 Community TV Fnd. S. FL, Inc., Miami.

New file no. 6194CRB; old file nos. 5130, 4185 The University of South Florida, Tampa.

New file no. 6197CRBN; old file nos. 5129, 4183 The University of South Florida, Tampa.

New file no. 6218CTB; old file no. 5297 Florida Educational TV, Inc., Boca Raton.

New file no. 6255CTB; old file no. 5116 Community Communications, Inc., Orlando.

Guam

New file no. 6292PRTB; old file no. 5075 Sky Channel of the Pacific, Inc., Agana.

Iowa

New file no. 6162CTN; old file no. 5090 E. Iowa Community College Dist., Davenport.

New file no. 6177CRB; old file no. 5145 University of Northern Iowa, Cedar Falls.

New file no. 6219CTN; old file no. 5059 Iowa Central Community College, Fort Dodge.

Illinois

New file no. 6183CTB; old file no. 5368 Southern Illinois University, Carbondale.

New file no. 6246CRB; old file no. 5280 Prairie Air, Inc., Champaign.

New file no. 6284CTB; old file no. 5254 Illinois Valley Pub. T/C Corp., Peoria.

Indiana

New file no. 6019CTB; old file no. 5106, 4093 Indianapolis Public Brdcsting., Indianapolis.

New file no. 6040CTB; old file no. 5385 The Vincennes University, Vincennes.

New file no. 6074CTB; old file no. 5054 Michiana Public Brdcstng. Corp., Elkhart.

New file no. 6080CTB; old file no. 5230 Trustees of Indiana University, Bloomington.

New file no. 6206CTB; old file no. 5334 SW Indiana Pub. Brdcstng., Inc., Evansville.

New file no. 6313CRB; old file no. 5234 Vincennes University, Vincennes.

Kentucky

New file no. 6037CRB; old file nos. 5015, 4005, 3042 Black American Comm., Inc., Frankfort.

New file no. 6298CTB; old file no. 5195 Fifteen Telecommunications, Inc., Louisville.

Massachusetts

New file no. 6150CRB; old file no. 5352 University of Massachusetts, Boston.

Maryland

New file no. 6087CRB; old file no. 5413 Salisbury State College Fnd., Salisbury.

New file no. 6338CTN; old file no. 5401 Chesapeake College, Wye Mills.

Maine

New file no. 6187CTN; old file nos. 5286, 4129 Southern ME Cable TV Consortium, Portland.

Michigan

New file no. 6032CTB; old file no. 5304 The Univ. of Michigan, Flint, Flint.

New file no. 6078CRB; old file no. 5302 Michigan State University, East Lansing.

New file no. 6111CRB; old file nos. 5289, 4254, 3105, 2048 Central Michigan University, Mt. Pleasant.

New file no. 6153CTB; old file no. 5252 Detroit Educational TV Found., Detroit.

New file no. 6285CTB; old file no. 5391 Delta College, University Center.

New file no. 6302CTN; old file no. 5191 Detroit Ed. TV Foundation, Detroit.

New file no. 6311CRB; old file nos. 5411, 4086, 3026, 2109 Delta College, University Center.

New file no. 6317CTB; old file nos. 5101, 4061, 3175 Michigan State University, East Lansing.

New file no. 6327CTN; old file no. 5112 City of Saline, Saline.

Minnesota

New file no. 6050CTB; old file no. 5361 Twin Cities PTV, Inc., St. Paul.

New file no. 6167CTN; old file no. 5041 Rochester Community College, Rochester.

New file no. 6286CTN; old file no. 5111 New Horizons Tele-Network, Morris.

New file no. 6291CTN; old file no. 5392 MN Tele-Media, Marshall.

Missouri

New file no. 6008CTB; old file nos. 5035, 4138 Public Television 19, Inc., Kansas City.

New file no. 6174CTB; old file no. 5033 Ozark Public T/C, Inc., Springfield.

New file no. 6330CTB; old file no. 5083 St. Louis Board of Education, St. Louis.

New file no. 6348PTB; old file no. 5122 Pub. T/C Interconnection Auth., Jefferson City.

Montana

New file no. 6151CTB; old file no. 5224 Townsend TV District, Townsend.

New file no. 6179CTB; old file no. 5406 Browning Public Schools, Browning.

New file no. 6244CTB; old file no. 5214 Salish Kootenai College, Inc., Pablo.

North Carolina

New file no. 6062CTB; old file no. 5081 Charlotte-Mecklenburg PBA, Charlotte.

New file no. 6216CRB; old file no. 5092 Isothermal Community College, Spindale.

Nebraska

New file no. 6102CRB; old file nos. 5235, 4067 Sunrise Communications, Inc., Lincoln.

New Mexico

New file no. 6092CRB; old file no. 5097 University of New Mexico, Albuquerque.

New file no. 6195CTB; old file no. 5098 University of New Mexico, Albuquerque.

New file no. 6254CRB; old file no. 5118 Albuquerque Board of Education, Albuquerque.

New file no. 6257CRB; old file no. 5288 Santa Fe Community College, Santa Fe.

Nevada

New file no. 6009CTB; old file nos. 5028, 4256 Lyon County, Nevada, Yerington.

New file no. 6103CTN; old file no. 5400 University of Nevada, Reno.

New file no. 6221PTB; old file no. 5226 Rural Television System, Inc., Carson City.

New York

New file no. 6048CRB; old file nos. 5205, 4032 Rochester Radio Reading Service, Rochester.

New file no. 6169CRB; old file no. 5211 State University of New York, Albany.

New file no. 6204CTN; old file no. 5407 Hispanic Info. T/C Network, New York.

New file no. 6303CTB; old file no. 5303 Pub. Brdcstng. Coun. Central NY, Liverpool.

Ohio

New file no. 6250CRB; old file no. 5156 Ohio State University, Columbus.

New file no. 6301CRB; old file nos. 5259, 4258 Toledo Board of Education, Toledo.

Oregon

New file no. 6116PTN; old file no. 5408 School District 24J, Salem.

Pennsylvania

New file no. 6015CRB; old file no. 5410 Spanish American Civic Assoc., Lancaster.

New file no. 6025CRB; old file no. 5127 Pittsburgh Public Brdcsting., Pittsburgh.

New file no. 6038PTN; old file no. 5207 Central Susquehanna Inter. Unit, Lewisburg.

New file no. 6079CTB; old file no. 5085 NE Penn. Ed. TV Association, Pittston.

New file no. 6342CTB; old file no. 5374 The Pennsylvania State Univ., University Park.

Rhode Island

New file no. 6166CTB; old file no. 5200 R.I. Public T/C Authority, Providence.

Tennessee

New file no. 6295CTB; old file no. 5079 The University of Tennessee, Knoxville.

Trust Territory

New file no. 6057CTB; old file no. 5232 Yap State Government, Colonia.

Texas

New file no. 6014CTB; old file no. 5021 N. Texas Public Brdcsting, Inc., Dallas.

New file no. 6031CTN; old file no. 5309 Region IV Education Service Cen., Houston.

New file no. 6042CTB; old file nos. 5020, 4151, 3180, 2342 North Texas Public Broadcasting, Dallas.

New file no. 6081CRB; old file no. 5002 North Texas State University, Denton.

New file no. 6091CTB; old file nos. 5273, 4036 Amarillo Junior College District, Amarillo.

Virginia

New file no. 6114CTB; old file no. 5194 Central Virginia ETV Corporation, Falls Church.

New file no. 6115CTB; old file no. 5192 Central Virginia ETV Corporation, Falls Church.

New file no. 6178PRB; old file no. 5250 St. Paul's College, Lawrenceville.

Vermont

New file no. 6267CTB; old file no. 5364 Burlington School Department, Burlington.

Washington

New file no. 6093CRB; old file no. 5355 Clover Park School Dist. No. 400, Tacoma.

New file no. 6130CTB; old file nos. 5251, 4148 Washington State University, Pullman.

Wisconsin

New file no. 6149CRB; old file no. 5244 White Pine Comm. Brdcsting, Inc., Rhinelander.

New file no. 6296PTB; old file no. 5146 Wisconsin Indianhead VTAE Dist., Shell Lake.

West Virginia

New file no. 6337CTB; old file no. 5056 WV Educational Brdstng. Auth., Huntington.

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federal register

Monday
March 31, 1986

Part III

Department of Education

34 CFR Part 682

Guaranteed Student Loan Program; Schedule of Expected Family Contributions for 1986-87; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Part 682

Guaranteed Student Loan Program, Schedule of Expected Family Contributions for 1986–87

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary issues final regulations for use in determining student eligibility for interest benefits under the Guaranteed Student Loan Program (GSLP). These regulations, which establish the GSL Family Contribution Schedule for 1986–87, will apply to any loan for a period of instruction which begins on or after July 1, 1986, but no later than June 30, 1987, regardless of the time when the determination of the student's need for a loan is made.

EFFECTIVE DATES: These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. The regulations will apply to any loan for a period of instruction which begins on or after July 1, 1986, but no later than June 30, 1987, regardless of the time when the determination of the student's need for a loan is made.

FOR FURTHER INFORMATION CONTACT: Nancy Eakin, Program Specialist, or Ralph Madden, Chief, Policy Section, Guaranteed Student Loan Branch, Division of Policy and Program Development, Department of Education (ROB–3, Room 4310), 400 Maryland Avenue SW, Washington, DC 20202, Telephone (202) 245–2475.

SUPPLEMENTARY INFORMATION:

Background

Section 707 of the Education Amendments of 1984 (Pub. L. 98–511) amended section 9 of the Student Financial Assistance Technical Amendments of 1982 (Pub. L. 97–301) by requiring that the 1982–83 Family Contribution Schedule, modified to reflect the most recent and relevant data, be used as the Family Contribution Schedule for 1986–87. These final regulations implement that statutory mandate for the 1986–87 academic year.

The Secretary has proposed a number of programmatic changes in connection with the 1987 Budget request for the GSLP and the PLUS Program. These proposals include requiring uniform need analysis for all Title IV student aid programs including GSL, expecting greater family contributions, and extending need analysis to families with less than $30,000 in income. In place of the current multiple and complicated need analysis methods used for different need-based Federal student aid programs, a single, simplified, and more verifiable need analysis system would be applied. Standardized cost-of-education rules would be applied to all programs. Assessment rates on income and assets would yield expected contribution levels for middle and upper income families substantially higher than under current methods. The Secretary believes that changes such as these, which improve targeting of aid on needy students and reduce unnecessary and excessive subsidies, are important for the future viability of these programs and that they should be enacted by the Congress as a part of the 1987 Budget.

Waiver of Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)), and the Administrative Procedure Act, 5 U.S.C. 553, it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, because the content of the Family Contribution Schedule is determined by statute, public comment could have no effect on the content of these regulations. Therefore, the Secretary has determined under 5 U.S.C. 553(b)(B) that proposed rulemaking on these regulations is unnecessary and contrary to the public interest.

Modification of the 1982–83 Family Contribution Schedule For Use for 1986–87

Section 9 of the Student Financial Assistance Technical Amendments Act of 1982 (Pub. L. 97–301) required that the 1982–83 Family Contribution Schedule be modified and used as the schedule for the 1983–84 academic year. The 1983–84 GSL Family Contribution Schedule was the first schedule codified in regulations published in the **Federal Register**. Earlier schedules were published as notices in the **Federal Register**. Section 4(b) of the Student Loan Consolidation and Technical Amendments Act of 1983 (Pub. L. 98–79) amended Pub. L. 97–301 to provide for schedules for academic years 1984–85 and 1985–86. Section 707 of the Education Amendments of 1984 (Pub. L. 98–511) amended Pub. L. 97–301 to provide for the schedule for 1986–87. This schedule, in turn, modifies the 1985–86 schedule. Because the 1985–86 schedule was substantially the same as the 1982–83 schedule, such modifications are in effect, modifications of the 1982–83 schedule.

This schedule continues the use of systems of financial need anaylsis approved by the Secretary for use in the National Direct Student Loan (NDSL), College Work-Study (CWS), and Supplemental Education Opportunity Grant (SEOG) Programs (the campus-based programs), and revises the set of tables in Appendix B of 34 CFR Part 682.

This schedule modifies the 1985–86 Family Contribution Schedule in the following respects:

(1) The 1985–86 schedule applies to loans for periods of instruction beginning on or after July 1, 1985, but not later than June 30, 1986. This schedule applies to loans for periods of instruction beginning on or after July 1, 1986, but not later than June 30, 1987, regardless of when an institution completes its portion of a student's GSLP application.

(2) This schedule requires, in § 682.301(c), that the institution, in determining the adjusted gross family income, consider the income reported by each family member on the 1985 Federal income tax return. "Adjusted gross income" means that term as defined in section 62 of the Internal Revenue Code. Further references to the years 1984 and 1985 in § 682.301(c)(2)(iii) and (c)(4) are revised to refer to the years 1985 and 1986, respectively.

(3) Section 682.301(f) has been revised to specify that this schedule applies to loans for periods of instruction beginning on or after July 1, 1986, but not later than June 30, 1987.

(4) Sections 682.301(f)(1) and (2) have been revised to require the institution, in determining which of the approved need analysis systems may be used to calculate the student's expected family contribution, to consider whether the student has received financial assistance under the campus-based programs for the 1986–87 award year.

(5) The expected family contribution amounts in Tables A, B, C, and D of Appendix B have been revised to reflect 1985 Federal income taxes, F.I.C.A. (Social Security) withholding deductions and average State and other taxes. The Standard Maintenance Allowance (SMA), applicable only to Tables A and B and derived from the most recent Bureau of Labor Statistics low budget standard, has been updated for inflation.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291.

They are classified as non-major because they do not meet the criteria for major regulations established in the Order.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. These regulations continue the use of the current formula for determining student eligibility for interest benefits under the GSL program, modified to reflect the most recent and relevant data. The regulations, therefore, do not have an impact on small entities.

Assessment of Education Impact

The Secretary has determined that the regulations in this document would not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 682

Administrative practice and procedure, Colleges and universities, Education, Loan programs—education, Student aid, Vocational education.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these regulations.

(Catalog of Federal Domestic Assistance Number 84.032, Guaranteed Student Loan Program)

Dated: March 26, 1986.

William J. Bennett,

Secretary of Education.

The Secretary amends Part 682 of Title 34 of the Code of Federal Regulations as follows:

PART 682—GUARANTEED STUDENT LOAN PROGRAM

1. The authority for Part 682 continues to read:

Authority: 20 U.S.C. 1071–1087–4, unless otherwise noted.

2. Section 682.301 is revised to read as follows:

§ 682.301 Eligibility for interest benefits on a GSLP loan.

(a) *General.* (1)(i) If a student's adjusted gross family income is $30,000 or less, the student qualifies for interest benefits for the amount of his or her GSLP loan.

(ii) If the student's adjusted gross family income is more than $30,000, the student qualifies for interest benefits if the institution he or she attends or is planning to attend determines that the student demonstrated financial need for the loan.

(2) (i) If the student demonstrates financial need for a loan of $1,000 or more, the student qualifies for interest benefits for the amount for which the student has demonstrated financial need.

(ii) If the student demonstrates financial need for a loan between $500 and $1000, the student qualifies for interest benefits on a loan of up to $1,000.

(b) *Application for interest benefits.* To apply for interest benefits, the student shall submit to the lender his or her loan application. The application must include a certification from the student's institution of—

(1) The estimated cost of attendance for the student for the academic period for which the loan is intended;

(2) The estimated financial assistance for the student for the academic period for which the loan is intended;

(3) The adjusted gross family income of the student's family;

(4) The student's expected family contribution if his or her adjusted gross family income exceeds $30,000; and

(5) The amount of the student's need for a loan as determined by the institution pursuant to paragraph (e) of this section.

(c) *Adjusted gross family income.* The institution determines the adjusted gross family income of the student's family based upon data provided, and certified to, by each person whose income is required to be considered.

(1) As used in this paragraph, "adjusted gross family income of the student's family" means "adjusted gross income", as defined in section 62 of the Internal Revenue Code, as reported on the 1985 Federal income tax return(s) of—

(i) The student;

(ii) The student's spouse, if any; and

(iii) The student's mother and father, if the student, at the time he or she applies, is determined to be a "dependent student" rather than an "independent student."

(2) A student whose parents are divorced or separated shall comply with the following procedures for reporting a parent's adjusted gross income to determine the adjusted gross family income:

(i) Include only the income of the parent with whom the student resided for the greater portion of the 12-month period preceding the date of application.

(ii) If paragraph (c)(2)(i) of this section does not apply, include only the income of the parent who provided the greater portion of the student's support for the 12-month period preceding the date of application.

(iii) If neither paragraph (c)(2)(i) nor (c)(2)(ii) of this section applies, include only the income of the parent who provided the greater support for the period commencing January 1, 1985, and ending 12 months prior to the date of application.

(3) If one of the parents has died, the student shall include only the income of the surviving parent. If both parents have died, the student shall not report any parental income for those parents even if the parent(s) had income.

(4) The following rule applies if either a parent whose income is taken into account under paragraph (c)(2) of this section, or a parent who is a widow or widower and whose income is taken into account under paragraph (c)(3) of this section, has remarried. The income of that parent's spouse must be included in determining the adjusted gross family income if, in 1985 or 1986, the student—

(i) Has received or will receive financial assistance of more than $750 from that spouse; or

(ii) Has lived or will live for more than six weeks in the home of the parent and that spouse.

(5) The income of the student's spouse shall not be included in determining the adjusted gross family income for a student who is divorced or separated, or whose spouse has died.

(d) *Independent student.* As used in this section, "independent student" means a student who meets the criteria in 34 CFR 668.1a. All other students are considered to be dependent students.

(e) *Determination of need.* (1) If the student's adjusted gross family income exceeds $30,000, the institution shall determine the student's need for a loan by subtracting from the student's "estimated cost of attendance," as defined in § 682.200, his or her—

(i) "Estimated financial assistance", as defined in § 682.200; and

(ii) Expected family contribution, as determined under paragraph (f) of this section.

(2) The student shall certify the accuracy of any information he or she provides to the institution which is necessary to determine need.

(3) The Secretary may require that family members whose incomes are included in the student's adjusted gross family income under paragraph (c) of this section provide copies of the relevant Federal income tax return(s) and other pertinent documents to support the student's application for interest benefits.

(f) *Determination of expected family contribution.* For a student who seeks a loan for a period of instruction beginning on or after July 1, 1986, but not later than June 30, 1987, the institution shall calculate his or her expected family contribution as follows:

(1) If the student has been awarded financial assistance for award year 1986–87 (July 1, 1986–June 30, 1987) under the National Direct Student Loan (NDSL), College Work-Study (CWS), or Supplemental Educational Opportunity Grant (SEOG) program at the time he or she applies for a Guaranteed Student Loan, the student's expected family contribution is his or her expected family contribution as calculated for the NDSL, CWS or SEOG program.

(2) If the student has not been awarded financial assistance under the NDSL, CWS, or SEOG program for award year 1986–87 at the time he or she applies for a Guaranteed Student Loan, the student's expected family contribution must be determined under either—

(i) A need analysis system approved by the Secretary for the academic year for which the loan is sought for the NDSL, CWS, and SEOG programs; or

(ii) The tables found in Appendix B if the adjusted gross income of the student and his or her family does not exceed $75,000.

(20 U.S.C. 1087, 1082)

2. Appendix B to Part 682 is revised to read as follows:

Appendix B to Part 682—Guaranteed Student Loan Program Tables for Determination of Expected Family Contribution for 1986–87

If authorized under the provisions of § 682.301(f)(2)(ii), an institution may use the following tables to determine the student's expected family contribution.

For purposes of the four tables—

"Dependent student" means a student who does not qualify as an "independent student";

"Independent student" is defined in 34 CFR 668.1a; and

"Adjusted gross income" means the income, as defined in section 62 of the Internal Revenue Code, received in 1985.

Table A.—Expected Family Contribution for a Dependent Student From a Two-Parent Family—1986–87

For a dependent student from a two-parent family, the educational institution determines the student's expected family contribution according to Table A. The amount obtained from the table is divided by the number of family members enrolled on at least a half-time basis in a postsecondary educational institution.

As used in Table A, "Family members" include the student, the student's spouse and their dependents, and the student's mother and father and their dependents. If the family includes a step-parent whose income is included in the adjusted gross family income, family members also include the step-parent and the dependents of the step-parent.

Table A is based on the following assumptions:

- One of the two parents is employed.
- No assets are considered.
- All of the family income was earned by the employed parent.

The conversion of the adjusted gross income to the expected family contribution is performed by subtracting from the adjusted gross income the following—

—Federal income tax, based on standard deductions, computed at the rate applied to married taxpayers filing joint returns;

—F.I.C.A. (Social Security) for one wage earner;

—Average State and other taxes (8%); and

—A Standard Maintenance Allowance based on the average non-discretionary living expenses for families, derived from the Bureau of Labor Statistics low budget standard, and adjusted for inflation and family size. The Standard Maintenance Allowance does not include an allowance for the living expenses of the dependent student for the 9 months the student is attending school because those living expenses are included in the student's cost of attendance.

To this balance, called "available income," which represents discretionary income, a conversion percentage is applied. The percentage increases as available income increases. The resulting value is the expected family contribution.

TABLE A.—EXPECTED FAMILY CONTRIBUTION FOR A DEPENDENT STUDENT FROM A TWO-PARENT FAMILY—1986–87

Adjusted gross income	Number of family members									
	3	4	5	6	7	8	9	10	11	12
Less than 30,001	Automatically Eligible									
30,001 to 30,124	2,750	2,110	1,600	1,090	720	340	0	0	0	0
30,125 to 30,374	2,800	2,150	1,630	1,130	750	370	0	0	0	0
30,375 to 30,624	2,850	2,190	1,670	1,160	780	410	30	0	0	0
30,625 to 30,874	2,900	2,240	1,710	1,200	820	440	60	0	0	0
30,875 to 31,124	2,950	2,280	1,750	1,230	850	480	100	0	0	0
31,125 to 31,374	3,000	2,330	1,790	1,270	890	510	130	0	0	0
31,375 to 31,624	3,050	2,370	1,830	1,300	920	540	170	0	0	0
31,625 to 31,874	3,100	2,410	1,860	1,340	960	580	200	0	0	0
31,875 to 32,124	3,160	2,460	1,900	1,370	990	610	240	0	0	0
32,125 to 32,374	3,210	2,500	1,940	1,400	1,030	650	270	0	0	0
32,375 to 32,624	3,270	2,540	1,980	1,440	1,060	680	300	0	0	0
32,625 to 32,874	3,330	2,590	2,010	1,470	1,100	720	340	0	0	0
32,875 to 33,124	3,390	2,640	2,050	1,500	1,130	750	370	0	0	0
33,125 to 33,374	3,450	2,690	2,090	1,540	1,160	790	410	30	0	0
33,375 to 33,624	3,510	2,740	2,140	1,570	1,200	820	440	60	0	0
33,625 to 33,874	3,570	2,790	2,180	1,600	1,230	860	480	100	0	0
33,875 to 34,124	3,630	2,840	2,220	1,640	1,260	890	510	130	0	0
34,125 to 34,374	3,690	2,890	2,270	1,680	1,300	920	550	170	0	0
34,375 to 34,624	3,750	2,940	2,310	1,710	1,330	960	580	200	0	0
34,625 to 34,874	3,800	3,000	2,350	1,750	1,360	990	620	240	0	0
34,875 to 35,124	3,860	3,050	2,400	1,790	1,390	1,020	650	270	0	0
35,125 to 35,374	3,920	3,100	2,440	1,830	1,430	1,060	680	310	0	0
35,375 to 35,624	3,980	3,150	2,480	1,860	1,460	1,090	720	340	0	0
35,625 to 35,874	4,050	3,190	2,530	1,900	1,490	1,120	750	380	0	0
35,875 to 36,124	4,120	3,250	2,570	1,940	1,530	1,150	780	410	30	0
36,125 to 36,374	4,190	3,310	2,620	1,980	1,560	1,190	820	440	70	0
36,375 to 36,624	4,250	3,370	2,670	2,010	1,590	1,220	850	480	100	0
36,625 to 36,874	4,320	3,420	2,720	2,050	1,630	1,250	880	510	140	0
36,875 to 37,124	4,390	3,480	2,770	2,090	1,660	1,290	910	540	170	0
37,125 to 37,374	4,450	3,540	2,820	2,140	1,700	1,320	950	580	200	0
37,375 to 37,624	4,520	3,590	2,860	2,180	1,740	1,350	980	610	240	0
37,625 to 37,874	4,590	3,650	2,910	2,220	1,780	1,390	1,010	640	270	0

TABLE A.—EXPECTED FAMILY CONTRIBUTION FOR A DEPENDENT STUDENT FROM A TWO-PARENT FAMILY—1986-87—Continued

Adjusted gross income	Number of family members									
	3	4	5	6	7	8	9	10	11	12
37,875 to 38,124	4,650	3,710	2,960	2,260	1,810	1,420	1,050	670	300	0
38,125 to 38,374	4,720	3,760	3,010	2,300	1,850	1,450	1,080	710	340	0
38,375 to 38,624	4,790	3,820	3,060	2,340	1,890	1,480	1,110	740	370	0
38,625 to 38,874	4,850	3,880	3,110	2,380	1,920	1,520	1,150	770	400	30
38,875 to 39,124	4,920	3,940	3,150	2,430	1,960	1,550	1,180	810	430	60
39,125 to 39,374	4,990	4,010	3,200	2,470	2,000	1,580	1,210	840	470	100
39,375 to 39,624	5,060	4,070	3,260	2,510	2,030	1,620	1,240	870	500	130
39,625 to 39,874	5,130	4,150	3,320	2,550	2,070	1,650	1,280	910	540	160
39,875 to 40,124	5,200	4,220	3,390	2,600	2,120	1,690	1,320	940	570	200
40,125 to 40,374	5,270	4,300	3,450	2,660	2,160	1,730	1,350	980	610	240
40,375 to 40,624	5,340	4,370	3,510	2,710	2,210	1,770	1,390	1,020	650	270
40,625 to 40,874	5,400	4,450	3,580	2,770	2,260	1,810	1,420	1,050	680	310
40,875 to 41,124	5,470	4,520	3,640	2,820	2,300	1,850	1,460	1,090	720	350
41,125 to 41,374	5,540	4,590	3,710	2,870	2,350	1,890	1,500	1,130	760	380
41,375 to 41,624	5,610	4,660	3,770	2,930	2,400	1,930	1,530	1,170	790	420
41,625 to 41,874	5,680	4,720	3,830	2,980	2,440	1,970	1,570	1,200	830	460
41,875 to 42,124	5,750	4,790	3,900	3,040	2,490	2,010	1,600	1,240	870	500
42,125 to 42,374	5,820	4,860	3,960	3,090	2,540	2,050	1,640	1,270	900	530
42,375 to 42,624	5,890	4,930	4,030	3,150	2,580	2,100	1,680	1,310	940	570
42,625 to 42,874	5,960	5,000	4,100	3,200	2,640	2,150	1,720	1,340	980	610
42,875 to 43,124	6,030	5,070	4,170	3,260	2,690	2,190	1,760	1,380	1,010	640
43,125 to 43,374	6,100	5,140	4,240	3,320	2,750	2,240	1,800	1,410	1,050	680
43,375 to 43,624	6,170	5,210	4,310	3,380	2,800	2,290	1,840	1,450	1,080	720
43,625 to 43,874	6,240	5,280	4,380	3,440	2,850	2,330	1,880	1,480	1,120	750
43,875 to 44,124	6,310	5,350	4,450	3,500	2,910	2,380	1,920	1,520	1,150	790
44,125 to 44,374	6,370	5,420	4,520	3,560	2,960	2,430	1,960	1,550	1,190	820
44,375 to 44,624	6,440	5,490	4,590	3,620	3,010	2,470	2,000	1,590	1,220	860
44,625 to 44,874	6,510	5,560	4,660	3,680	3,060	2,520	2,040	1,630	1,260	890
44,875 to 45,124	6,580	5,630	4,720	3,740	3,110	2,560	2,080	1,670	1,290	930
45,125 to 45,374	6,650	5,690	4,790	3,800	3,160	2,610	2,130	1,710	1,330	960
45,375 to 45,624	6,720	5,760	4,860	3,850	3,210	2,660	2,180	1,750	1,360	1,000
45,625 to 45,874	6,790	5,830	4,930	3,910	3,270	2,710	2,220	1,790	1,400	1,030
45,875 to 46,124	6,860	5,900	5,000	3,980	3,330	2,760	2,270	1,830	1,430	1,070
46,125 to 46,374	6,930	5,970	5,070	4,050	3,390	2,810	2,310	1,870	1,470	1,100
46,375 to 46,624	7,000	6,040	5,140	4,120	3,450	2,860	2,360	1,910	1,500	1,140
46,625 to 46,874	7,070	6,110	5,210	4,190	3,510	2,910	2,400	1,950	1,540	1,170
46,875 to 47,124	7,140	6,180	5,280	4,260	3,570	2,960	2,440	1,990	1,580	1,210
47,125 to 47,374	7,210	6,250	5,350	4,330	3,620	3,010	2,480	2,020	1,610	1,250
47,375 to 47,624	7,280	6,320	5,420	4,400	3,680	3,060	2,530	2,060	1,650	1,280
47,625 to 47,874	7,350	6,390	5,490	4,470	3,740	3,110	2,570	2,100	1,690	1,320
47,875 to 48,124	7,410	6,460	5,560	4,540	3,800	3,160	2,620	2,150	1,730	1,350
48,125 to 48,374	7,480	6,530	5,630	4,610	3,860	3,220	2,670	2,190	1,770	1,390
48,375 to 48,624	7,550	6,600	5,700	4,680	3,920	3,280	2,720	2,230	1,810	1,420
48,625 to 48,874	7,620	6,670	5,760	4,750	3,990	3,340	2,770	2,270	1,840	1,460
48,875 to 49,124	7,690	6,730	5,830	4,820	4,060	3,400	2,820	2,320	1,880	1,490
49,125 to 49,374	7,760	6,800	5,900	4,880	4,130	3,450	2,870	2,360	1,920	1,530
49,375 to 49,624	7,830	6,870	5,970	4,950	4,200	3,510	2,920	2,400	1,950	1,560
49,625 to 49,874	7,900	6,940	6,040	5,020	4,270	3,570	2,970	2,450	1,990	1,590
49,875 to 50,124	7,970	7,010	6,110	5,090	4,340	3,630	3,020	2,490	2,030	1,620
50,125 to 50,374	8,040	7,080	6,180	5,160	4,410	3,690	3,070	2,530	2,060	1,660
50,375 to 50,624	8,110	7,150	6,250	5,230	4,480	3,750	3,120	2,570	2,110	1,700
50,625 to 50,874	8,180	7,220	6,320	5,300	4,550	3,810	3,170	2,620	2,150	1,740
50,875 to 51,124	8,240	7,290	6,390	5,370	4,610	3,870	3,220	2,670	2,190	1,770
51,125 to 51,374	8,310	7,360	6,460	5,440	4,680	3,930	3,280	2,720	2,240	1,810
51,375 to 51,624	8,370	7,430	6,530	5,510	4,750	4,000	3,340	2,770	2,280	1,850
51,625 to 51,874	8,430	7,500	6,600	5,580	4,820	4,070	3,400	2,820	2,320	1,880
51,875 to 52,124	8,500	7,560	6,670	5,650	4,890	4,140	3,460	2,870	2,360	1,920
52,125 to 52,374	8,560	7,630	6,740	5,720	4,960	4,210	3,520	2,920	2,410	1,960
52,375 to 52,624	8,620	7,690	6,800	5,790	5,030	4,280	3,580	2,970	2,450	1,990
52,625 to 52,874	8,690	7,750	6,870	5,860	5,100	4,350	3,640	3,020	2,490	2,030
52,875 to 53,124	8,750	7,820	6,940	5,920	5,170	4,410	3,700	3,070	2,540	2,070
53,125 to 53,374	8,810	7,880	7,000	5,990	5,240	4,480	3,760	3,120	2,580	2,110
53,375 to 53,624	8,880	7,940	7,070	6,060	5,310	4,550	3,810	3,170	2,630	2,150
53,625 to 53,874	8,940	8,010	7,130	6,130	5,380	4,620	3,870	3,230	2,680	2,200
53,875 to 54,124	9,000	8,070	7,190	6,200	5,450	4,690	3,940	3,290	2,730	2,240
54,125 to 54,374	9,070	8,130	7,260	6,260	5,520	4,760	4,010	3,350	2,780	2,280
54,375 to 54,624	9,130	8,200	7,320	6,330	5,590	4,830	4,080	3,410	2,830	2,330
54,625 to 54,874	9,190	8,260	7,380	6,390	5,650	4,900	4,140	3,470	2,880	2,370
54,875 to 55,124	9,260	8,320	7,450	6,450	5,720	4,970	4,210	3,530	2,930	2,410
55,125 to 55,374	9,320	8,390	7,510	6,520	5,790	5,040	4,280	3,580	2,980	2,450
55,375 to 55,624	9,380	8,450	7,570	6,580	5,850	5,110	4,350	3,640	3,030	2,500

TABLE A.—EXPECTED FAMILY CONTRIBUTION FOR A DEPENDENT STUDENT FROM A TWO-PARENT FAMILY—1986-87—Continued

Adjusted gross income	Number of family members									
	3	4	5	6	7	8	9	10	11	12
55,625 to 55,874	9,450	8,510	7,640	6,640	5,910	5,180	4,420	3,700	3,080	2,540
55,875 to 56,124	9,510	8,580	7,700	6,710	5,980	5,250	4,490	3,760	3,130	2,580
56,125 to 56,374	9,570	8,640	7,760	6,770	6,040	5,310	4,560	3,820	3,180	2,630
56,375 to 56,624	9,640	8,700	7,830	6,830	6,100	5,370	4,630	3,880	3,240	2,680
56,625 to 56,874	9,700	8,770	7,890	6,900	6,170	5,440	4,700	3,940	3,300	2,730
56,875 to 57,124	9,760	8,830	7,960	6,960	6,230	5,500	4,770	4,010	3,360	2,780
57,125 to 57,374	9,830	8,900	8,020	7,020	6,290	5,560	4,830	4,080	3,410	2,830
57,375 to 57,624	9,890	8,960	8,080	7,090	6,360	5,630	4,900	4,150	3,470	2,880
57,625 to 57,874	9,950	9,020	8,150	7,150	6,420	5,690	4,960	4,220	3,530	2,930
57,875 to 58,124	10,020	9,090	8,210	7,220	6,480	5,750	5,020	4,290	3,590	2,980
58,125 to 58,374	10,080	9,150	8,270	7,280	6,550	5,820	5,090	4,360	3,650	3,030
58,375 to 58,624	10,150	9,210	8,340	7,340	6,610	5,880	5,150	4,420	3,710	3,080
58,625 to 58,874	10,210	9,280	8,400	7,410	6,670	5,940	5,210	4,480	3,770	3,140
58,875 to 59,124	10,270	9,340	8,460	7,470	6,740	6,010	5,280	4,550	3,830	3,190
59,125 to 59,374	10,340	9,400	8,530	7,530	6,800	6,070	5,340	4,610	3,880	3,240
59,375 to 59,624	10,400	9,470	8,590	7,600	6,870	6,130	5,400	4,670	3,940	3,300
59,625 to 59,874	10,460	9,530	8,650	7,660	6,930	6,200	5,470	4,740	4,010	3,360
59,875 to 60,124	10,530	9,590	8,720	7,720	6,990	6,260	5,530	4,800	4,070	3,420
60,125 to 60,374	10,590	9,660	8,780	7,790	7,060	6,320	5,590	4,860	4,130	3,480
60,375 to 60,624	10,650	9,720	8,840	7,850	7,120	6,390	5,660	4,930	4,200	3,530
60,625 to 60,874	10,720	9,780	8,910	7,910	7,180	6,450	5,720	4,990	4,260	3,590
60,875 to 61,124	10,780	9,850	8,970	7,980	7,250	6,520	5,780	5,050	4,320	3,640
61,125 to 61,374	10,840	9,910	9,030	8,040	7,310	6,580	5,850	5,120	4,390	3,690
61,375 to 61,624	10,910	9,970	9,100	8,100	7,370	6,640	5,910	5,180	4,450	3,750
61,625 to 61,874	10,970	10,040	9,160	8,170	7,440	6,710	5,970	5,240	4,510	3,800
61,875 to 62,124	11,030	10,100	9,220	8,230	7,500	6,770	6,040	5,310	4,580	3,860
62,125 to 62,374	11,100	10,160	9,290	8,290	7,560	6,830	6,100	5,370	4,640	3,910
62,375 to 62,624	11,160	10,230	9,350	8,360	7,630	6,900	6,160	5,430	4,700	3,970
62,625 to 62,874	11,220	10,290	9,410	8,420	7,690	6,960	6,230	5,500	4,770	4,040
62,875 to 63,124	11,290	10,350	9,480	8,480	7,750	7,020	6,290	5,560	4,830	4,100
63,125 to 63,374	11,350	10,420	9,540	8,550	7,820	7,090	6,360	5,620	4,890	4,160
63,375 to 63,624	11,410	10,480	9,600	8,610	7,880	7,150	6,420	5,690	4,960	4,230
63,625 to 63,874	11,480	10,540	9,670	8,670	7,940	7,210	6,480	5,750	5,020	4,290
63,875 to 64,124	11,540	10,610	9,730	8,740	8,010	7,280	6,550	5,810	5,080	4,350
64,125 to 64,374	11,600	10,670	9,800	8,800	8,070	7,340	6,610	5,880	5,150	4,420
64,375 to 64,624	11,670	10,740	9,860	8,860	8,130	7,400	6,670	5,940	5,210	4,480
64,625 to 64,874	11,730	10,800	9,920	8,930	8,200	7,470	6,740	6,010	5,270	4,540
64,875 to 65,124	11,800	10,860	9,990	8,990	8,260	7,530	6,800	6,070	5,340	4,610
65,125 to 65,374	11,860	10,930	10,050	9,060	8,320	7,590	6,860	6,130	5,400	4,670
65,375 to 65,624	11,920	10,990	10,110	9,120	8,390	7,660	6,930	6,200	5,460	4,730
65,625 to 65,874	11,980	11,050	10,180	9,180	8,450	7,720	6,990	6,260	5,530	4,800
65,875 to 66,124	12,040	11,120	10,240	9,250	8,510	7,780	7,050	6,320	5,590	4,860
66,125 to 66,374	12,100	11,180	10,300	9,310	8,580	7,850	7,120	6,390	5,660	4,920
66,375 to 66,624	12,160	11,240	10,370	9,370	8,640	7,910	7,180	6,450	5,720	4,990
66,625 to 66,874	12,220	11,300	10,430	9,440	8,710	7,970	7,240	6,510	5,780	5,050
66,875 to 67,124	12,280	11,360	10,490	9,500	8,770	8,040	7,310	6,580	5,850	5,110
67,125 to 67,374	12,330	11,420	10,560	9,560	8,830	8,100	7,370	6,640	5,910	5,180
67,375 to 67,624	12,390	11,480	10,620	9,630	8,900	8,160	7,430	6,700	5,970	5,240
67,625 to 67,874	12,450	11,540	10,680	9,690	8,960	8,230	7,500	6,770	6,040	5,310
67,875 to 68,124	12,510	11,600	10,740	9,750	9,020	8,290	7,560	6,830	6,100	5,370
68,125 to 68,374	12,570	11,660	10,800	9,820	9,090	8,360	7,620	6,890	6,160	5,430
68,375 to 68,624	12,630	11,710	10,860	9,880	9,150	8,420	7,690	6,960	6,230	5,500
68,625 to 68,874	12,690	11,770	10,920	9,940	9,210	8,480	7,750	7,020	6,290	5,560
68,875 to 69,124	12,750	11,830	10,980	10,000	9,280	8,550	7,810	7,080	6,350	5,620
69,125 to 69,374	12,800	11,890	11,030	10,060	9,340	8,610	7,880	7,150	6,420	5,690
69,375 to 69,624	12,860	11,950	11,090	10,120	9,400	8,670	7,940	7,210	6,480	5,750
69,625 to 69,874	12,920	12,010	11,150	10,180	9,470	8,740	8,010	7,270	6,540	5,810
69,875 to 70,124	12,980	12,070	11,210	10,240	9,520	8,800	8,070	7,340	6,610	5,880
70,125 to 70,374	13,040	12,130	11,270	10,290	9,580	8,860	8,130	7,400	6,670	5,940
70,375 to 70,624	13,100	12,180	11,330	10,350	9,640	8,930	8,200	7,460	6,730	6,000
70,625 to 70,874	13,160	12,240	11,390	10,410	9,700	8,990	8,260	7,530	6,800	6,070
70,875 to 71,124	13,220	12,300	11,450	10,470	9,760	9,050	8,320	7,590	6,860	6,130
71,125 to 71,374	13,270	12,360	11,500	10,530	9,820	9,110	8,390	7,650	6,920	6,190
71,375 to 71,624	13,330	12,420	11,560	10,590	9,880	9,170	8,450	7,720	6,990	6,260
71,625 to 71,874	13,390	12,480	11,620	10,650	9,940	9,220	8,510	7,780	7,050	6,320
71,875 to 72,124	13,450	12,540	11,680	10,710	9,990	9,280	8,570	7,850	7,110	6,380
72,125 to 72,374	13,510	12,600	11,740	10,760	10,050	9,340	8,630	7,910	7,180	6,450
72,375 to 72,624	13,570	12,650	11,800	10,820	10,110	9,400	8,690	7,970	7,240	6,510
72,625 to 72,874	13,630	12,710	11,860	10,880	10,170	9,460	8,750	8,040	7,300	6,570
72,875 to 73,124	13,690	12,770	11,920	10,940	10,230	9,520	8,810	8,100	7,370	6,640
73,125 to 73,374	13,740	12,830	11,970	11,000	10,290	9,580	8,870	8,160	7,430	6,700
73,375 to 73,624	13,800	12,890	12,030	11,060	10,350	9,640	8,920	8,210	7,500	6,760
73,625 to 73,874	13,860	12,950	12,090	11,120	10,410	9,690	8,980	8,270	7,560	6,830

TABLE A.—EXPECTED FAMILY CONTRIBUTION FOR A DEPENDENT STUDENT FROM A TWO-PARENT FAMILY—1986-87—Continued

Adjusted Gross Income	Number of family members									
	3	4	5	6	7	8	9	10	11	12
73,875 to 74,124	13,920	13,010	12,150	11,180	10,460	9,750	9,040	8,330	7,620	6,890
74,125 to 74,374	13,980	13,070	12,210	11,230	10,520	9,810	9,100	8,390	7,680	6,950
74,375 to 74,624	14,040	13,120	12,270	11,290	10,580	9,870	9,160	8,450	7,740	7,020
74,625 to 74,874	14,100	13,180	12,330	11,350	10,640	9,930	9,220	8,510	7,800	7,080
74,875 to 75,124	14,160	13,240	12,390	11,410	10,700	9,990	9,280	8,570	7,860	7,140
Over 75,000	Must Use Campus-Based Approved Need Analysis System									

Table B.—Expected Family Contribution for a Dependent Student From a One-Parent Family—1986–87

For a dependent student from a one-parent family, the educational institution determines the student's expected family contribution according to Table B. The amount obtained from the table is divided by the number of family members enrolled on at least a half-time basis in a postsecondary educational institution.

As used in Table B, "Family members" include the student, the student's spouse and their dependents, and the student's parent and the parent's dependents.

Table B is based on the following assumptions:

- The parent is employed.
- No assets are considered
- All of the family income was earned by the parent.

The conversion of the adjusted gross income to the expected family contribution is performed by subtracting from the adjusted gross income the following—

—Federal income tax, based on standard deductions, computed at the rate applied to taxpayers who qualify as head of households;

—F.I.C.A. (Social Security) for one wage earner;

—Average State and other taxes (8%);

—An employment allowance of 35% of income, to a maximum of $2,000; and

—A Standard Maintenance Allowance based on the average non-discretionary living expenses for families, derived from the Bureau of Labor Statistics low budget standard, and adjusted for inflation and family size. The standard Maintenance Allowance does not include an allowance for the living expenses of the dependent student for the 9 months the student is attending school because the living expenses are included in the student's cost of attendance.

To this balance, called "available income," which represents discretionary income, a conversion percentage is applied. The percentage increases as available income increases. The resulting value is the expected family contribution.

TABLE B.—EXPECTED FAMILY CONTRIBUTION FOR A DEPENDENT STUDENT FROM A ONE-PARENT FAMILY—1986-87

Adjusted gross income	Number of family members										
	2	3	4	5	6	7	8	9	10	11	12
Less than 30,001	Automatically Eligible										
30,001 to 30,124	2,430	1,950	1,450	1,020	520	150	0	0	0	0	0
30,125 to 30,374	2,480	1,990	1,480	1,050	560	180	0	0	0	0	0
30,375 to 30,624	2,520	2,020	1,510	1,080	590	220	0	0	0	0	0
30,625 to 30,874	2,560	2,060	1,550	1,110	620	250	0	0	0	0	0
30,875 to 31,124	2,600	2,100	1,580	1,140	660	280	0	0	0	0	0
31,125 to 31,374	2,650	2,140	1,610	1,170	690	320	0	0	0	0	0
31,375 to 31,624	2,700	2,180	1,640	1,210	720	350	0	0	0	0	0
31,625 to 31,874	2,750	2,220	1,680	1,240	750	380	10	0	0	0	0
31,875 to 32,124	2,800	2,270	1,710	1,270	780	420	40	0	0	0	0
32,125 to 32,374	2,840	2,310	1,750	1,300	810	450	80	0	0	0	0
32,375 to 32,624	2,890	2,350	1,790	1,330	840	480	110	0	0	0	0
32,625 to 32,874	2,930	2,390	1,820	1,360	870	510	140	0	0	0	0
32,875 to 33,124	2,980	2,430	1,860	1,390	910	540	180	0	0	0	0
33,125 to 33,374	3,020	2,470	1,890	1,430	940	570	210	0	0	0	0
33,375 to 33,624	3,070	2,510	1,930	1,460	970	600	240	0	0	0	0
33,625 to 33,874	3,110	2,550	1,960	1,490	1,000	630	270	0	0	0	0
33,875 to 34,124	3,160	2,590	2,000	1,520	1,030	670	300	0	0	0	0
34,125 to 34,374	3,200	2,630	2,030	1,550	1,060	700	330	0	0	0	0
34,375 to 34,624	3,260	2,680	2,070	1,580	1,090	730	360	0	0	0	0
34,625 to 34,874	3,310	2,720	2,110	1,610	1,130	760	400	30	0	0	0
34,875 to 35,124	3,360	2,770	2,150	1,650	1,160	790	430	60	0	0	0
35,125 to 35,374	3,420	2,810	2,180	1,680	1,190	820	460	90	0	0	0
35,375 to 35,624	3,470	2,860	2,220	1,720	1,220	850	490	120	0	0	0
35,625 to 35,874	3,520	2,900	2,260	1,750	1,250	890	520	160	0	0	0
35,875 to 36,124	3,580	2,950	2,300	1,780	1,280	920	550	190	0	0	0
36,125 to 36,374	3,630	2,990	2,340	1,820	1,310	950	580	220	0	0	0
36,375 to 36,624	3,680	3,040	2,380	1,850	1,340	980	610	250	0	0	0
36,625 to 36,874	3,730	3,080	2,410	1,880	1,370	1,010	650	280	0	0	0
36,875 to 37,124	3,790	3,130	2,450	1,920	1,400	1,040	680	310	0	0	0
37,125 to 37,374	3,840	3,170	2,490	1,950	1,430	1,070	710	340	0	0	0
37,375 to 37,624	3,890	3,220	2,530	1,980	1,460	1,100	740	370	10	0	0
37,625 to 37,874	3,950	3,270	2,570	2,020	1,490	1,130	770	410	40	0	0
37,875 to 38,124	4,010	3,330	2,610	2,050	1,520	1,160	800	440	70	0	0
38,125 to 38,374	4,070	3,380	2,660	2,090	1,550	1,190	830	470	100	0	0
38,375 to 38,624	4,130	3,430	2,700	2,120	1,570	1,220	860	500	140	0	0
38,625 to 38,874	4,180	3,490	2,750	2,160	1,600	1,250	890	530	170	0	0
38,875 to 39,124	4,240	3,530	2,790	2,200	1,640	1,280	920	560	200	0	0

TABLE B.—EXPECTED FAMILY CONTRIBUTION FOR A DEPENDENT STUDENT FROM A ONE-PARENT FAMILY—1986-87—Continued

Adjusted gross income	Number of family members										
	2	3	4	5	6	7	8	9	10	11	12
39,125 to 39,374	4,300	3,580	2,840	2,240	1,670	1,310	950	590	230	0	0
39,375 to 39,624	4,360	3,630	2,880	2,280	1,700	1,340	980	620	260	0	0
39,625 to 39,874	4,420	3,690	2,930	2,320	1,740	1,370	1,010	660	290	0	0
39,875 to 40,124	4,490	3,750	2,980	2,360	1,780	1,400	1,040	690	330	0	0
40,125 to 40,374	4,560	3,800	3,030	2,410	1,810	1,430	1,080	720	360	0	0
40,375 to 40,624	4,620	3,860	3,070	2,450	1,850	1,470	1,110	750	400	30	0
40,625 to 40,874	4,690	3,920	3,120	2,490	1,890	1,500	1,140	790	430	70	0
40,875 to 41,124	4,760	3,990	3,170	2,530	1,930	1,530	1,180	820	460	110	0
41,125 to 41,374	4,830	4,050	3,220	2,580	1,960	1,560	1,210	850	500	140	0
41,375 to 41,624	4,890	4,120	3,280	2,620	2,000	1,600	1,240	890	530	170	0
41,625 to 41,874	4,960	4,190	3,340	2,670	2,040	1,630	1,280	920	560	210	0
41,875 to 42,124	5,030	4,250	3,400	2,720	2,080	1,670	1,310	950	600	240	0
42,125 to 42,374	5,090	4,320	3,450	2,770	2,120	1,710	1,340	990	630	270	0
42,375 to 42,624	5,160	4,390	3,510	2,820	2,160	1,750	1,370	1,020	660	310	0
42,625 to 42,874	5,230	4,450	3,570	2,870	2,200	1,780	1,410	1,050	700	340	0
42,875 to 43,124	5,290	4,520	3,620	2,910	2,240	1,820	1,440	1,080	730	370	20
43,125 to 43,374	5,360	4,590	3,680	2,960	2,280	1,860	1,470	1,120	760	410	50
43,375 to 43,624	5,430	4,650	3,740	3,010	2,320	1,890	1,510	1,150	790	440	80
43,625 to 43,874	5,500	4,720	3,790	3,060	2,370	1,930	1,540	1,180	830	470	120
43,875 to 44,124	5,560	4,790	3,850	3,110	2,410	1,960	1,570	1,220	860	500	150
44,125 to 44,374	5,630	4,860	3,910	3,160	2,450	2,000	1,600	1,250	890	540	180
44,375 to 44,624	5,700	4,920	3,980	3,210	2,490	2,030	1,640	1,280	930	570	210
44,625 to 44,874	5,760	4,990	4,040	3,260	2,530	2,070	1,670	1,320	960	600	250
44,875 to 45,124	5,830	5,060	4,110	3,320	2,570	2,110	1,710	1,350	990	640	280
45,125 to 45,374	5,900	5,120	4,180	3,380	2,620	2,150	1,740	1,380	1,030	670	310
45,375 to 45,624	5,960	5,190	4,240	3,440	2,670	2,200	1,780	1,410	1,060	700	350
45,625 to 45,874	6,030	5,260	4,310	3,490	2,720	2,240	1,820	1,440	1,090	740	380
45,875 to 46,124	6,100	5,320	4,380	3,550	2,770	2,280	1,850	1,470	1,120	770	410
46,125 to 46,374	6,170	5,390	4,440	3,610	2,810	2,320	1,890	1,500	1,160	800	450
46,375 to 46,624	6,230	5,460	4,510	3,660	2,860	2,360	1,920	1,540	1,190	830	480
46,625 to 46,874	6,300	5,530	4,580	3,720	2,910	2,400	1,960	1,570	1,220	870	510
46,875 to 47,124	6,370	5,590	4,650	3,780	2,960	2,440	1,990	1,600	1,250	900	540
47,125 to 47,374	6,430	5,660	4,710	3,830	3,010	2,480	2,030	1,630	1,280	930	580
47,375 to 47,624	6,500	5,730	4,780	3,890	3,060	2,530	2,070	1,670	1,310	960	610
47,625 to 47,874	6,570	5,790	4,850	3,950	3,100	2,570	2,110	1,700	1,340	990	640
47,875 to 48,124	6,630	5,860	4,910	4,020	3,150	2,610	2,150	1,740	1,370	1,030	680
48,125 to 48,374	6,700	5,930	4,980	4,090	3,200	2,660	2,190	1,780	1,410	1,060	710
48,375 to 48,624	6,770	5,990	5,050	4,160	3,260	2,710	2,230	1,810	1,140	1,090	740
48,675 to 48,874	6,830	6,060	5,110	4,220	3,320	2,760	2,270	1,850	1,470	1,120	770
48,875 to 49,124	6,890	6,130	5,180	4,290	3,370	2,810	2,310	1,880	1,500	1,150	800
49,125 to 49,374	6,950	6,200	5,250	4,360	3,430	2,860	2,360	1,920	1,530	1,180	830
49,375 to 49,624	7,010	6,260	5,310	4,420	3,490	2,900	2,400	1,950	1,560	1,210	860
49,625 to 49,874	7,070	6,330	5,380	4,490	3,550	2,950	2,440	1,990	1,590	1,250	900
49,875 to 50,124	7,120	6,380	5,450	4,560	3,600	3,000	2,480	2,020	1,630	1,280	930
50,125 to 50,374	7,180	6,440	5,520	4,620	3,660	3,050	2,520	2,060	1,660	1,310	960
50,375 to 50,624	7,240	6,500	5,580	4,690	3,720	3,100	2,560	2,100	1,700	1,340	990
50,625 to 50,874	7,300	6,560	5,650	4,760	3,770	3,150	2,610	2,140	1,730	1,370	1,020
50,875 to 51,124	7,360	6,620	5,710	4,830	3,830	3,200	2,660	2,180	1,770	1,400	1,050
51,125 to 51,374	7,420	6,680	5,760	4,890	3,890	3,250	2,700	2,230	1,810	1,430	1,080
51,375 to 51,624	7,480	6,740	5,820	4,960	3,950	3,310	2,750	2,270	1,840	1,460	1,120
51,625 to 51,874	7,540	6,800	5,880	5,030	4,020	3,370	2,800	2,310	1,880	1,500	1,150
51,875 to 52,124	7,590	6,850	5,940	5,080	4,080	3,420	2,850	2,350	1,910	1,530	1,180
52,125 to 52,374	7,650	6,910	6,000	5,140	4,150	3,480	2,900	2,390	1,950	1,560	1,210
52,375 to 52,624	7,710	6,970	6,060	5,200	4,220	3,540	2,950	2,430	1,980	1,590	1,240
52,625 to 52,874	7,770	7,030	6,120	5,260	4,290	3,600	3,000	2,470	2,020	1,620	1,270
52,875 to 53,124	7,830	7,090	6,180	5,320	4,340	3,650	3,040	2,520	2,060	1,660	1,300
53,125 to 53,374	7,890	7,150	6,230	5,380	4,400	3,710	3,090	2,560	2,100	1,690	1,340
53,375 to 53,624	7,950	7,210	6,290	5,440	4,460	3,770	3,140	2,600	2,140	1,730	1,370
53,625 to 53,874	8,010	7,270	6,350	5,500	4,520	3,820	3,190	2,650	2,180	1,770	1,400
53,875 to 54,124	8,060	7,320	6,410	5,550	4,580	3,870	3,250	2,700	2,220	1,800	1,430
54,125 to 54,374	8,120	7,380	6,470	5,610	4,640	3,930	3,300	2,751	2,260	1,840	1,460
54,375 to 54,624	8,180	7,440	6,530	5,670	4,700	3,990	3,360	2,800	2,301	1,870	1,490
54,874 to 8,240	8,240	7,500	6,590	5,730	4,760	4,040	3,420	2,840	2,340	1,910	1,520
54,875 to 55,124	8,300	7,560	6,650	5,790	4,810	4,100	3,470	2,890	2,390	1,940	1,550
55,125 to 55,374	8,360	7,620	6,700	5,850	4,870	4,160	3,520	2,940	2,430	1,980	1,580
55,375 to 55,624	8,420	7,680	6,760	5,910	4,930	4,220	3,570	2,990	2,470	2,020	1,620
55,625 to 55,874	8,480	7,740	6,820	5,970	4,990	4,280	3,620	3,040	2,510	2,050	1,650
55,875 to 56,124	8,530	7,790	6,880	6,020	5,050	4,340	3,670	3,080	2,550	2,090	1,690
56,125 to 56,374	8,590	7,850	6,940	6,080	5,110	4,400	3,720	3,130	2,600	2,130	1,730
56,375 to 56,624	8,650	7,910	7,000	6,140	5,170	4,460	3,770	3,170	2,640	2,170	1,760
56,625 to 56,874	8,710	7,970	7,060	6,200	5,230	4,510	3,820	3,210	2,690	2,220	1,800
56,875 to 57 124	8,770	8,030	7,120	6,260	5,280	4,570	3,870	3,260	2,740	2,260	1,830

TABLE B.—EXPECTED FAMILY CONTRIBUTION FOR A DEPENDENT STUDENT FROM A ONE-PARENT FAMILY—1986-87—Continued

Adjusted gross income	Number of family members										
	2	3	4	5	6	7	8	9	10	11	12
57,125 to 57,374	8,830	8,090	7,170	6,320	5,340	4,630	3,920	3,310	2,780	2,300	1,870
57,375 to 57,624	8,890	8,150	7,230	6,380	5,400	4,690	3,980	3,360	2,820	2,340	1,900
57,625 to 57,874	8,950	8,210	7,290	6,440	5,460	4,750	4,040	3,410	2,870	2,380	1,940
57,875 to 58,124	9,000	8,260	7,350	6,490	5,520	4,810	4,100	3,460	2,910	2,420	1,970
58,125 to 58,374	9,060	8,320	7,410	6,550	5,580	4,870	4,160	3,510	2,950	2,460	2,010
58,375 to 58,624	9,120	8,380	7,470	6,610	5,640	4,930	4,210	3,560	2,990	2,490	2,050
58,625 to 58,874	9,180	8,440	7,530	6,670	5,700	4,980	4,270	3,610	3,040	2,530	2,090
58,875 to 59,24	9,240	8,500	7,590	6,730	5,750	5,040	4,330	3,660	3,080	2,570	2,130
59,125 to 59,374	9,300	8,560	7,640	6,790	5,810	5,100	4,390	3,710	3,120	2,610	2,160
59,375 to 59,624	9,360	8,620	7,700	6,850	5,870	5,160	4,450	3,760	3,160	2,650	2,200
59,625 to 59,874	9,420	8,680	7,760	6,910	5,930	5,220	4,510	3,810	3,210	2,690	2,240
59,875 to 60,124	9,470	8,730	7,820	6,960	5,990	5,280	4,570	3,860	3,260	2,730	2,270
60,125 to 60,374	9,530	8,790	7,880	7,020	6,050	5,340	4,630	3,910	3,310	2,780	2,310
60,375 to 60,624	9,590	8,850	7,940	7,080	6,110	5,400	4,680	3,970	3,360	2,820	2,340
60,625 to 60,874	9,650	8,910	8,000	7,140	6,170	5,450	4,740	4,030	3,410	2,860	2,380
60,875 to 61,124	9,710	8,970	8,060	7,200	6,220	5,510	4,800	4,090	3,460	2,900	2,420
61,125 to 61,374	9,770	9,030	8,110	7,260	6,280	5,570	4,860	4,150	3,510	2,950	2,450
61,375 to 61,624	9,830	9,090	8,170	7,320	6,340	5,630	4,920	4,210	3,560	2,990	2,490
61,625 to 61,874	9,890	9,150	8,230	7,380	6,400	5,690	4,980	4,270	3,610	3,030	2,530
61,875 to 62,124	9,940	9,200	8,290	7,430	6,460	5,750	5,040	4,330	3,660	3,070	2,560
62,125 to 62,374	10,000	9,260	8,350	7,490	6,520	5,810	5,100	4,380	3,710	3,120	2,600
62,375 to 62,624	10,060	9,320	8,410	7,550	6,580	5,870	5,150	4,440	3,760	3,160	2,640
62,625 to 62,874	10,120	9,380	8,470	7,610	6,640	5,920	5,210	4,500	3,810	3,200	2,690
62,875 to 63,124	10,180	9,440	8,530	7,670	6,690	5,980	5,270	4,560	3,860	3,250	2,730
63,125 to 63,374	10,240	9,500	8,580	7,730	6,750	6,040	5,330	4,620	3,910	3,300	2,770
63,375 to 63,624	10,300	9,560	8,640	7,790	6,810	6,100	5,390	4,680	3,970	3,350	2,810
63,625 to 63,874	10,360	9,620	8,700	7,850	6,870	6,160	5,450	4,740	4,030	3,400	2,860
63,875 to 64,124	10,410	9,670	8,760	7,900	6,930	6,220	5,510	4,800	4,080	3,450	2,900
64,125 to 64,374	10,470	9,730	8,820	7,960	6,990	6,280	5,570	4,850	4,140	3,500	2,940
64,375 to 64,624	10,530	9,790	8,880	8,020	7,050	6,340	5,620	4,910	4,200	3,550	2,980
64,625 to 64,874	10,590	9,850	8,940	8,080	7,110	6,390	5,680	4,970	4,260	3,600	3,030
64,875 to 65,124	10,650	9,910	9,000	8,140	7,160	6,450	5,740	5,030	4,320	3,650	3,070
65,125 to 65,374	10,710	9,970	9,050	8,200	7,220	6,510	5,800	5,090	4,380	3,700	3,110
65,375 to 65,624	10,760	10,030	9,110	8,260	7,280	6,570	5,860	5,150	4,440	3,750	3,150
65,625 to 65,874	10,820	10,090	9,170	8,320	7,340	6,630	5,920	5,210	4,500	3,800	3,200
65,875 to 66,124	10,870	10,140	9,230	8,370	7,400	6,690	5,980	5,270	4,550	3,850	3,250
66,125 to 66,374	10,930	10,200	9,290	8,430	7,460	6,750	6,040	5,320	4,610	3,900	3,300
66,375 to 66,624	10,980	10,260	9,350	8,490	7,520	6,810	6,090	5,380	4,670	3,960	3,350
66,625 to 66,874	11,040	10,310	9,410	8,550	7,580	6,860	6,150	5,440	4,730	4,020	3,400
66,875 to 67,124	11,090	10,370	9,470	8,610	7,630	6,920	6,210	5,500	4,790	4,080	3,450
67,125 to 67,374	11,150	10,420	9,520	8,670	7,690	6,980	6,270	5,560	4,850	4,140	3,500
67,375 to 67,624	11,200	10,480	9,580	8,730	7,750	7,040	6,330	5,620	4,910	4,200	3,550
67,625 to 67,874	11,260	10,530	9,640	8,790	7,810	7,100	6,390	5,680	4,970	4,260	3,600
67,875 to 68,124	11,310	10,590	9,690	8,840	7,870	7,160	6,450	5,740	5,020	4,310	3,650
68,125 to 68,374	11,370	10,640	9,750	8,900	7,930	7,220	6,510	5,790	5,080	4,370	3,700
68,375 to 68,624	11,420	10,700	9,800	8,960	7,990	7,280	6,560	5,850	5,140	4,430	3,750
68,625 to 68,874	11,480	10,750	9,860	9,010	8,050	7,330	6,620	5,910	5,200	4,490	3,800
68,875 to 69,124	11,530	10,810	9,910	9,070	8,100	7,390	6,680	5,970	5,260	4,550	3,850
69,125 to 69,374	11,590	10,870	9,970	9,120	8,160	7,450	6,740	6,030	5,320	4,610	3,900
69,375 to 69,624	11,640	10,920	10,020	9,180	8,220	7,510	6,800	6,090	5,380	4,670	3,960
69,625 to 69,874	11,700	10,980	10,080	9,230	8,270	7,570	6,860	6,150	5,440	4,730	4,010
69,875 to 70,124	11,760	11,030	10,130	9,290	8,330	7,630	6,920	6,210	5,490	4,780	4,070
70,125 to 70,374	11,810	11,090	10,190	9,350	8,390	7,690	6,980	6,260	5,550	4,840	4,130
70,375 to 70,624	11,870	11,140	10,240	9,400	8,440	7,740	7,030	6,320	5,610	4,900	4,190
70,625 to 70,874	11,920	11,200	10,300	9,460	8,500	7,800	7,090	6,380	5,670	4,960	4,250
70,875 to 71,124	11,980	11,250	10,350	9,510	8,550	7,850	7,150	6,440	5,730	5,020	4,310
71,125 to 71,374	12,030	11,310	10,410	9,570	8,610	7,910	7,210	6,500	5,790	5,080	4,370
71,375 to 71,624	12,090	11,360	10,460	9,620	8,660	7,960	7,270	6,560	5,850	5,140	4,430
71,625 to 71,874	12,140	11,420	10,520	9,680	8,720	8,020	7,320	6,620	5,910	5,200	4,480
71,875 to 72,124	12,200	11,470	10,570	9,730	8,770	8,080	7,380	6,680	5,960	5,250	4,540
72,125 to 72,374	12,250	11,530	10,630	9,790	8,830	8,130	7,430	6,730	6,020	5,310	4,600
72,375 to 72,624	12,310	11,580	10,680	9,840	8,880	8,190	7,490	6,790	6,080	5,370	4,660
72,625 to 72,874	12,360	11,640	10,740	9,900	8,940	8,240	7,540	6,850	6,140	5,430	4,720
72,875 to 73,124	12,420	11,690	10,790	9,950	8,990	8,300	7,600	6,900	6,200	5,490	4,780
73,125 to 73,374	12,470	11,750	10,850	10,010	9,050	8,350	7,650	6,960	6,260	5,550	4,840
73,375 to 73,624	12,530	11,800	10,910	10,060	9,100	8,410	7,710	7,010	6,320	5,610	4,900
73,625 to 73,874	12,580	11,860	10,960	10,120	9,160	8,460	7,770	7,070	6,370	5,670	4,950
73,875 to 74,124	12,640	11,910	11,020	10,170	9,210	8,520	7,820	7,120	6,430	5,720	5,010
74,125 to 74,374	12,690	11,970	11,070	10,230	9,270	8,570	7,880	7,180	6,480	5,780	5,070
74,375 to 74,624	12,750	12,020	11,130	10,280	9,320	8,630	7,930	7,230	6,540	5,840	5,130
74,625 to 74,874	12,800	12,080	11,180	10,340	9,380	8,680	7,990	7,290	6,590	5,900	5,190
74,875 to 75,000	12,860	12,140	11,240	10,390	9,430	8,740	8,040	7,340	6,650	5,950	5,250

TABLE B.—EXPECTED FAMILY CONTRIBUTION FOR A DEPENDENT STUDENT FROM A ONE-PARENT FAMILY—1986–87—Continued

Adjusted gross income	Number of family members										
	2	3	4	5	6	7	8	9	10	11	12
Over 75,000	Must Use Campus-Based Approved Need Analysis System										

Table C.—Expected Family Contribution for a Married Independent Student—1986–87

For a married independent student, the education institution determines the student's expected family contribution according to Table C. The amount obtained from the table is divided by the number of family members enrolled on at least a half-time basis in a postsecondary education institution. The contributions set forth in Table C are based on a 12-month budget. If an educational institution calculates an independent student budget on a 9-month basis, it must multiply the contribution in the table by .75. No family assets are considered.

As used in Table C, "Family members" include the student, the student's spouse and their dependents.

The conversion of the adjusted gross income to the expected family contribution is performed by subtracting from the adjusted gross income the following:

—Federal income tax, based on standard deductions, computed at the rate applied to married taxpayers filing joint returns;
—F.I.C.A. (Social Security) for one wage earner; and
—Average State and other taxes (4%).

The resulting value is the expected family contribution. No deduction is made for living expenses of the student and his or her family because those expenses are included in the student's cost of attendance.

TABLE C.—EXPECTED FAMILY CONTRIBUTION FOR A MARRIED INDEPENDENT STUDENT—1986–87

Adjusted gross income	Number of family members										
	2	3	4	5	6	7	8	9	10	11	12
Less than 30,001	Automatically eligible										
30,001 to 30,124	22,500	22,760	23,020	23,260	23,480	23,710	23,940	24,160	24,340	24,530	24,720
30,125 to 30,374	22,660	22,920	23,180	23,420	23,650	23,880	24,110	24,330	24,520	24,710	24,890
30,375 to 30,624	22,820	23,080	23,340	23,590	23,820	24,050	24,280	24,510	24,700	24,880	25,070
30,625 to 30,874	22,980	23,240	23,500	23,760	23,990	24,220	24,440	24,670	25,060	25,060	25,250
30,875 to 31,124	23,140	23,400	23,660	23,920	24,150	24,380	24,610	24,840	25,050	25,240	25,430
31,125 to 31,374	23,300	23,560	23,820	24,080	24,320	24,550	24,780	25,010	25,230	25,420	25,600
31,375 to 31,624	23,460	23,720	23,980	24,240	24,490	24,720	24,950	25,170	25,400	25,590	25,780
31,625 to 31,874	23,620	23,880	24,140	24,400	24,660	24,880	25,110	25,340	25,570	25,770	25,960
31,875 to 32,124	23,780	24,040	24,300	24,560	24,820	25,050	25,280	25,510	25,740	25,950	26,140
32,125 to 32,374	23,940	24,200	24,460	24,720	24,980	25,220	25,450	25,680	25,910	26,130	26,310
32,375 to 32,624	24,100	24,360	24,620	24,880	25,140	25,390	25,620	25,840	26,070	26,300	26,490
32,625 to 32,874	24,260	24,520	24,780	25,040	25,300	25,550	25,780	26,010	26,240	26,470	26,670
32,875 to 33,124	24,420	24,680	24,940	25,200	25,460	25,720	25,950	26,180	26,410	26,640	26,850
33,125 to 33,374	24,580	24,840	25,100	25,360	25,620	25,880	26,120	26,350	26,580	26,800	27,020
33,375 to 33,624	24,730	25,000	25,260	25,520	25,780	26,040	26,290	26,510	26,740	26,970	27,200
33,625 to 33,874	24,880	25,160	25,420	25,680	25,940	26,200	26,450	26,680	26,910	27,140	27,370
33,875 to 34,124	25,030	25,320	25,580	25,840	26,100	26,360	26,620	26,850	27,080	27,310	27,540
34,125 to 34,374	25,190	25,480	25,740	26,000	26,260	26,520	26,780	27,020	27,240	27,470	27,700
34,375 to 34,624	25,340	25,630	25,900	26,160	26,420	26,680	26,940	27,180	27,410	27,640	27,870
34,625 to 34,874	25,490	25,780	26,060	26,320	26,580	26,840	27,100	27,350	27,580	27,810	28,040
34,875 to 35,124	25,640	25,930	26,220	26,480	26,740	27,000	27,260	27,520	27,750	27,980	28,200
35,125 to 35,374	25,800	26,090	26,380	26,640	26,900	27,160	27,420	27,680	27,910	28,140	28,370
35,375 to 35,624	25,950	26,240	26,530	26,800	27,060	27,320	27,580	27,840	28,080	28,310	28,540
35,625 to 35,874	26,100	26,390	26,680	26,960	27,220	27,480	27,740	28,000	28,250	28,480	28,710
35,875 to 36,124	26,250	26,540	26,830	27,120	27,380	27,640	27,900	28,160	28,420	28,650	28,870
36,125 to 36,374	26,400	26,700	26,990	27,280	27,540	27,800	28,060	28,320	28,580	28,810	29,040
36,375 to 36,624	26,560	26,850	27,140	27,430	27,700	27,960	28,220	28,480	28,740	28,980	29,210
36,625 to 36,874	26,710	27,000	27,290	27,580	27,860	28,120	28,380	28,640	28,900	29,150	29,380
36,875 to 37,124	26,860	27,150	27,440	27,740	28,020	28,280	28,540	28,800	29,060	29,310	29,540
37,125 to 37,374	27,010	27,310	27,600	27,890	28,180	28,440	28,700	28,960	29,220	29,480	29,710
37,375 to 37,624	27,170	27,460	27,750	28,040	28,330	28,600	28,860	29,120	29,380	29,640	29,880
37,625 to 37,874	27,320	27,610	27,900	28,190	28,480	28,760	29,020	29,280	29,540	29,800	30,050
37,875 to 38,124	27,470	27,760	28,050	28,350	28,640	28,920	29,180	29,440	29,700	29,960	30,210
38,125 to 38,374	27,620	27,910	28,210	28,500	28,790	29,080	29,340	29,600	29,860	30,120	30,380
38,375 to 38,624	27,780	28,070	28,360	28,650	28,940	29,230	29,500	29,760	30,020	30,280	30,540
38,625 to 38,874	27,930	28,220	28,510	28,800	29,090	29,380	29,660	29,920	30,180	30,440	30,700
38,875 to 39,124	28,070	28,370	28,660	28,950	29,250	29,540	29,810	30,070	30,330	30,590	30,850
39,125 to 39,374	28,210	28,520	28,820	29,110	29,400	29,690	29,970	30,230	30,490	30,750	31,010
39,375 to 39,624	28,350	28,680	28,970	29,260	29,550	29,840	30,130	30,390	30,650	30,910	31,170
39,625 to 39,874	28,500	28,840	29,130	29,420	29,710	30,000	30,300	30,560	30,820	31,080	31,340
39,875 to 40,124	28,650	29,000	29,300	29,590	29,880	30,170	30,470	30,740	31,000	31,260	31,520
40,125 to 40,374	28,810	29,150	29,470	29,760	30,050	30,340	30,640	30,920	31,180	31,440	31,700
40,375 to 40,624	28,970	29,310	29,640	29,930	30,220	30,510	30,810	31,100	31,360	31,620	31,880
40,625 to 40,874	29,130	29,470	29,810	30,100	30,390	30,680	30,980	31,270	31,530	31,790	32,050
40,875 to 41,124	29,280	29,630	29,970	30,270	30,560	30,850	31,150	31,440	31,710	31,970	32,230
41,125 to 41,374	29,440	29,780	30,130	30,440	30,730	31,020	31,320	31,610	31,890	32,150	32,410
41,375 to 41,624	29,600	29,940	30,290	30,610	30,900	31,190	31,490	31,780	32,070	32,330	32,590
41,625 to 41,874	29,760	30,100	30,440	30,780	31,070	31,360	31,660	31,950	32,240	32,500	32,760

TABLE C.—EXPECTED FAMILY CONTRIBUTION FOR A MARRIED INDEPENDENT STUDENT—1986-87—Continued

Adjusted gross income	Number of family members										
	2	3	4	5	6	7	8	9	10	11	12
41,875 to 42,124	29,910	30,260	30,600	30,940	31,240	31,530	31,830	32,120	32,410	32,680	32,940
42,125 to 42,374	30,070	30,410	30,760	31,100	31,410	31,700	32,000	32,290	32,580	32,860	33,120
42,375 to 42,624	30,230	30,570	30,920	31,260	31,580	31,870	32,170	32,460	32,750	33,040	33,300
42,625 to 42,874	30,390	30,730	31,070	31,420	31,750	32,040	32,340	32,630	32,920	33,210	33,470
42,875 to 43,124	30,540	30,890	31,230	31,570	31,920	31,210	32,510	32,800	33,090	33,080	33,650
43,125 to 43,374	30,700	31,040	31,390	31,730	32,070	32,380	32,680	32,970	33,260	33,550	33,830
43,375 to 43,624	30,860	31,200	31,550	31,890	32,230	32,550	32,850	33,140	33,430	33,720	34,010
43,625 to 43,874	31,020	31,360	31,700	32,050	32,390	32,720	33,020	33,310	33,600	33,890	34,180
43,875 to 44,124	31,170	31,520	31,860	32,200	32,550	32,890	33,190	33,480	33,770	34,060	34,350
44,125 to 44,374	31,330	31,670	32,020	32,360	32,700	33,050	33,360	33,650	33,940	34,230	34,520
44,375 to 44,624	31,490	31,830	32,180	32,520	32,860	33,200	33,530	33,820	34,110	34,400	34,690
44,625 to 44,874	31,650	31,990	32,330	32,680	33,020	33,360	33,700	33,990	34,280	34,570	34,860
44,875 to 45,124	31,800	32,150	32,490	32,830	33,180	33,520	33,860	34,160	34,450	34,740	35,030
45,125 to 45,374	31,960	32,300	32,650	32,990	33,330	33,680	34,020	34,330	34,620	34,910	35,200
45,375 to 45,624	32,120	32,460	32,810	33,150	33,490	33,830	34,180	34,500	34,790	35,080	35,370
45,625 to 45,874	32,280	32,620	32,960	33,310	33,650	33,990	34,340	34,670	34,960	35,250	35,540
45,875 to 46,124	32,430	32,780	33,120	33,460	33,810	34,150	34,490	34,840	35,130	35,420	35,710
46,125 to 46,374	32,590	32,930	33,280	33,620	33,960	34,310	34,650	34,990	35,300	35,590	35,880
46,375 to 46,624	32,750	33,090	33,440	33,780	34,120	34,460	34,810	35,150	35,470	35,760	36,050
46,625 to 46,874	32,910	33,250	33,590	33,940	34,280	34,620	34,970	35,310	35,640	35,930	36,220
46,875 to 47,124	33,060	33,410	33,750	34,090	34,440	34,780	35,120	35,470	35,810	36,100	36,390
47,125 to 47,374	33,220	33,560	33,910	34,250	34,590	34,940	35,280	35,620	35,970	36,270	36,560
47,375 to 47,624	33,380	33,720	34,070	34,410	34,750	35,090	35,440	35,780	36,120	36,440	36,730
47,625 to 47,874	33,540	33,880	34,220	34,570	34,910	35,250	35,600	35,940	36,280	36,610	36,900
47,875 to 48,124	33,690	34,040	34,380	34,720	35,070	35,410	35,750	36,100	36,440	36,780	37,070
48,125 to 48,374	33,850	34,190	34,540	34,880	35,220	35,570	35,910	36,250	36,600	36,940	37,240
48,375 to 48,624	34,010	34,350	34,700	35,040	35,380	35,720	36,070	36,410	36,750	37,100	37,410
48,625 to 48,874	34,170	34,510	34,850	35,200	35,540	35,880	36,230	36,570	36,910	37,260	37,580
48,875 to 49,124	34,320	34,670	35,010	35,350	35,700	36,040	36,380	36,730	37,070	37,410	37,750
49,125 to 49,374	34,480	34,820	35,170	35,510	35,850	36,200	36,540	36,880	37,230	37,570	37,910
49,375 to 49,624	34,640	34,980	35,330	35,670	36,010	36,350	36,700	37,040	37,380	37,730	38,070
49,625 to 49,874	34,800	35,140	35,480	35,830	36,170	36,510	36,860	37,200	37,540	37,890	38,230
49,875 to 50,124	34,940	35,300	35,640	35,980	36,330	36,670	37,010	37,360	37,700	38,040	38,390
50,125 to 50,374	35,090	35,450	35,800	36,140	36,480	36,830	37,170	37,510	37,860	38,200	38,540
50,375 to 50,624	35,230	35,610	35,960	36,300	36,640	36,980	37,330	37,670	38,010	38,360	38,700
50,625 to 50,874	35,380	35,770	36,110	36,460	36,800	37,140	37,490	37,830	38,170	38,520	38,860
50,874 to 51,124	35,520	35,920	36,270	36,610	36,960	37,300	37,640	37,990	38,330	38,670	39,020
51,125 to 51,374	35,670	36,060	36,430	36,770	37,110	37,460	37,800	38,140	38,490	38,830	39,170
51,375 to 51,624	35,810	36,210	36,590	36,930	36,270	37,610	37,960	38,300	38,640	38,990	39,330
51,625 to 51,874	35,960	36,350	36,740	37,090	37,430	37,770	38,120	38,460	38,800	39,150	39,490
51,875 to 52,124	36,100	36,500	36,890	37,240	37,590	37,930	38,270	38,620	38,960	39,300	39,650
51,125 to 52,374	36,250	36,640	37,040	37,400	37,740	38,090	38,430	38,770	39,120	39,460	39,800
52,375 to 52,624	36,390	36,790	37,180	37,560	37,900	38,240	38,590	38,930	38,270	39,620	39,960
52,625 to 52,874	36,540	36,930	37,330	37,720	38,060	38,400	38,750	39,090	39,430	39,780	40,120
52,875 to 53,124	36,680	37,080	37,470	37,870	38,220	38,560	38,900	39,250	39,590	39,930	40,280
53,125 to 53,374	36,830	37,220	37,620	38,010	38,370	38,720	39,060	39,400	39,750	40,090	40,430
53,375 to 53,624	36,970	37,370	37,760	38,160	38,530	38,870	39,220	39,560	39,900	40,250	40,590
53,625 to 53,874	37,120	37,510	37,910	38,300	38,690	39,030	39,380	39,720	40,060	40,410	40,750
53,875 to 54,124	37,260	37,660	38,050	38,450	38,840	39,190	39,530	39,880	40,220	40,560	40,910
54,125 to 54,374	37,410	37,800	38,200	38,590	38,990	39,350	39,690	40,030	40,380	40,720	41,060
54,375 to 54,624	37,550	37,950	38,340	38,740	39,130	39,500	39,850	40,190	40,530	40,880	41,220
54,625 to 54,874	37,700	38,090	38,490	38,880	39,280	39,660	40,010	40,350	40,690	41,040	41,380
54,875 to 55,124	37,840	38,240	38,630	39,030	39,420	39,820	40,160	40,510	40,850	41,190	41,540
55,125 to 55,374	37,990	38,380	38,780	39,170	39,570	39,960	40,320	40,660	40,010	41,350	41,690
55,375 to 55,624	38,130	38,530	38,920	39,320	39,710	40,110	40,480	40,820	41,160	41,510	41,850
55,625 to 55,874	38,280	38,670	39,070	39,460	39,860	40,250	40,640	40,980	41,320	41,670	42,010
55,875 to 56,124	38,420	38,820	39,210	39,610	40,000	40,400	40,790	41,140	41,480	41,820	42,170
56,125 to 56,374	38,570	38,960	39,360	39,750	40,150	40,540	40,940	41,290	41,640	41,980	42,320
56,375 to 56,624	38,710	39,110	39,500	39,900	40,290	40,690	41,080	41,450	41,790	42,140	42,480
56,625 to 56,874	38,860	39,250	39,650	40,040	40,440	40,830	41,230	41,610	41,950	42,300	42,640
56,875 to 57,124	39,000	39,400	39,790	40,190	40,580	40,980	41,370	41,770	42,110	42,450	42,800
57,125 to 57,374	39,150	39,540	39,940	40,330	40,730	41,120	41,520	41,910	42,270	42,610	42,950
57,375 to 57, 624	39,290	39,690	40,080	40,480	40,870	41,270	41,660	42,060	42,420	42,770	43,110
57,625 to 57,874	39,440	39,830	40,230	40,620	41,020	41,410	41,810	42,200	42,580	42,930	43,270
57,875 to 58,124	39,580	39,980	40,370	40,770	41,160	41,560	41,950	42,350	42,740	43,080	43,430
58,125 to 58,374	39,730	40,120	40,520	40,910	41,310	41,700	42,100	42,490	42,890	43,240	43,580
58,375 to 58,624	39,870	40,270	40,660	41,060	41,450	41,850	42,240	42,640	43,030	43,400	43,740
58,625 to 58,874	40,020	40,410	40,810	41,200	41,600	41,990	42,390	42,780	43,180	43,560	43,900
58,875 to 59,124	40,160	40,560	40,950	41,350	41,740	42,140	42,530	42,930	43,320	43,710	44,060
59,125 to 59,374	40,310	40,700	41,100	41,490	41,890	42,280	42,680	43,070	43,470	43,860	44,210
59,375 to 59,624	40,450	40,850	41,240	41,640	42,030	42,430	42,820	43,220	43,610	44,010	44,370
59,625 to 59,874	40,600	40,990	41,390	41,780	42,180	42,570	42,970	43,360	43,760	44,150	44,530

TABLE C.—EXPECTED FAMILY CONTRIBUTION FOR A MARRIED INDEPENDENT STUDENT—1986-87—Continued

Adjusted gross income	Number of family members										
	2	3	4	5	6	7	8	9	10	11	12
59,875 to 60,124	40,740	41,140	41,530	41,930	42,320	42,720	43,110	43,510	43,900	44,300	44,690
60,125 to 60,374	40,890	41,280	41,680	42,070	42,470	42,260	43,260	43,650	44,050	44,440	44,840
60,375 to 60,624	41,030	41,430	41,820	42,220	42,610	43,010	43,400	43,800	44,190	44,590	44,980
60,625 to 60,874	41,180	41,570	41,970	42,360	42,760	43,150	43,940	43,550	43,340	44,730	45,130
60,875 to 61,124	41,320	41,720	42,110	42,510	42,900	43,300	43,690	44,090	44,480	44,880	45,270
61,125 to 61,374	41,470	41,860	42,260	42,650	43,050	43,440	43,840	44,230	44,630	45,020	45,420
61,375 to 62,624	41,610	42,010	42,400	42,800	43,190	43,590	43,980	44,380	44,770	45,170	45,560
61,625 to 61,874	41,760	42,150	42,550	42,940	43,340	43,730	44,130	44,520	44,920	45,310	45,710
61,875 to 62,124	41,900	42,300	42,690	43,090	43,480	43,880	44,270	44,670	45,060	45,460	45,850
62,125 to 62,374	42,050	42,440	42,840	43,230	43,630	44,020	44,420	44,810	45,210	45,600	46,000
62,375 to 62,624	42,190	42,590	42,980	43,380	43,770	44,170	44,560	44,960	45,350	45,750	46,140
62,625 to 62,874	42,340	42,730	43,130	43,520	43,920	44,310	44,710	45,100	45,500	45,890	46,290
62,875 to 63,124	42,480	42,880	43,270	43,670	44,060	44,460	44,850	45,250	45,640	46,040	46,430
63,125 to 64,374	42,630	43,020	43,420	43,810	44,210	44,600	45,000	45,390	45,790	46,180	46,580
63,375 to 63,624	42,770	43,170	43,560	43,960	44,350	44,750	45,140	45,540	45,930	46,330	46,720
63,625 to 63,874	42,920	43,310	43,710	44,100	44,500	44,890	45,290	45,680	46,080	46,470	46,870
63,875 to 46,124	43,060	43,460	43,850	44,250	44,640	45,040	45,430	45,830	46,220	46,620	47,010
64,125 to 64,374	43,210	43,600	44,000	44,390	44,790	45,180	45,580	45,960	46,370	46,760	47,160
64,375 to 64,624	43,350	43,750	44,140	44,540	44,930	45,330	45,720	46,120	46,510	46,910	47,300
64,625 to 64,874	43,490	43,890	44,290	44,680	45,080	45,470	45,870	46,260	46,660	47,050	47,450
64,875 to 65,124	43,620	44,040	44,430	44,830	45,220	45,620	46,010	46,410	46,800	47,200	47,590
65,125 to 65,374	43,760	44,180	44,580	44,960	45,370	45,760	46,160	46,550	46,950	47,340	47,740
65,375 to 65,624	43,890	44,330	44,720	45,120	45,510	45,910	46,300	46,700	47,090	47,490	47,880
65,625 to 65,874	44,030	44,460	44,870	45,260	45,660	46,050	46,450	46,840	47,240	47,630	48,030
65,875 to 66,124	44,160	44,600	45,010	45,410	45,800	46,200	46,590	46,990	47,380	47,780	48,170
66,125 to 66,374	44,300	44,730	45,160	46,550	45,940	46,340	46,740	47,130	47,530	47,920	48,320
66,375 to 66,624	44,430	44,870	45,300	45,700	46,090	46,490	46,880	47,280	47,670	48,070	48,460
66,625 to 66,874	44,570	45,000	45,440	45,840	46,240	46,630	47,030	47,420	46,820	48,210	48,610
66,875 to 67,124	44,700	45,140	45,580	45,990	46,380	46,780	47,170	47,570	47,960	48,360	48,750
67,125 to 67,374	44,840	45,270	45,710	46,130	46,530	46,920	47,320	47,710	48,110	48,500	48,900
67,375 to 67,624	44,970	45,410	45,850	46,280	46,670	47,070	47,460	47,860	48,250	48,650	49,040
67,625 to 67,874	45,110	45,540	45,980	65,420	46,820	47,210	47,610	48,000	48,400	48,790	49,190
67,875 to 68,124	45,240	45,680	46,120	46,550	46,960	47,360	47,750	48,150	48,540	48,940	49,330
68,125 to 68,374	45,380	45,810	46,250	46,690	47,110	47,500	47,900	48,290	48,690	49,080	49,480
68,374 to 68,624	45,510	45,950	46,390	46,820	47,250	47,650	48,040	48,440	48,830	49,230	49,620
68,625 to 68,874	45,650	47,080	46,520	46,960	47,390	47,790	48,190	48,580	48,980	49,370	49,770
68,875 to 69,124	45,780	46,220	46,660	47,090	47,530	47,940	48,330	48,730	49,120	49,520	49,910
69,125 to 69,374	45,920	46,350	47,790	47,230	47,660	48,080	48,480	48,870	49,270	49,660	50,060
69,375 to 69,624	46,050	46,490	46,930	47,360	47,800	48,230	48,620	49,020	49,410	49,810	50,200
69,625 to 69,874	46,190	46,620	47,060	47,500	47,930	48,370	48,550	49,160	49,560	49,950	50,350
69,875 to 70,124	46,320	46,760	47,200	47,630	48,070	48,510	48,910	49,310	49,700	50,100	50,490
70,125 to 70,374	46,460	46,890	47,330	47,770	48,200	48,640	49,060	49,450	49,850	50,240	50,640
70,375 to 70,624	46,590	47,030	47,470	57,900	48,340	48,780	49,200	49,600	49,990	50,390	50,780
70,625 to 70,874	46,730	47,160	47,600	48,040	48,470	48,910	49,350	49,740	50,140	50,530	50,930
70,875 to 71,124	46,860	47,300	47,740	38,170	48,610	49,050	49,480	49,890	50,280	50,680	51,070
71,125 to 71,374	47,000	47,430	47,870	48,310	48,740	49,180	49,620	50,030	50,430	50,820	51,220
71,375 to 71,624	47,130	47,570	48,010	48,440	48,880	49,320	49,750	50,180	50,570	50,970	51,360
71,625 to 71,874	47,270	47,700	48,140	48,580	49,010	49,450	49,890	50,320	50,720	51,110	51,510
71,875 to 72,124	47,400	47,840	48,280	48,710	49,150	49,590	50,020	50,460	50,860	51,260	51,650
72,125 to 72,374	47,540	47,970	48,410	48,850	49,280	49,720	50,160	50,600	51,010	51,400	51,800
72,375 to 72,624	47,670	48,110	48,550	48,980	49,420	49,860	50,290	50,730	51,150	51,550	51,940
72,625 to 72,874	47,810	48,240	48,680	49,120	49,550	49,990	50,430	50,870	51,300	51,690	52,090
72,875 to 73,124	47,940	48,380	48,820	49,250	49,690	50,130	50,560	51,000	51,440	51,840	52,230
73,125 to 73,374	48,080	48,510	48,950	49,390	49,820	50,260	50,700	51,140	51,570	51,980	52,380
73,375 to 73,624	48,210	48,650	49,090	49,520	49,960	50,400	50,830	51,270	51,710	52,130	52,520
73,625 to 73,874	48,350	48,780	49,220	49,660	50,090	50,530	50,970	51,410	51,840	52,270	52,670
73,875 to 74,124	48,480	48,920	49,360	49,790	50,230	50,670	51,100	51,540	51,980	52,410	52,810
74,125 to 74,374	48,620	49,050	49,490	49,930	50,360	50,800	51,240	51,680	52,110	52,550	52,960
74,375 to 74,624	48,750	49,190	49,630	50,060	50,500	50,940	51,370	51,810	52,250	52,680	53,100
74,625 to 74, 875	48,890	49,320	49,760	50,200	50,630	51,070	51,510	51,950	52,380	52,820	53,250
74,875 to 75,000	49,020	49,460	49,900	50,330	50,770	51,210	51,640	52,080	52,520	52,950	53,390
Over 75,000	Must Use Campus-Based Aproved Need Analysis System										

Table D. Expected Family Contribution for a Single Independent Student—1986-87

For a single independent student, the educational institution determines the student's expected family contribution according to Table D. The amount obtained from the table is divided by the number of family members enrolled on at least a half-time basis in a postsecondary educational institution. The contributions set forth in Table D are based on a 12-month budget. If an educational institution calculates an independent student budget on a 9-month basis, it must multiply the contribution in the table by .75. No family assets are considered.

As used in Table D, "Family members" include the student and the student's dependents.

The conversion of the adjusted gross income to the expected family contribution is performed by subtracting from the adjusted gross income the following:

—Federal income tax, based on standard deductions, computed at the rate applied to taxpayers who qualify as heads of households;
—F.I.C.A. (Social Security) for one wage earner; and
—Average State and other taxes (4%).

The resulting value is the expected family contribution. No deduction is made for living expenses for the student and his or her family because those expenses are included in the student's cost of attendance.

TABLE D.—EXPECTED FAMILY CONTRIBUTION FOR A SINGLE INDEPENDENT STUDENT—1986-87

Adjusted gross income	Number of family members											
	1	2	3	4	5	6	7	8	9	10	11	12
Less than 30,001	Automatically Eligible											
30,001 to 30,124	21,460	21,750	22,050	22,340	22,630	22,890	23,140	23,390	23,640	23,890	24,120	24,330
30,125 to 30,374	21,610	21,910	22,200	22,490	22,780	23,050	23,300	23,550	23,800	24,050	24,300	24,500
30,375 to 30,624	21,770	22,060	22,350	22,640	22,930	23,220	23,460	23,710	23,960	24,210	24,460	24,680
30,625 to 30,874	21,920	22,210	22,500	22,790	23,080	23,380	23,630	23,880	24,130	24,380	24,630	24,850
30,875 to 31,124	22,070	22,360	22,650	22,950	23,240	23,530	23,790	24,040	24,290	24,540	24,790	25,020
31,125 to 31,374	22,210	22,520	22,810	23,100	23,390	23,680	23,950	24,200	24,450	24,700	24,950	25,190
31,375 to 31,624	22,360	22,670	22,960	23,250	23,540	23,830	24,110	24,360	24,610	24,860	25,110	25,360
31,625 to 31,874	22,500	22,820	23,110	23,400	23,690	23,990	24,280	24,530	24,780	25,030	25,280	25,520
31,875 to 32,124	22,640	22,970	23,260	23,560	23,850	24,140	24,430	24,690	24,940	25,190	25,440	25,690
32,125 to 32,374	22,780	23,120	23,420	23,710	24,000	24,290	24,580	24,850	25,100	25,350	25,600	25,850
32,375 to 32,624	22,930	23,260	23,570	23,860	24,150	24,440	24,730	25,010	25,260	25,510	25,760	26,010
32,625 to 32,874	23,070	23,400	23,720	24,010	24,300	24,590	24,890	25,180	25,430	25,680	25,920	26,170
32,875 to 33,124	23,210	23,540	23,870	24,160	24,460	24,750	25,040	25,330	25,590	25,840	26,090	26,340
33,125 to 33,374	23,350	23,690	24,020	24,320	24,610	24,900	25,190	25,480	25,750	26,000	26,250	26,500
33,375 to 33,624	23,500	23,830	24,160	24,470	24,760	25,050	25,340	25,630	25,910	26,160	26,410	26,660
33,625 to 33,874	23,640	23,970	24,300	24,620	24,910	25,200	25,500	25,790	26,080	26,320	26,570	26,820
33,875 to 34,124	23,780	24,110	24,450	24,770	25,070	25,360	25,650	25,940	26,230	26,490	26,740	26,990
34,125 to 34,374	23,920	24,260	24,590	24,920	25,220	25,510	25,800	26,090	26,380	26,650	26,900	27,150
34,375 to 34,624	24,070	24,400	24,730	25,060	25,370	25,660	25,950	26,240	26,530	26,810	27,060	27,310
34,625 to 34,874	24,210	24,540	24,870	25,210	25,520	25,810	26,100	26,400	26,690	26,970	27,220	27,470
34,875 to 35,124	24,350	24,680	25,020	25,350	25,670	25,970	26,260	26,550	26,840	27,130	27,390	27,640
35,125 to 35,374	24,490	24,830	25,160	25,490	25,820	26,120	26,410	26,700	26,990	27,280	27,550	27,800
35,375 to 35,624	24,640	24,970	25,300	25,630	25,970	26,270	26,560	26,850	27,140	27,440	27,710	27,960
35,625 to 35,874	24,780	25,110	25,440	25,780	26,110	26,420	26,710	27,010	27,300	27,590	27,870	28,120
35,875 to 36,124	24,920	25,250	25,590	25,920	26,250	26,580	26,870	27,160	27,450	27,740	28,030	28,290
36,125 to 36,374	25,060	25,400	25,730	26,060	26,390	26,730	27,020	27,310	27,600	27,890	28,180	28,450
36,375 to 36,624	25,200	25,540	25,870	26,200	26,540	26,870	27,170	27,460	27,750	28,050	28,340	28,610
36,625 to 36,874	25,340	25,680	26,010	26,350	26,680	27,010	27,320	27,620	27,910	28,200	28,490	28,770
36,875 to 37,124	25,480	25,820	26,160	26,490	26,820	27,150	27,480	27,770	28,060	28,350	28,640	28,930
37,125 to 37,374	25,610	25,960	26,300	26,630	26,960	27,300	27,630	27,920	28,210	28,500	28,790	29,080
37,375 to 37,624	25,750	26,110	26,440	26,770	27,110	27,440	27,770	28,070	28,360	28,650	28,950	29,240
37,625 to 37,874	25,880	26,240	26,580	26,920	27,250	27,580	27,910	28,220	28,520	28,810	29,100	29,390
37,875 to 38,124	26,010	26,380	26,720	27,060	27,390	27,720	28,060	28,380	28,670	28,960	29,250	29,540
38,125 to 38,374	26,150	26,510	26,870	27,200	27,530	27,870	28,200	28,530	28,820	29,110	29,400	29,690
38,375 to 38,624	26,280	26,650	27,010	27,340	27,670	28,010	28,340	28,670	28,970	29,260	29,560	29,850
38,625 to 38,874	26,420	26,780	27,150	27,480	27,820	28,150	28,480	28,820	29,130	29,420	29,710	30,000
38,875 to 39,124	26,550	26,920	27,280	27,630	27,960	28,290	28,630	28,960	29,280	29,570	29,860	30,150
39,125 to 39,374	26,690	27,050	27,420	27,770	28,100	28,430	28,770	29,100	29,430	29,720	30,010	30,300
39,375 to 39,624	26,820	27,190	27,550	27,910	28,240	28,580	28,910	29,240	29,580	29,870	30,160	30,460
39,625 to 39,874	26,970	27,330	27,700	28,060	28,400	28,730	29,060	29,400	29,730	30,040	30,330	30,620
39,875 to 40,124	27,120	27,490	27,850	28,210	28,560	28,890	29,220	29,560	29,890	30,210	30,500	30,790
40,125 to 40,374	27,270	27,640	28,000	28,370	28,720	29,050	29,380	29,720	30,050	30,080	30,670	30,960
40,375 to 40,624	27,430	27,790	28,150	28,520	28,880	29,210	29,540	29,880	30,210	30,540	30,840	31,130
40,625 to 40,874	27,580	27,940	28,310	28,670	29,040	29,370	29,700	30,040	30,370	30,700	31,010	31,300
40,875 to 41,124	27,730	28,100	28,460	28,820	29,190	29,530	29,860	30,200	30,530	30,860	31,180	31,470
41,125 to 41,374	27,880	28,250	28,610	28,980	29,340	29,690	30,020	30,360	30,690	31,020	31,350	31,640
41,375 to 41,624	28,040	28,400	28,760	29,130	29,490	29,850	30,180	30,520	30,850	31,180	31,510	31,810
41,625 to 41,874	28,190	28,550	28,920	29,280	29,650	30,010	30,340	30,680	31,010	31,340	31,670	31,980
41,875 to 42,124	28,340	28,710	29,070	29,430	29,800	30,160	30,500	30,840	31,170	31,500	31,830	32,150
42,125 to 42,374	28,490	28,860	29,220	29,590	29,950	30,310	30,660	31,000	31,330	31,660	31,990	32,320
42,375 to 42,624	28,650	29,010	29,370	29,740	30,100	30,470	30,820	31,160	31,490	31,820	32,150	32,490
42,625 to 42,874	28,800	29,160	29,530	29,890	30,260	30,620	30,980	31,320	31,650	31,980	32,310	32,650
42,875 to 43,124	28,950	29,320	29,680	30,040	30,410	30,770	31,140	31,480	31,810	32,140	32,470	32,810
43,125 to 43,374	29,100	29,470	29,830	30,200	30,560	30,920	31,290	31,640	31,970	32,300	32,630	32,970
43,375 to 43,624	29,260	29,620	29,980	30,350	30,710	31,080	31,440	31,800	32,130	32,460	32,790	33,130
43,625 to 43,874	29,410	29,770	30,140	30,500	30,870	32,230	31,590	31,960	32,290	32,620	32,950	33,290
43,875 to 44,124	29,560	29,930	30,290	30,650	31,020	31,380	31,750	32,110	32,450	32,780	33,110	33,450
44,125 to 44,374	29,710	30,080	30,440	30,810	31,170	31,530	31,900	32,260	32,610	32,940	33,270	33,610
44,375 to 44,624	29,870	30,230	30,590	30,960	31,320	31,690	32,050	32,410	32,770	33,100	33,430	33,770
44,625 to 44,874	30,020	30,380	30,750	31,110	31,480	31,840	32,200	32,570	32,930	33,260	33,590	33,930
44,875 to 45,124	30,170	30,540	30,900	31,260	31,630	31,990	32,360	32,720	33,080	33,420	33,750	34,090
45,125 to 45,374	30,320	30,690	31,050	31,420	31,780	32,140	32,510	32,870	33,240	33,580	33,910	34,250
45,375 to 45,624	30,480	30,840	31,200	31,570	31,930	32,300	32,660	33,020	33,390	33,740	34,070	34,410

TABLE D.—EXPECTED FAMILY CONTRIBUTION FOR A SINGLE INDEPENDENT STUDENT—1986-87—Continued

Adjusted gross income	Number of family members											
	1	2	3	4	5	6	7	8	9	10	11	12
45,625 to 45,874	30,630	30,990	31,360	31,720	32,090	32,450	32,810	33,180	33,540	33,900	34,230	34,570
45,875 to 46,124	30,780	31,150	31,510	31,870	32,240	32,600	32,970	33,330	33,690	34,060	34,390	34,730
46,125 to 46,374	30,930	31,300	31,660	32,030	32,390	32,750	33,120	33,480	33,850	34,210	34,550	34,890
46,375 to 46,624	31,090	31,450	31,810	32,180	32,540	32,910	33,270	33,630	34,000	34,360	34,710	35,050
46,625 to 46,874	31,240	31,600	31,970	32,330	32,700	33,060	33,420	33,790	34,150	34,520	34,870	35,210
46,875 to 47,124	31,390	31,760	32,120	32,480	32,850	33,210	33,580	33,940	34,300	34,670	35,030	35,370
47,125 to 47,374	31,540	31,910	32,270	32,640	33,000	33,360	33,730	34,090	34,460	34,820	35,180	35,530
47,375 to 47,624	31,700	32,060	32,420	32,790	33,150	33,520	33,880	34,240	34,610	34,970	35,340	35,690
47,625 to 47,874	31,840	32,210	32,580	32,940	33,310	33,670	34,030	34,400	34,760	35,130	35,490	35,850
47,875 to 48,124	31,970	32,370	32,730	33,090	33,460	33,820	34,190	34,550	34,910	35,280	35,640	36,010
48,125 to 48,374	32,110	32,520	32,880	33,250	33,610	33,970	34,340	34,700	35,070	35,430	35,790	36,160
48,375 to 48,624	32,240	32,670	33,030	33,400	33,760	34,130	34,490	34,850	35,220	35,580	35,950	36,310
48,625 to 48,874	32,380	32,810	33,190	33,550	33,920	34,280	34,640	35,010	35,370	35,740	36,100	36,460
48,875 to 49,124	32,510	32,950	33,340	33,700	34,070	34,430	34,800	35,160	35,520	35,890	36,250	36,620
49,125 to 49,374	32,650	33,080	33,490	33,860	34,220	34,580	34,950	35,310	35,680	36,040	36,400	36,770
49,375 to 49,624	32,780	33,220	33,640	34,010	34,370	34,740	35,100	35,460	35,830	36,190	36,560	36,920
49,625 to 49,874	32,920	33,350	33,790	34,160	34,530	34,890	35,250	35,620	35,980	36,350	36,710	37,070
49,875 to 50,124	33,050	33,490	33,920	34,310	34,680	35,040	35,410	35,770	36,130	36,500	36,860	37,230
50,125 to 50,374	33,190	33,620	34,060	34,470	34,830	35,190	35,560	35,920	36,290	36,650	37,010	37,380
50,375 to 50,624	33,320	33,760	34,190	34,620	34,980	35,350	35,710	36,070	36,440	36,800	37,170	37,530
50,625 to 50,874	33,460	33,890	34,330	34,770	35,140	35,500	35,860	36,230	36,590	36,960	37,320	37,680
50,875 to 51,124	33,590	34,030	34,460	34,900	35,290	35,650	36,020	36,380	36,740	37,110	37,470	37,840
51,125 to 51,374	33,730	34,160	34,600	35,040	35,440	35,800	36,170	36,530	36,900	37,260	37,620	37,990
51,375 to 51,624	33,860	34,300	34,730	35,170	35,590	35,960	36,320	36,680	37,050	37,410	37,780	38,140
51,625 to 51,874	34,000	34,430	34,870	35,310	35,740	36,110	36,470	36,840	37,200	37,570	37,930	38,290
51,875 to 52,124	34,130	34,570	35,000	35,440	35,880	36,260	36,630	36,990	37,350	37,720	38,080	38,450
52,125 to 52,374	34,270	34,700	35,140	35,580	36,010	36,410	36,780	37,140	37,510	37,870	38,230	38,600
52,375 to 52,624	34,400	34,840	35,270	35,710	36,150	36,570	36,930	37,290	37,660	38,020	38,390	38,750
52,625 to 52,874	34,540	34,970	35,410	35,850	36,280	36,720	37,080	37,450	37,810	38,180	38,540	38,900
52,875 to 53,124	34,670	35,110	35,540	35,980	36,420	36,860	37,240	37,600	37,960	38,330	38,690	39,060
53,125 to 53,374	34,810	35,240	35,680	36,120	36,550	36,990	37,390	37,750	38,120	38,480	38,840	39,210
53,375 to 53,624	34,940	35,380	35,810	36,250	36,690	37,130	37,540	37,900	38,270	38,630	39,000	39,360
53,625 to 53,874	35,080	35,510	35,950	36,390	36,820	37,260	37,690	38,060	38,420	38,790	39,150	39,510
53,875 to 54,124	35,210	35,650	36,080	36,520	36,960	37,400	37,830	38,210	38,570	38,940	39,300	39,670
54,125 to 54,374	35,350	35,780	36,220	36,660	37,090	37,530	37,970	38,360	38,730	39,090	39,450	39,820
54,375 to 54,624	35,480	35,920	36,350	36,790	37,230	37,670	38,100	38,510	38,880	39,240	39,610	39,970
54,625 to 54,874	35,620	36,050	36,490	39,930	37,360	37,800	38,240	38,670	39,039	39,400	39,760	40,120
54,875 to 55,124	35,750	36,190	36,620	37,060	37,500	37,940	38,370	38,810	39,180	39,550	39,910	40,280
55,125 to 55,374	35,890	36,320	36,760	37,200	37,630	38,070	38,510	38,940	39,340	39,700	40,060	40,630
55,375 to 55,624	36,020	36,460	36,890	37,330	37,770	38,210	38,640	39,080	39,490	39,850	40,220	40,580
55,625 to 55,874	36,160	36,590	37,030	37,470	37,900	38,340	38,780	39,210	39,640	40,010	40,370	40,730
55,875 to 56,124	36,290	36,730	37,160	37,600	38,040	38,480	38,910	39,350	39,790	40,160	40,520	40,890
56,125 to 56,374	36,430	36,860	37,300	37,740	38,170	38,610	39,050	39,480	39,920	40,310	40,670	41,040
56,375 to 56,624	36,560	37,000	37,430	37,870	38,310	38,750	39,180	39,620	40,060	40,460	40,830	41,190
56,625 to 56,874	36,700	37,130	37,570	38,010	38,440	38,880	39,320	39,750	40,190	40,620	40,980	41,340
56,875 to 57,124	36,830	37,270	37,700	38,140	38,580	39,020	39,450	39,890	40,330	40,760	41,130	41,500
57,125 to 57,374	36,970	37,400	37,840	38,280	38,710	39,150	39,590	40,020	40,460	40,900	41,280	41,650
57,375 to 57,624	37,100	37,540	37,970	38,410	38,850	39,290	39,720	40,160	40,600	41,030	41,440	41,800
57,625 to 57,874	37,240	37,670	38,110	38,550	38,980	39,420	39,860	40,290	40,730	41,170	41,590	41,950
57,875 to 58,124	37,370	37,810	38,240	38,680	39,120	39,560	39,990	40,430	40,870	41,300	41,740	42,110
58,125 to 58,374	37,510	37,940	38,380	38,820	39,250	39,690	40,130	40,560	41,000	41,440	41,870	42,260
58,375 to 58,624	37,640	38,080	38,510	38,950	39,390	39,830	40,260	40,700	41,140	41,570	42,010	42,410
58,625 to 58,874	37,780	38,210	38,650	39,090	39,520	39,960	40,400	40,830	41,270	41,710	42,140	42,560
58,875 to 59,124	37,910	38,350	38,780	39,220	39,660	40,100	40,530	40,970	41,410	41,840	42,280	42,720
59,125 to 59,374	38,050	38,480	38,920	39,360	39,790	40,230	40,670	41,100	41,540	41,980	42,410	42,850
59,375 to 59,624	38,180	38,620	39,050	39,490	39,930	40,370	40,800	41,240	41,680	42,110	42,550	42,990
59,625 to 59,874	38,320	38,750	39,190	39,630	40,060	40,500	40,940	41,370	41,810	42,250	42,680	43,120
59,875 to 60,124	38,450	38,890	39,320	39,760	40,200	40,640	41,070	41,510	41,950	42,380	42,820	43,260
60,125 to 60,374	38,590	39,020	39,460	39,900	40,330	40,770	41,210	41,640	42,080	42,520	42,950	43,390
60,375 to 60,624	38,720	39,160	39,590	40,030	40,470	40,910	41,340	41,780	42,220	42,650	43,090	43,530
60,625 to 60,874	38,860	39,290	39,730	40,170	40,600	41,040	41,480	41,910	42,350	42,790	43,220	43,660
60,875 to 61,124	38,990	39,430	39,860	40,300	40,740	41,180	41,610	42,050	42,490	42,920	43,360	43,800
61,125 to 61,374	39,130	39,560	40,000	40,440	40,870	41,310	41,750	42,180	42,620	43,060	43,490	43,930
61,375 to 61,624	39,260	39,700	40,130	40,570	41,010	41,450	41,880	42,320	42,760	43,190	43,630	44,070
61,625 to 61,874	39,400	39,830	40,270	40,710	41,140	41,580	42,020	42,450	42,890	43,330	43,760	44,200
61,875 to 62,124	39,530	39,970	40,400	40,840	41,280	41,720	42,150	42,590	43,030	43,460	43,900	44,340
62,125 to 62,374	39,670	40,100	40,540	40,980	41,410	41,850	42,290	42,720	43,160	43,600	44,030	44,470
62,375 to 62,624	39,800	40,240	40,670	41,110	41,550	41,990	42,420	42,860	43,300	43,730	44,170	44,610
62,625 to 62,874	39,940	40,370	40,810	41,250	41,680	42,120	42,560	42,990	43,430	43,870	44,300	44,740
62,875 to 63,124	40,070	40,510	40,940	41,380	41,820	42,260	42,690	43,130	43,570	44,000	44,440	44,880
63,125 to 63,374	40,210	40,640	41,080	41,520	41,950	42,390	42,830	43,260	43,700	44,140	44,570	45,010
63,375 to 63,624	40,340	40,780	41,210	41,650	42,090	42,530	42,960	43,400	43,840	44,270	44,710	45,150
63,625 to 63,874	40,480	40,910	41,350	41,790	42,220	42,660	43,100	43,530	43,970	44,410	44,840	45,280

TABLE D.—EXPECTED FAMILY CONTRIBUTION FOR A SINGLE INDEPENDENT STUDENT—1986-87—Continued

Adjusted gross income	Number of family members											
	1	2	3	4	5	6	7	8	9	10	11	12
63,875 to 64,124	40,610	41,050	41,480	41,920	42,360	42,800	43,230	43,670	44,110	44,540	44,980	45,420
64,125 to 64,374	40,740	41,180	41,620	42,060	42,490	42,930	43,370	43,800	44,240	44,680	45,110	45,550
64,375 to 64,624	40,870	41,320	41,750	42,190	42,630	43,070	43,500	43,940	44,380	44,810	45,250	45,690
64,625 to 64,874	41,000	41,450	41,890	42,330	42,760	43,200	43,640	44,070	44,510	44,950	45,380	45,820
64,875 to 65,124	41,120	41,590	42,020	42,460	42,900	43,340	43,770	44,210	44,650	45,080	45,520	45,960
65,125 to 65,374	41,250	41,720	42,160	42,600	43,030	43,470	43,910	44,340	44,780	45,220	45,650	46,090
65,375 to 65,624	41,380	41,850	42,290	42,730	43,170	43,610	44,040	44,480	44,920	45,350	45,790	46,230
65,625 to 65,874	41,510	41,970	42,430	42,870	43,300	43,740	44,180	44,610	45,050	45,490	45,920	46,360
65,875 to 66,124	41,630	42,100	42,560	43,000	43,440	43,880	44,310	44,750	45,190	45,620	46,060	46,500
66,125 to 66,374	41,760	42,230	42,700	43,140	43,570	44,010	44,450	44,880	45,320	45,760	46,190	46,630
66,375 to 66,624	41,890	42,360	42,830	43,270	43,710	44,150	44,580	45,020	45,460	45,890	46,330	46,770
66,625 to 66,874	42,020	42,480	42,950	43,410	43,840	44,280	44,720	45,150	45,590	46,030	46,460	46,900
66,875 to 67,124	42,140	42,610	43,080	43,540	43,980	44,420	44,850	45,290	45,730	46,160	46,600	47,040
67,125 to 67,374	42,270	42,740	43,210	43,680	44,110	44,550	44,990	45,420	45,860	46,300	46,730	47,170
67,375 to 67,624	42,400	42,870	43,340	43,800	44,250	44,690	45,120	45,560	46,000	46,430	46,870	47,310
67,625 to 67,874	42,530	42,990	43,460	43,930	44,380	44,820	45,260	45,690	46,130	46,570	47,000	47,440
67,875 to 68,124	42,650	43,120	43,590	44,060	44,520	44,960	45,390	45,830	46,270	46,700	47,140	47,580
68,125 to 68,374	42,780	43,250	43,720	44,190	44,650	45,090	45,530	45,960	46,400	46,840	47,270	47,710
68,375 to 68,624	42,910	43,380	43,850	44,310	44,780	45,230	45,660	46,100	46,540	46,970	47,410	47,850
68,625 to 68,874	43,040	43,500	43,970	44,440	44,910	45,360	45,800	46,230	46,670	47,110	47,540	47,980
68,875 to 69,124	43,160	43,630	44,100	44,570	45,040	45,500	45,930	46,370	46,810	47,240	47,680	48,120
69,125 to 69,374	43,290	43,760	44,230	44,700	45,160	45,630	46,070	46,500	46,940	47,380	47,810	48,250
69,375 to 69,624	43,420	43,890	44,360	44,820	45,290	45,760	46,200	46,640	47,080	47,510	47,950	48,390
69,625 to 69,874	43,550	44,010	44,480	44,950	45,420	45,890	46,340	46,770	47,210	47,650	48,080	48,520
69,875 to 70,124	43,670	44,140	44,610	45,080	45,550	46,010	46,470	46,910	47,350	47,780	48,220	48,660
70,125 to 70,374	43,800	44,270	44,740	45,210	45,670	46,140	46,610	47,040	47,480	47,920	48,350	48,790
70,375 to 70,624	43,930	44,400	44,870	45,330	45,800	46,270	46,740	47,180	47,620	48,050	48,490	48,930
70,625 to 70,874	44,060	44,520	44,990	45,460	45,930	46,400	46,860	47,310	47,750	48,190	48,620	49,060
70,875 to 71,124	44,180	44,650	45,120	45,590	46,060	46,520	46,990	47,450	47,890	48,320	48,760	49,200
71,125 to 71,374	44,310	44,780	45,250	45,720	46,180	46,650	47,120	47,580	48,020	48,460	48,890	49,330
71,375 to 71,624	44,440	44,910	45,380	45,840	46,310	46,780	47,250	47,720	48,160	48,590	49,030	49,470
71,625 to 71,874	44,570	45,030	45,500	45,970	46,440	46,910	47,370	47,840	48,290	48,730	49,160	49,600
71,875 to 72,124	44,690	45,160	45,630	46,100	46,570	47,030	47,500	47,970	48,430	48,860	49,300	49,740
72,125 to 72,374	44,820	45,290	45,760	46,230	46,690	47,160	47,630	48,100	48,560	49,000	49,430	49,870
72,375 to 72,624	44,950	45,420	45,890	46,350	46,820	47,290	47,760	48,230	48,690	49,130	49,570	50,010
72,625 to 72,874	45,080	45,540	46,010	46,480	46,950	47,420	47,880	48,350	48,820	49,270	49,700	50,140
72,875 to 73,124	45,200	46,670	46,140	46,610	47,080	47,540	48,010	48,480	48,950	49,400	49,840	50,280
73,125 to 73,374	45,330	45,800	46,270	46,740	47,200	47,670	48,140	48,610	49,080	49,540	49,970	50,410
73,375 to 73,624	45,460	45,930	46,400	46,860	47,330	47,800	48,270	48,740	49,200	49,670	50,110	50,550
73,625 to 73,874	45,590	46,050	46,520	46,990	47,460	47,930	48,390	48,860	49,330	49,800	50,240	50,680
73,875 to 74,124	45,710	46,180	46,650	47,120	47,590	48,050	48,520	48,990	49,460	49,930	50,380	50,820
74,125 to 74,374	45,840	46,310	46,780	47,250	47,710	48,180	48,650	49,120	49,590	50,050	50,510	50,950
74,375 to 74,624	45,970	46,440	46,910	47,370	47,840	48,310	48,780	49,250	49,710	50,180	50,650	51,090
74,625 to 74,874	46,100	46,560	47,030	47,500	47,970	48,440	48,900	49,370	49,80	50,310	50,780	51,220
74,875 to 75,000	46,220	46,690	47,160	47,630	48,100	48,560	49,030	49,500	49,970	50,440	50,900	51,360
Over 75,000	Must use Campus-Based Approved Need Analysis System											

[FR Doc. 86-7062 Filed 3-28-86; 8:45 am]

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Federal Register

Monday
March 31, 1986

Part IV

Department of the Treasury

Customs Service

19 CFR Part 6

Customs Regulations; Amendments Relating to Overflight Exemptions and Reporting Requirements for Aircraft Arriving in the United States; Final Rule

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 6

[T.D. 86-72]

Customs Regulations; Amendments Relating to Overflight Exemptions and Reporting Requirements for Aircraft Arriving in the United States

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations by expanding the requirements for pilots to report notice of penetration of U.S. airspace, and by placing additional requirements upon those who seek an exemption from the landing requirements for aircraft arriving from areas south of the U.S.

Current regulations provide specifics regarding the requirements for reportng arrival, and include a list of designated airports at various border and coastline points at which designated aircraft must land. These amendments expand the coverage of existing requirements to: Include some flights arriving from Puerto Rico and all flights arriving from the U.S. Virgin Islands within the notice of penetration requirements; increase from 15 minutes to 1 hour the minimum time required for notice to be given prior to penetrating U.S. airspace; and require aircraft seeking exemptions from certain landing requirements to be equipped with functioning transponders and to provide additional justification for being granted an exemption.

The amendments are necessary because of the severity of the drug abuse problem, the major increase in illegal drug importations by use of aircraft, and the need for action to expand the effectiveness of drug smuggling enforcement. Customs has found that because aircraft arriving in U.S. airspace from certain areas south of the mainland U.S. are excempt from current reporting requirements, and because overflight exemption requirements are too lax, certain potentially high-risk flights are able to bypass the best drug interdiction efforts of Customs. These amendments seek to remedy that situation.

EFFECTIVE DATE: April 30, 1986.

FOR FURTHER INFORMATION CONTACT:

Operational aspects: Thomas Hargrove, Office of Inspection and Control, (202-566-5607).

Legal aspects: John A. Mathis, Carrier Rulings Branch, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229, (202-566-5706).

SUPPLEMENTARY INFORMATION:

Background

The National Narcotics Intelligence Consumers Committee has documented that the supply of illegal drugs to the U.S. market and the subsequent extent of drug abuse has reached monumental proportions. Illegal drug use increased an estimated 15 percent in the U.S. in 1984, according to the Committee. The severity of the drug abuse problem, the preponderance of drug users, and the major increases in volumes of illegal drug importations in the U.S. are indicated by the significant increase in drug-related deaths, medical care, arrests, and seizures.

The smuggler organization has solidified a dominant position in the U.S. through the penetration of strategic points in the economy. Areas to the south of the U.S. are major sources of illegal drugs destined for the U.S. Smuggling by air is the preferred mode of transportation for high-cost narcotics, with cocaine and marijuana smuggling representing particularly high risk areas. A Stanford Research Institute Study (not associated with Stanford University) indicates the magnitude of the air smuggling threat at approximately 6,700 flights, annually. Although recent air interdiction activities in the southeastern U.S. have resulted in many arrests and seizures, an end to the prevalence of drug abuse in the U.S. is not in sight.

To address this national problem, it is necessary to take action to expand the effectiveness of smuggling enforcement. In 1975, the Customs Regulations were amended by adding a new § 6.14 (19 CFR 6.14), to provide for a notice of intended arrival for private aircraft arriving in the U.S. via the U.S./Mexican Border.

Because of the magnitude of the drug problem, and in direct response to Executive and Congressional directives, by an interim regulation published as T.D. 82-52 in the **Federal Register** on March 24, 1982 (47 FR 12620), the notice requirements were extended to private aircraft arriving in the U.S. via the Gulf of Mexico, Pacific, and Atlantic Coasts. These interim regulations were adopted as a final rule by publication of T.D. 83-192 in the **Federal Register** on September 15, 1983 (48 FR 41381).

By publication of T.D. 84-236 in the **Federal Register** on November 29, 1984 (49 FR 46885), § 6.14 was further amended to extend the reporting requirements to certain commercial aircraft arriving from areas south of the U.S. By expanding the definition of private aircraft to include certain commercial flights, Customs sought to increase enforcement coverage to further stem the flow of illicit narcotics. In spite of previous efforts, we have found that there remain certain gaps in the reporting requirements provided in Part 6, Customs Regulations (19 CFR Part 6).

Accordingly, by notice published in the **Federal Register** on April 1, 1985 (50 FR 12819), it was proposed to further amend Part 6, Customs Regulations, to enhance enforcement capabilities. The major thrust of the proposal was to extend the minimum advance notice of U.S. airspace penetration requirement from 15 minutes to 1 hour, to include aircraft arriving from the U.S. Virgin Islands and Puerto Rico in the notice requirements, to require aircraft pilots seeking exemption from the requirement to land at a designated airport, to require pilots to certify the aircraft to be equipped with a functioning transponder (to be activated during overflight), and to provide detailed reasons for the exemption request.

Based in part on our consideration of the comments received in response to the notice, we have decided to make some minor changes to the amendments as initially proposed. These include moving the definition of "Place" from § 6.1 to § 6.14, excluding from the advance notice requirements some flights from Puerto Rico (as explained later in this document), and including the boundaries of the Air Defense Identification Zone as the point beyond which advance reports of airspace penetration must be made.

Analysis of Comments

Eight comments were received in response to the April 1, 1985, **Federal Register** notice. Of these, two expressed wholesale support for the proposal, five were critical of at least some elements, and one offered general comments and suggestions for further amendments.

In addition to the amendments proposed to § 6.14, it was also proposed to amend § 6.1 by adding a definition of "place" to mean anywhere outside of U.S. airspace. Two commenters state that placement of the definition in § 6.1 is incorrect and could be confusing as concerns other sections within Part 6. It is stated that what is needed is a more concise definition of "place", and that, to avoid confusion, the definition should appear in § 6.14 itself.

We agree. Accordingly, instead of amending § 6.1, the definition is being added to § 6.14(e). The definition has also been altered to conform to the boundaries of the U.S. military Air Defense Identification Zone (ADIZ). This should eliminate all confusion since

the boundaries of the ADIZ are well known to pilots.

One commenter expressed concern over the inclusion of Puerto Rico as a location from which aircraft must provide advance notice of U.S. airspace penetration.

We have reconsidered this matter and have determined that the advance notice requirement will not be necessary for flights from Puerto Rico which are conducting flight by Instrument Flight Rules (IFR). It is our understanding that nearly all flights between Puerto Rico and the Continental U.S. are conducted under IFR and are, therefore, identifiable to Customs through liaison with the Federal Aviation Administration.

By far, the greatest amount of concern was expressed over the proposal to extend the required advance notice time limit from 15 minutes to no less than 1 hour prior to U.S. airspace penetration. The major objection raised is that inadequate communication facilities may exist in many of the more remote locations from which advance notice would be required.

We are aware that there may be some initial difficulties associated with the new rules. Customs personnel will work with members of the flying public to minimize any difficulties. Given the magnitude of the narcotics smuggling problem, however, any opportunity for making in-roads must be tried, potential problems notwithstanding. A 1-hour prior notification is not unique in the western hemisphere. Many of the locations from which extended prior notice would be required, themselves require 1-hour notice or even longer. Furthermore, the 1-hour time limit is a minimum. Customs will accept notification at any time longer than 1 hour, for example, at the time a pilot who intends to depart the U.S. files a flight plan with the FAA.

Executive Order 12291

This is not a "major rule" as defined in section 1(b) of E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Regulatory Flexibility Act

Under the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that these amendments will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The Paperwork Reduction Act of 1980 requires that Customs must inform the public why it is collecting this information, how it will use it, and whether it must be given to Customs. Customs requires the information in order to carry out the laws and regulations which it administers. This regulation applies to private aircraft arriving in the U.S. via the U.S./Mexican border or the Atlantic, Pacific, and Gulf coasts, or any place in the Western Hemisphere south of 30 degrees north latitude, and it relates to the processing of the aircraft and its passengers. The information is used for arranging appropriate Customs services for arrival, inspection processing, and enhanced enforcement entry control for effective violator interdiction. The requirements are mandatory but the regulation provides a means for requesting an exemption from the landing requirement. The granting of the exemption is at the authority of Customs. Pursuant to the Paperwork Reduction Act of 1980, the Office of Management and Budget has approved the collection of information requirements and assigned control number 1515–0098 to the reporting requirements contained in this document.

Drafting Information

The principal author of this document was Larry L. Burton, Regulations Control Branch, Office of Regulations and Rulings, Customs Headquarters. However, personnel from other Customs offices participated in its development.

Lists of Subjects in 19 CFR Part 6

Air carriers, Air transportation, Aircraft, Airports.

Amendments to the Regulations

Part 6, Customs Regulations (19 CFR Part 6), is amended as set forth below:

PART 6—AIR COMMERCE REGULATIONS

1. The authority citation for Part 6 continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (Gen. Hdnote. 11), 1624, 49 U.S.C. 1474, 1509: § 6.14 also issued under 49 U.S.C. 1372: § 6.25 also issued under 48 U.S.C. 1460(i).

2. The second sentence of § 6.14(a) is amended by removing the words "15 minutes", and inserting, in their place, the words "1 hour".

3. Section 6.14(b) is revised to read as follows:

§ 6.14 Private aircraft arriving from areas south of the U.S.

* * * * *

(b) *Advance report of penetration of U.S. airspace via Gulf and Atlantic Coasts.* All private aircraft arriving in the Continental U.S. via the Gulf of Mexico and Atlantic Coasts from a place in the Western Hemisphere south of 30 degrees north latitude, from any place in Mexico, from the U.S. Virgin Islands, or (notwithstanding the definition of "United States" in § 6.1(b)) from Puerto Rico, which if from Puerto Rico, are conducting flight under visual flight rules (VFR), shall furnish a notice of intended arrival to Customs at the nearest designated airport to point of crossing listed in paragraph (g) of this section for the first landing in the U.S. The notice must be furnished at least 1 hour before crossing the U.S. coastline. The notice may be furnished directly to Customs by telephone, radio, or other means, or may be furnished through the Federal Aviation Administration to Customs. The requirements to furnish a notice of intended arrival shall not apply to private aircraft departing from Puerto Rico and conducting flight under instrument flight rules (IFR) until crossing the U.S. coastline or proceeding north of 30 degrees north latitude.

* * * * *

4. Section 6.14(c)(5) is amended by removing the parenthetical word "(foreign)".

5. Section 6.14(c)(5) is revised to read as follows:

§ 6.14 Private aircraft arriving from south of the U.S.

* * * * *

(c) * * *

(7) Name of U.S. airport of first landing (designated airport listed in paragraph (g) of this section *nearest* to point of crossing unless an exemption has been granted in accordance with paragraph (f) of this section, or if the aircraft has not landed in foreign territory or is arriving direct from Puerto Rico, or if the aircraft was inspected by Customs officers in the U.S. Virgin Islands); and

* * * * *

6. Section 6.14(d) is revised to read as follows:

§ 6.14 Private aircraft arriving from south of the U.S.

* * * * *

(d) *Landing requirement.* Private aircraft required to furnish a notice of intended arrival in compliance with paragraphs (a), (b), and (c) of this section shall land for Customs processing at the *nearest* designated airport to the border or coastline crossing point as listed in paragraph (g) of this section, unless exempted from this requirement in accordance with paragraph (f) of this section. In addition to the requirements of this paragraph, private aircraft commanders must

comply with all other landing and notice of arrival requirements. This requirement shall not apply to private aircraft which have not landed in foreign territory or are arriving directly from Puerto Rico or if the aircraft was inspected by Customs officers in the U.S. Virgin Islands.

* * * * *

7. Section 6.14(e) is amended by removing the title *"Private aircraft defined"*., and by inserting, in its place, the title "Definitions", by designating the existing paragraph as § 6.14(e)(1), and by inserting a new paragraph thereafter designated as § 6.14(e)(2), to read as follows:

§ 6.14 Private aircraft arriving from areas south of the U.S.

* * * * *

(e) * * *

(2) The term "place" as used in this section means anywhere outside of the inner boundary of the Atlantic (Coastal) Air Defense Identification Zone (ADIZ) south of 30 degrees north latitude, anywhere outside of the inner boundary of the Gulf of Mexico (Coastal) ADIZ, or anywhere outside of the inner boundary of the Pacific (Coastal) ADIZ south of 33 degrees north latitude.

* * * * *

8. Section 6.14(f)(1) (iii) and (xi), respectively, are revised to read as follows:

§ 6.14 Private aircraft arriving from areas south of the U.S.

* * * * *

(f) * * *

(iii) A statement that the aircraft is equipped with a functioning transponder which will be in use during overflight and that overflights will be made in accord with instrument flight rules (IFR);

* * * * *

(xi) Detailed reasons for overflight exemption, stated in terms of savings in cost and time, safety considerations, and convenience.

* * * * *

§ 6.25 [Amended]

9. Section 6.25(c)(1) is amended by removing the words "which are not inspected by Customs officers in the Virgin Islands".

10. Section 6.25(c)(2) is amended by removing the words "which were not inspected by Customs officers in the Virgin Islands".

11. Section 6.25 is amended by removing paragraph (c)(3), and by redesignating paragraphs (c)(4) and (5) as paragraphs (c)(3) and (4), respectively.

William von Raab,

Commissioner of Customs.

Approved February 24, 1986.

Francis A. Keating II,

Assistant Secretary of the Treasury.

[FR Doc. 86-7228 Filed 3-28-86; 11:32 am]

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Federal Register

Vol. 51, No. 61

Monday, March 31, 1986

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Laws 523-5230

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Other Services

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TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, MARCH

7237-7420.....3
7421-7542.....4
7543-7732.....5
7733-7912.....6
7913-8182.....7
8183-8310.....10
8311-8474.....11
8475-8640.....12
8641-8788.....13
8789-8994.....14
8995-9170.....17
9171-9434.....18
9435-9624.....19
9625-9762.....20
9763-9942.....21
9943-10178.....24
10179-10352.....25
10353-10534.....26
10535-10608.....27
10609-10794.....28
10795-11006.....31

CFR PARTS AFFECTED DURING MARCH

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

326.....7543

Proposed Rules:

Ch. III.....8328, 9215, 10213

3 CFR

Proclamations:

5445.....7421
5446.....7733
5447.....9171
5448.....9435
5449.....9947
5450.....10179
5451.....10181

Executive Orders:

386 Executive orders revoked by EO 12553.....7237
12553.....7237
12554.....7423
12555.....8475

Administrative Orders:

Memorandums:
March 16, 1986.....9437

Presidential Determinations:
No. 86-6 of March 13, 1986.....9945
No. 86-7 of March 11, 1986.....9943

4 CFR

28.....7735

5 CFR

Ch. XIV.....9173
293.....8396
300.....8396
335.....8396
430.....8396
431.....8396
451.....8396
531.....8396
532.....8396
551.....7425
771.....8396
890.....7428
1201.....7913
1411.....7543
1701.....7543

Proposed Rules:

293.....8422
430.....8422
591.....7799, 8686
1501.....8329

7 CFR

2.....7543
3.....8995
6.....8998
51.....8477
271.....10764
272.....10764
273.....10764
274.....10764
275.....10764
276.....10764
277.....10764
278.....10764
279.....10764
280.....10764
281.....10764
282.....10764
283.....10764
284.....10764
285.....10764
301.....9625, 10183
318.....9949
354.....7544
414.....7545
416.....7545, 7546
418.....7545
419.....7545
420.....7545
421.....7545
422.....10535
423.....7545
424.....7545
425.....7545
426.....7545
427.....7545
428.....7545
431.....7545
432.....7545
433.....7545
435.....7545
437.....7545
438.....7545
442.....8789
443.....8183
447.....7545
448.....7545
704.....8780
713.....8428
717.....10609
770.....8428
795.....8428
796.....8428
905.....8789
907.....7245, 7547, 7913, 8789
908.....8789, 9626
911.....10535
912.....8789
913.....8789
916.....8789
917.....8789
928.....8789
932.....8789
959.....7547
981.....7741, 9763
989.....9628
1106.....7245
1124.....7742
1136.....8641
1137.....10610

1139.....8642
1421.....8428
1425.....8428
1427.....8428
1430.....7913
1468.....9173
1822.....9174
1872.....9174
1900.....9174
1903.....9174
1924.....9174
1927.....9174
1942.....10185
1943.....9174
1945.....9174
1951.....9174
1955.....9174
1962.....9174
1965.....9174

Proposed Rules:

Ch. X.....9669
1.....7799
26.....8330, 9940
235.....10214
275.....9821
276.....9821
400.....7576, 9826
908.....10217
917.....9827
925.....10218
927.....9663
930.....7578
944.....10218
979.....7279
982.....8201, 10866
989.....9968
999.....8201, 10866
1006.....7579
1051.....7282
1065.....7280
1068.....7280
1079.....7280
1131.....7579
1135.....9677
1136.....7579
1137.....7581
1230.....9602
1260.....8984
1403.....10222
1421.....9970
1435.....9760
1901.....9014
1924.....9014
1944.....9014

8 CFR

103.....8183
238.....8643
245.....7431

9 CFR

77.....10611
92.....7549
205.....10795
381.....10800

Proposed Rules:

1.....7950
2.....7950
3.....7950
71.....9059
166.....9682
317.....7293
318.....7283
381.....7283, 7582

10 CFR

2.....7744
40.....9763
50.....7744, 10536
51.....9763
74.....9763
150.....9763
216.....8311
430.....7549
1040.....7543
1046.....7247
1535.....7543

Proposed Rules:

0.....10393
2.....10393
30.....8842
32.....8842
50.....9829
61.....7806
70.....8842
150.....8842
430.....7582
762.....8509

12 CFR

Ch. XII.....9767
204.....9629
217.....8478, 9636
303.....10800
308.....8643
309.....10800
329.....10804
352.....9638
410.....7543
500.....8790
512.....8790
526.....10810
531.....10810
532.....10810
545.....9177, 10810
555.....10810
561.....10810
563.....10810
563d.....7248
563g.....8184
564.....10810
571.....10810
602.....8644
611.....8665, 10353
620.....8644
621.....8644
701.....10353

Proposed Rules:

3.....10602
227.....9684
622.....10866
623.....10866
708.....7447

13 CFR

105.....7550
115.....10362
120.....10362

14 CFR

11.....10612
21.....10612
33.....10344
39.....7249, 7250, 7432–7435, 7767, 7921, 7922, 8192, 8479, 8480, 8791, 8792, 9646, 9647, 10363, 10364, 10537, 10613, 10820, 10821, 10823, 10824
43.....10612
45.....10612
71.....7250, 7769, 8193–8195, 8284, 9648, 10365, 10539, 10824
73.....8999
75.....8195, 9000
91.....10612
93.....8632, 9767
97.....8793
375.....7251
1215.....7261

Proposed Rules:

Ch. I.....9458
21.....10402
36.....7878
39.....7447, 8332, 8333, 8509, 8842, 10406, 10876, 10878
71.....7284, 7448, 7950–7954, 8334, 8510, 9835, 9971, 10224–10228, 10407, 10409, 10553, 10881–10882
73.....7284
75.....10409, 10882
91.....9432, 10553, 10555
121.....9432
135.....9432
250.....9459

15 CFR

373.....8482, 9648
374.....10365
375.....10365
376.....8482, 9648
385.....8482, 9648
801.....7770

Proposed Rules:

960.....9971

16 CFR

13.....8312–8314, 8485, 9768
306.....10186
803.....10368
1033.....7543

Proposed Rules:

Ch. II.....8686
13.....8335, 9060, 9215, 9836, 10229, 10231
424.....7811
425.....10883
455.....10884

17 CFR

200.....9769
240.....8795, 8801
250.....9001
270.....9773

Proposed Rules:

1.....7285
230.....9838

18 CFR

2.....9179
35.....7774, 8486
37.....7261
157.....9179
225.....7923
277.....7923
282.....10614
284.....9179
292.....8486
381.....8488
389.....8804
1302.....9649

Proposed Rules:

271.....7583

19 CFR

4.....10189
6.....8488, 11004
12.....8314
18.....10825
101.....9780
141.....7783
152.....7783
162.....8488
201.....7543

Proposed Rules:

134.....7285
175.....8338
213.....7955

20 CFR

10.....8276
404.....7933, 8805, 10615
416.....7436, 8805, 10615

Proposed Rules:

404.....7452, 9217
416.....9462

21 CFR

74.....7933, 9780
81.....7933
82.....7933, 9780
178.....7437, 7438, 7551
201.....8180
207.....7382
210.....7382
225.....7382
226.....7382
510.....7382, 8315
514.....7382
520.....8315, 9004
556.....9004
558.....7261, 7382, 7784, 8811, 9004, 9005, 9189
561.....9439
579.....8315
610.....10410
1308.....9440, 10190

Proposed Rules:

Ch. I.....9842
74.....9843
150.....9063
172.....10635
175.....10635
176.....10635
177.....10635
178.....10635
179.....10635
181.....10635
510.....8202
606.....7958, 9217
610.....7958, 9217
640.....7958, 9217
868.....8843
884.....7404

22 CFR

219.....7543
504.....10192
607.....7543
1103.....7543
1304.....7543

Proposed Rules:

7.....7958
71.....9465

23 CFR

1208.....10376

Proposed Rules:

630.....9217
658.....8511, 10234

24 CFR

15.....10616

16 10195
200 ..... 7439, 10825
201 9785
203 7439
207 7439
213 7439
220 7439
221 7439
231 7439
232 ..... 7439, 8316
235 8316
241 7439
242 7439
245 10196
511 7439
571 7439
800 9786
813 9786
900 9786
913 9786
965 10196
970 7439

Proposed Rules:
390 9845

25 CFR

Proposed Rules:
273 9624

26 CFR

1 ..... 7262, 8490, 8671, 9005, 9787, 10381, 10539, 10617, 10826
301 ..... 7439, 9949, 9950, 10348
601 7441
602 ..... 7439, 8671, 9787, 10348, 10381

Proposed Rules:
1 ..... 8339, 8517, 9978, 10024, 10411, 10635
301 ..... 7454, 10635
602 ..... 7454, 8517, 9978, 10024

27 CFR

7 ..... 7666, 8490
25 ..... 7666, 8490, 9190, 10540
245 7666
252 ..... 7666, 9190

Proposed Rules:
9 9846
24 8098
170 8098
231 8098
240 8098

28 CFR

0 7443
3 8817
8 8817
9a 8817
544 9614
551 9614

29 CFR

56 9440
1952 8819
2619 8821
2640 ..... 10300, 10314
2644 10826
2647 10300
2648 10314
2676 10322

Proposed Rules:
102 9467
1910 ..... 7584, 8844
1915 8844
2619 10335

30 CFR

216 8168
252 10381
785 9006
884 9441
886 9441
914 ..... 8823, 9006
917 ..... 7262, 9008
938 7785
948 9649
950 10827

Proposed Rules:
202 7811
203 7811
206 7811
207 7811
210 7811
212 7811
241 7811
250 ..... 7584, 7811, 9316
256 9316
731 8466
732 8466
761 8466
772 8466
773 8466
779 8466
780 8466
783 8466
784 8466
906 10235
915 9219
917 10886

31 CFR

128 9788

Proposed Rules:
357 8846

32 CFR

43 7552
199 10540
276 7552
513 ..... 7268, 8824
706 9651
807 8671

33 CFR

3 10540
80 7785
100 10833
110 10197
117 ..... 7788, 10631
165 ..... 8195-8198, 9652, 10834, 10835

Proposed Rules:
100 ..... 7286, 9069, 10887, 10888
110 ..... 7287, 7288, 7812, 8687, 9069, 10637
117 ..... 7813, 9072, 9688, 10638, 10639
165 9069
166 ..... 7814, 7959
183 9689
323 9691
326 9691

34 CFR

614 10836
682 10988

Proposed Rules:
280 8294
400 7908
401 7908
415 7908
668 8946
690 8946

36 CFR

1 8976
2 8976
7 8493
50 7556
211 9010
291 10382
406 7543
1275 8671

Proposed Rules:
223 9072

38 CFR

17 8671
18 10383
18a 10383
18b 10383
21 9952-9955
36 7789

39 CFR

3 9791
111 ..... 8493, 9652
265 8824
3001 8827

Proposed Rules:
111 ..... 8857, 9220, 10640
310 9852
320 9852

40 CFR

52 ..... 8495, 9445, 9653, 10198, 10387, 10541, 10837
57 10211
58 9582
60 ..... 8673, 9190,
61 ..... 7715, 7719, 8199, 8673, 9190
62 ..... 8674, 8827
65 ..... 7790, 9956
81 8828
154 10391
180 ..... 7566, 7567, 8497, 9445-9449
260 ..... 7722, 10146
261 ..... 7722, 10146
262 ..... 7722, 10146
263 10146
264 7722
265 7722
266 7722
270 ..... 7722, 10146
271 ..... 7540, 7722, 10146, 10211
280 7722
300 7934
468 7568
721 9450

Proposed Rules:
52 ..... 7959, 7960, 8203, 8517, 8518
60 ..... 7289, 7585, 10556
61 8205
81 ..... 7962, 7963
89 7292
123 10236
144 10706
180 ..... 8519, 9468, 10411
260 ..... 7723, 7832, 8744, 9072, 10706
261 ..... 7455, 7723, 7815, 7832, 8206, 9076
262 ..... 7723, 7832, 8744, 9072, 10177
263 8744
264 ..... 7723, 7832, 9072, 10706
265 ..... 7723, 7832, 9072, 10706
266 7723
268 ..... 7593, 7832
270 ..... 7723, 7832, 9072, 10706
271 ..... 7723, 7832, 8744
280 7723
418 ..... 8520, 10889
467 9618
721 ..... 9221, 10024, 10027
765 9469
796 7593
797 7593
799 ..... 7593, 10557

41 CFR

101-25 9654
101-26 ..... 7571, 9654
101-43 8674
201-2 9957
201-8 ..... 8317, 10392
201-11 9957
201-23 9957
201-24 9957
201-30 9957
201-32 9957
201-33 9957

42 CFR

51a 7726
53 7935
124 7935
400 9792
405 9792
455 9793

Proposed Rules:
405 10033
412 ..... 8208, 8211
418 7292
435 7520
442 7520

43 CFR

2720 9655
3140 7275
4700 7410

Proposed Rules:
431 ..... 7833, 10237

Public Land Orders:
6605 (Corrected by PLO 6614) 9793
6614 9793

44 CFR

64 10543
67 9191

Proposed Rules:
59 10742
60 10742
61 10742
65 10742
67 9228
70 10742
73 10742
76 10742

45 CFR

201 9191
205 9191
206 9191
224 9440
225 9191

232.....9191
233.....9191
234.....9191
235.....9191
237.....9191
531.....10631
801.....9793
1175.....7543
1181.....7543
1706.....7543
2001.....8300

Proposed Rules:
1177.....9228

46 CFR

10.....10837
42.....9960
47.....9960
169.....10632
221.....9207
298.....7790

Proposed Rules:
Ch. II.....9230
159.....10890
160.....10890
252.....8214
580.....7295, 10034
581.....7295, 10034

47 CFR

Ch. I.....9794
0.....7443
1.....7443
22.....10838
31.....8498
67.....7445, 7942
69.....7942, 8498, 8499, 9010, 10839
73.....7796, 8501, 8675, 9210, 9453, 9963, 10632, 10633
74.....9796, 9963
76.....9963
78.....9963
94.....10545
97.....7797, 9012, 10546

Proposed Rules:
Ch. I.....9470
67.....7462
73.....7463–7468, 7835, 9076, 9077
76.....8339
90.....9853

48 CFR

508.....8677
546.....8678
552.....8678
553.....8678
1414.....8829
1433.....8829
1452.....8829
2401.....7947
2403.....7947
2407.....7947
2414.....7947
2415.....7947
2416.....7947

Proposed Rules:
1.....9429
31.....7379
207.....7295
209.....7837
215.....7295, 7296, 9854
234.....7295
244.....7295
252.....7295, 7296, 7837, 8522, 9854
401.....10034
406.....10034
413.....10034
414.....10034
415.....10034
422.....10034
433.....10034
436.....10034
970.....7469

49 CFR

391.....8199
541.....8831
571.....9454, 9800
585.....9800
807.....7543
845.....7277
1051.....10842
1312.....9814

Proposed Rules:
171.....9079
172.....9079
174.....9079
571.....7298, 10237, 10641
604.....7892
1039.....7964, 10642
1063.....7838
1312.....10642

50 CFR

17.....8681, 9814, 10518, 10842, 10851, 10857
25.....7571
28.....7571
29.....7571
255.....9213
258.....8840
285.....8324, 10865
550.....7543
604.....10547
611.....7446, 9658, 9966
642.....8325, 9012, 9659, 10212
652.....8326, 10392
655.....9966, 10547, 10552
663.....8683
671.....10633
672.....7446, 8502, 9658
681.....8506

Proposed Rules:
17.....7965, 8215, 8217, 8340, 9081, 10412, 10560
18.....10243
20.....9854, 10415
23.....9867
36.....7593
80.....7597
611.....10690
630.....9869, 10890
649.....8220, 8860
661.....9869

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List March 28, 1986.

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Title	Price	Revision Date
1, 2 (2 Reserved)	$5.50	Jan. 1, 1986
3 (1984 Compilation and Parts 100 and 101)	7.50	Jan. 1, 1985
4	12.00	Jan. 1, 1985
5 Parts:		
*1-1199	18.00	Jan. 1, 1986
1200-End, 6 (6 Reserved)	6.50	Jan. 1, 1986
7 Parts:		
0-45	14.00	Jan. 1, 1985
46-51	13.00	Jan. 1, 1985
*52	18.00	Jan. 1, 1986
53-209	14.00	Jan. 1, 1985
210-299	13.00	Jan. 1, 1985
300-399	8.00	Jan. 1, 1985
400-699	12.00	Jan. 1, 1985
700-899	14.00	Jan. 1, 1985
900-999	14.00	Jan. 1, 1985
1000-1059	12.00	Jan. 1, 1986
1060-1119	9.50	Jan. 1, 1986
1120-1199	8.50	Jan. 1, 1986
1200-1499	13.00	Jan. 1, 1985
1500-1899	7.00	Jan. 1, 1986
1900-1944	12.00	Jan. 1, 1985
1945-End	13.00	Jan. 1, 1985
*8	7.00	Jan. 1, 1986
9 Parts:		
1-199	14.00	Jan. 1, 1986
200-End	9.50	Jan. 1, 1985
10 Parts:		
0-199	17.00	Jan. 1, 1985
200-399	9.50	Jan. 1, 1985
400-499	12.00	Jan. 1, 1985
500-End	14.00	Jan. 1, 1985
11	7.50	Jan. 1, 1985
12 Parts:		
1-199	8.00	Jan. 1, 1985
200-299	22.00	Jan. 1, 1986
300-499	9.50	Jan. 1, 1985
500-End	14.00	Jan. 1, 1985
13	13.00	Jan. 1, 1985
14 Parts:		
1-59	16.00	Jan. 1, 1985
60-139	13.00	Jan. 1, 1985
140-199	7.50	Jan. 1, 1986
200-1199	14.00	Jan. 1, 1986
1200-End	8.00	Jan. 1, 1986
15 Parts:		
0-299	7.00	Jan. 1, 1986
300-399	13.00	Jan. 1, 1985
400-End	12.00	Jan. 1, 1985

Title	Price	Revision Date
16 Parts:		
0-149	9.00	Jan. 1, 1986
150-999	10.00	Jan. 1, 1986
1000-End	13.00	Jan. 1, 1985
17 Parts:		
1-239	20.00	Apr. 1, 1985
240-End	14.00	Apr. 1, 1985
18 Parts:		
1-149	12.00	Apr. 1, 1985
150-399	19.00	Apr. 1, 1985
400-End	7.00	Apr. 1, 1985
19	21.00	Apr. 1, 1985
20 Parts:		
1-399	8.00	Apr. 1, 1985
400-499	16.00	Apr. 1, 1985
500-End	18.00	Apr. 1, 1985
21 Parts:		
1-99	9.00	Apr. 1, 1985
100-169	11.00	Apr. 1, 1985
170-199	13.00	Apr. 1, 1985
200-299	4.25	Apr. 1, 1985
300-499	20.00	Apr. 1, 1985
500-599	16.00	Apr. 1, 1985
600-799	6.50	Apr. 1, 1985
800-1299	10.00	Apr. 1, 1985
1300-End	5.50	Apr. 1, 1985
22	21.00	Apr. 1, 1985
23	14.00	Apr. 1, 1985
24 Parts:		
0-199	11.00	Apr. 1, 1985
200-499	19.00	Apr. 1, 1985
500-699	6.50	Apr. 1, 1985
700-1699	13.00	Apr. 1, 1985
1700-End	9.00	Apr. 1, 1985
25	18.00	Apr. 1, 1985
26 Parts:		
§§ 1.0-1.169	21.00	Apr. 1, 1985
§§ 1.170-1.300	12.00	Apr. 1, 1985
§§ 1.301-1.400	7.50	Apr. 1, 1985
§§ 1.401-1.500	15.00	Apr. 1, 1985
§§ 1.501-1.640	12.00	[2] Apr. 1, 1984
§§ 1.641-1.850	11.00	Apr. 1, 1985
§§ 1.851-1.1200	22.00	Apr. 1, 1985
§§ 1.1201-End	22.00	Apr. 1, 1985
2-29	15.00	Apr. 1, 1985
30-39	9.50	Apr. 1, 1985
40-299	18.00	Apr. 1, 1985
300-499	11.00	Apr. 1, 1985
500-599	8.00	[1] Apr. 1, 1980
600-End	4.75	Apr. 1, 1985
27 Parts:		
1-199	18.00	Apr. 1, 1985
200-End	13.00	Apr. 1, 1985
28	16.00	July 1, 1985
29 Parts:		
0-99	11.00	July 1, 1985
100-499	5.00	July 1, 1985
500-899	19.00	July 1, 1985
900-1899	7.00	July 1, 1985
1900-1910	21.00	July 1, 1985
1911-1919	5.50	[3] July 1, 1984
1920-End	20.00	July 1, 1985
30 Parts:		
0-199	16.00	July 1, 1985
200-699	6.00	July 1, 1985
700-End	13.00	July 1, 1985
31 Parts:		
0-199	8.50	July 1, 1985
200-End	11.00	July 1, 1985

Title	Price	Revision Date
32 Parts:		
1–39, Vol. I	15.00	[4] July 1, 1984
1–39, Vol. II	19.00	[4] July 1, 1984
1–39, Vol. III	18.00	[4] July 1, 1984
1–189	13.00	July 1, 1985
190–399	16.00	July 1, 1985
400–629	15.00	July 1, 1985
630–699	12.00	[3] July 1, 1984
700–799	15.00	July 1, 1985
800–999	7.50	July 1, 1985
1000–End	5.50	July 1, 1985
33 Parts:		
1–199	20.00	July 1, 1985
200–End	14.00	July 1, 1985
34 Parts:		
1–299	15.00	July 1, 1985
300–399	8.50	July 1, 1985
400–End	18.00	July 1, 1985
35	7.00	July 1, 1985
36 Parts:		
1–199	9.00	July 1, 1985
200–End	14.00	July 1, 1985
37	9.00	July 1, 1985
38 Parts:		
0–17	16.00	July 1, 1985
18–End	11.00	July 1, 1985
39	9.50	July 1, 1985
40 Parts:		
1–51	16.00	July 1, 1985
52	21.00	July 1, 1985
53–80	23.00	July 1, 1985
81–99	18.00	July 1, 1985
100–149	18.00	July 1, 1985
150–189	13.00	July 1, 1985
190–399	19.00	July 1, 1985
400–424	14.00	July 1, 1985
425–699	13.00	July 1, 1985
700–End	8.00	July 1, 1985
41 Chapters:		
1, 1–1 to 1–10	13.00	[5] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)	13.00	[5] July 1, 1984
3–6	14.00	[5] July 1, 1984
7	6.00	[5] July 1, 1984
8	4.50	[5] July 1, 1984
9	13.00	[5] July 1, 1984
10–17	9.50	[5] July 1, 1984
18, Vol. I, Parts 1–5	13.00	[5] July 1, 1984
18, Vol. II, Parts 6–19	13.00	[5] July 1, 1984
18, Vol. III, Parts 20–52	13.00	[5] July 1, 1984
19–100	13.00	[5] July 1, 1984
1–100	7.50	July 1, 1985
101	19.00	July 1, 1985
102–200	8.50	July 1, 1985
201–End	5.50	July 1, 1985
42 Parts:		
1–60	12.00	Oct. 1, 1985
61–399	7.00	Oct. 1, 1985
400–429	16.00	Oct. 1, 1985
430–End	11.00	Oct. 1, 1985

Title	Price	Revision Date
43 Parts:		
1–999	10.00	Oct. 1, 1985
1000–3999	18.00	Oct. 1, 1985
4000–End	8.50	Oct. 1, 1985
44	13.00	Oct. 1, 1985
45 Parts:		
1–199	10.00	Oct. 1, 1985
200–499	7.00	Oct. 1, 1985
500–1199	13.00	Oct. 1, 1985
1200–End	9.00	Oct. 1, 1985
46 Parts:		
1–40	10.00	Oct. 1, 1985
41–69	10.00	Oct. 1, 1985
70–89	5.50	Oct. 1, 1985
90–139	9.00	Oct. 1, 1985
140–155	8.50	Oct. 1, 1985
156–165	10.00	Oct. 1, 1985
166–199	9.00	Oct. 1, 1985
200–499	15.00	Oct. 1, 1985
500–End	7.50	Oct. 1, 1985
47 Parts:		
0–19	13.00	Oct. 1, 1985
20–69	21.00	Oct. 1, 1985
70–79	13.00	Oct. 1, 1985
80–End	18.00	Oct. 1, 1985
48 Chapters:		
1 (Parts 1–51)	16.00	Oct. 1, 1985
1 (Parts 52–99)	12.00	Oct. 1, 1985
2	15.00	Oct. 1, 1985
3–6	13.00	Oct. 1, 1985
7–14	17.00	Oct. 1, 1985
15–End	17.00	Oct. 1, 1985
49 Parts:		
1–99	7.00	Oct. 1, 1985
100–177	19.00	Nov. 1, 1985
178–199	15.00	Nov. 1, 1985
200–399	13.00	Oct. 1, 1985
400–999	16.00	Oct. 1, 1985
1000–1199	13.00	Oct. 1, 1985
1200–1299	13.00	Oct. 1, 1985
1300–End	2.25	Oct. 1, 1985
50 Parts:		
1–199	11.00	Oct. 1, 1985
200–End	19.00	Oct. 1, 1985
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[1] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1985. The CFR volume issued as of Apr. 1, 1980, should be retained.

[2] No amendments to this volume were promulgated during the period Apr. 1, 1984 to March 31, 1985. The CFR volume issued as of Apr. 1, 1984, should be retained.

[3] No amendments to this volume were promulgated during the period July 1, 1984 to June 30, 1985. The CFR volume issued as of July 1, 1984, should be retained.

[4] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[5] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.