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Wednesday
April 16, 1986

Briefings on How To Use the Federal Register—
For information on briefings in Dallas, TX, and Washington, DC, 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

WASHINGTON, DC

WHEN: May 15; at 9 am.

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

RESERVATIONS: Laurence Davey 202-523-3517

Contents

Federal Register

Vol. 51, No. 73

Wednesday, April 16, 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.

1 CFR
Proposed Rules:
Ch. III 12981

7 CFR
Chapter X 12830
250 12819
251 12819
614 12826
800 12829
1135 12834

10 CFR
Proposed Rules:
430 12861

12 CFR
Proposed Rules:
225 12865
535 12865

14 CFR
39 12836
71 12837
Proposed Rules:
39 12870
75 12871

15 CFR
368 12837
370 (2 documents) 12838, 12840
371 12838
372 12838
373 12838
375 12838
376 12838
377 12838
379 12838
386 12838
399 (2 documents) 12838, 12840

17 CFR
230 12842
239 12842

19 CFR
101 12843

20 CFR
295 12844
Proposed Rules:
655 12872

24 CFR
42 12848
43 12848
58 12848
280 12848
571 12848
850 12848
880 12848
881 12848
882 12848
883 12848
941 12848

27 CFR
Proposed Rules:
9 12876

28 CFR
0 12848

30 CFR
Proposed Rules:
5 12966
15 12966
16 12966
17 12966
18 12966
19 12966
20 12966
21 12966
22 12966
23 12966
24 12966
25 12966
26 12966
27 12966
28 12966
29 12966
31 12966
32 12966
33 12966
35 12966
36 12966
74 12966
773 12879
778 12879

32 CFR
706 (3 documents) 12850, 12851

38 CFR
21 12852

40 CFR
52 12853
180 12854
Proposed Rules:
52 (2 documents) 12882, 12884
180 (4 documents) 12885–12887, 12889

42 CFR
435 12855

44 CFR
Proposed Rules:
67 12890

47 CFR
Proposed Rules:
2 12897
73 (2 documents) 12898, 12899

49 CFR
531 12855
571 12856
Proposed Rules:
571 12900

50 CFR
642 12857
671 12857

Rules and Regulations

Federal Register
Vol. 51, No. 73
Wednesday, April 16, 1986

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 250 and 251

Donation of Foods for Use in the United States, Its Territories and Possessions and Areas Under Its Jurisdiction; Temporary Emergency Food Assistance Program for Fiscal Years 1986 and 1987

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rulemaking sets forth the regulations governing the Temporary Emergency Food Assistance Program (7 CFR Part 251). It incorporates a number of provisions identified in interim and proposed regulations published December, 1983 and July, 1984, respectively, and responds to comments received on both of these regulatory actions. In addition, this final rule incorporates a number of nondiscretionary provisions of the recently enacted Pub. L. 99–198. Two of these changes have been made to 7 CFR Part 250, Donation of Foods for Use in the United States, its Territories and Possessions and Areas under its Jurisdiction; the remainder are found in Part 251. This rulemaking is expected to strengthen the accountability and monitoring requirements found in Part 251.

EFFECTIVE DATES: The nondiscretionary provisions implementing Pub. L. 99–198 are effective on April 16, 1986. These provisions are found in §§ 250.4(a); 250.6(j); 251.3 (c), (f); 251.4 (g), (h); 251.7(b); and 251.8 (c), (d), (e). All other provisions are effective on June 16, 1986.

FOR FURTHER INFORMATION CONTACT: Beverly King, Chief, Program Administration Branch, Food Distribution Division, Food and Nutrition Service, Park Office Center, Alexandria, Virginia 22302, Telephone (703) 756–3660.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under Executive Order 12291 and has not been classified major because it does not meet any of the three criteria identified under the Executive Order. Compliance with the provisions in this rule will not have an annual effect on the economy of more than $100 million or more, nor will it cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions. This action will not have significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets.

This action has been reviewed with regard to the Regulatory Flexibility Act (5 U.S.C. 601–612). Robert E. Leard, Administrator of the Food and Nutrition Service (FNS), has certified that this action will not have a significant economic impact on a substantial number of small entities.

The provisions of this final rule which implement Pub. L. 99–198 are nondiscretionary. Because the nondiscretionary nature of those provisions makes notice and comment impracticable and unnecessary and because immediate implementation of the provisions is in the public's interest, Robert E. Leard has certified that good cause exists for making the provisions of this rule which implement Pub. L. 99–198 effective on publication and without public comment. Further, since the provisions of this rule which implement Pub. L. 99–198 constitute interpretive rules, notice and comment rulemaking and a 30 day period before making those provisions of the rule effective are not required.

The reporting and recordkeeping requirements included in this regulation have been approved by the Office of Management and Budget (OMB). The OMB approval numbers are noted in the text of the rule.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.568 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (7 CFR Part 3015, Subpart V and 49 FR 22675, May 31, 1984).

Legislative Background

Title II of Pub. L. 98–8 was designated as the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c. *note*), hereafter referred to as the "Act". It required the distribution of surplus agricultural commodities acquired through the Commodity Credit Corporation to various outlets for Fiscal Year 1983. It also appropriated $50 million for the cost of storage and distribution of commodities in that fiscal year. At least 20 percent of those funds was to be allocated by State agencies to emergency feeding organizations for costs incurred in providing commodities to relieve situations of emergency and distress to needy persons, including low-income and unemployed persons. The remaining funds could be used for States' storage and distribution costs relating to emergency feeding organizations.

Pub. L. 98–92 amended certain provisions of the Act and extended the Temporary Emergency Food Assistance Program (TEFAP) through September 30, 1985, including the authorization of appropriations for additional funds for storage and distribution costs.

On August 15, 1985, Congress enacted Pub. L. 99–88, which provided supplemental appropriations for several programs administered by the Department, including $7 million for the expenses incurred by States and local agencies in distributing commodities under TEFAP. The funding was made available through March 31, 1986. Because Congress authorized additional funds for TEFAP through Pub. L. 99–88, the Department interpreted that action as extending TEFAP, subject to the terms and conditions of the Act until March 31, 1986.

Subsequently, on December 23, 1985, Congress enacted Pub. L. 99–198, the Food Security Act of 1985. Pub. L. 99–198 made a number of significant changes to the Act, foremost of which is the extension of the TEFAP through September 30, 1987.

Regulatory Background

Interim regulations governing the TEFAP were published on December 16,

1983, (48 FR 55988–55993). The Department published proposed amendments to the interim rule on July 2, 1984, (49 FR 27159–27160) which were designed to strengthen the accountability and monitoring requirements of Part 251. A 60-day comment period was provided for the interim as well as for the proposed rule.

The interim rule set forth the terms and conditions under which (1) surplus foods would be distributed to emergency feeding organizations and (2) Federal funds would be provided to assist in the payment of storage and distribution costs. Twenty-two comment letters were received from a variety of organizations including private industry, State and local governments, advocacy groups and distributing agencies. Additionally, 121 form letters were received from the general public concerning the provision of surplus commodities to the elderly.

The proposed rule, published on July 2, 1984, would have required that State agencies monitor program participation, submit reports and retain records to strengthen program accountability. Fifty comments were received from a U.S. Representative, a State Governor, State distributing agencies, local distribution sites, food banks, advocacy organizations, community action programs and private industry.

In order to more clearly differentiate between revisions made in response to the nondiscretionary provisions of Pub. L. 99–198 and those made in response to commenter concerns, the remainder of this preamble is divided by section of the final rule. Sections which remain unchanged and for which no substantive body of comment have been received are not discussed. Readers are advised that the discretionary provisions of Pub. L. 99–198 will be addressed in a separate proposed rulemaking.

Section 251.3 Definitions.

The term "emergency feeding organization" has been a source of concern to the Department since it was defined in §251.3(b) of the interim regulations. The Department has become aware that different interpretations of the definition exist among States. To ensure consistency in program terminology as it affects reporting and monitoring requirements, as well as funds allocations, the Department solicited comments on the definition in the proposed rule.

Eight comments were received. Five commenters recommended that the term "emergency feeding organization" be further defined as the umbrella organization that enters into an agreement with the State agency. Two commenters suggested "emergency feeding organization" be defined as the local entity handling the actual distribution of commodities.

In the final rule, "emergency feeding organization" has been defined in § 251.3(c) to mean the organization which enters into an agreement with the State agency to distribute TEFAP commodities on a local basis. The emergency feeding organization, in effect, is the "umbrella" organization responsible for TEFAP distribution. A new term, "distribution site," has been added in § 251.3(b) to mean the site at which the commodities are actually distributed to persons for household use. The temporary nature of many distribution sites, as well as the use of volunteers to staff these centers, made it necessary to redefine "emergency feeding organization" as the local organization with overall responsibility for TEFAP distribution. The emergency feeding organization would, thus, be the entity responsible for receipt of payments as well as for meeting local reporting and monitoring requirements which would ensure program accountability. The distribution sites would handle the actual distribution of commodities and collect the necessary household participation records, but the largely volunteer staff at these sites would not be required to handle any additional accountability or reporting responsibilities. It is our understanding that, in a number of States, the program is currently structured in this manner.

Section 1563 of Pub. L. 99–198 incorporated into the Act the current regulatory definition of emergency feeding organization. In order to avoid confusion, the definition of "emergency feeding organization" will reference charitable institutions, food banks, hunger centers, soup kitchens, and similar public and private nonprofit eligible recipient agencies. The changes in this rule are intended as clarifications and do not represent a change in actual operating policy.

Definition (f) "Storage and distribution costs," has also been revised to accommodate clarifications made in section 1569(a) of Pub. L. 99–198. Specific examples of storage and distribution costs for emergency feeding organizations are provided.

Section 251.4 Availability of commodities.

Section 251.4 has been expanded in response to sections 1568 (a) and (b) of Pub. L. 99–198. A new paragraph (g) allows State agencies, at State agency discretion, to enter into interagency cooperative agreements to provide jointly or to transfer commodities to an emergency feeding organization which serves needy persons in contiguous areas which cross State borders. The Department strongly encourages State agencies exercising this provision to take appropriate measures to assure program accountability. New paragraph (h) encourages State agencies to implement or expand commodity distribution activities to relieve situations of emergency and distress in rural areas of the State.

Section 251.5 Eligibility determinations.

Section 251.5(b) of the interim rule required in accordance with section 203B(c) of the Act, each State agency to establish eligibility criteria to ensure that only needy persons receive commodities. The criteria must include incomed-based standards and the methods to demonstrate eligibility under these standards.

Some commenters opposed the use of income standards as time-consuming, costly, and overly burdensome in a largely volunteer distribution system. Additionally, 121 comments from the general public opposed the use of income eligibility standards, recommending that all elderly persons be categorically eligible to participate in TEFAP. Other commenters recommended the establishment of national eligibility criteria with income standards to be issued in these final regulations. One commenter felt national standards would alleviate "border" problems where neighboring States have established different eligibility standards.

Since the interim rule was put into effect in December 1983, States have had the responsibility of developing their own eligibility standards. While there has been some diversity in State-established TEFAP eligibility standards, the system had been operating effectively. To ensure State flexibility in the management of the program, the determination of eligibility criteria for program participation is to be retained at the State level.

As both the amount of funding and commodities allocated to each State are based on that State's specific unemployment and poverty statistics, the Department views the "border" problem as an issue of real concern. To alleviate this problem, § 251.5(b) has been amended to permit a State to adopt a State residency requirement to be used to ensure that only eligible persons residing in that particular State qualify for program benefits. Length of residency may not, however, be used as an eligibility requirement Since

§ 251.9(a) requires each distribution site to collect the address, as well as other pertinent information, for each participating household, reviewing the records for State residency is not expected to be an additional burden at the local level.

Finally, no change has been made with regard to the age of eligible recipients. Categorical eligibility for senior citizens, as requested by a large number of commenters, would not be consistent with the statutory requirement in section 203B(c) of the Act that commodities for individual household use be distributed to needy persons.

Section 251.6 Distribution plan.

Section 251.6 of the proposed rule would have required that the State agency submit a description of its monitoring system to the FNS Regional office along with the description of its eligibility criteria and household distribution rates, which are already required under the interim rule.

Five comments were received. One commenter questioned whether the plan needed to be approved by the Governor since other State plans require the Governor's signature. The other commenters addressed distribution rates and eligibility guidelines. Two commenters suggested establishment of national distribution rates while two others supported States' flexibility in developing eligibility criteria and distribution rates. One commenter recommended that States be required to consider emergency feeding organizations' and food banks' input prior to developing their eligibility guidelines.

The final regulations incorporate the requirement for including in the plan a description of the monitoring system and retain the requirement that eligibility criteria and distribution rates be established at the State level. Because these are subject to Regional Office approval, the Department ensures some degree of consistency in the operation of TEFAP. Although each State is responsible for determining eligibility criteria and distribution rates, it is clearly within their jurisdiction to survey and use food banks' input and expertise regarding these matters.

Because the Regional office approval process enables the Department to better track State-operated programs, the plan will continue to be required annually. Review of the plan by the State Governor's Office is not required by the Department. However, the plan may be subject to the State's review process established in accordance with the Department's regulations under 7 CFR Part 3015, Subpart V.

With the addition of the monitoring provisions, the plan referred to in the interim rules as the "Household Eligibility and Distribution Plan" has become more comprehensive. For this reason, the heading of section 251.6 has been changed to read simply "Distribution plan".

Section 251.7 Formula adjustments.

Section 251.7 of the interim rule provided for semi-annual adjustments of commodity allocations and annual adjustments of fund allocations based on updated unemployment statistics.

Several commenters expressed concern that Federal unemployment figures are not as responsive to the actual number of needy persons as State figures would be. Additionally, a commenter questioned the rationale for updating unemployment figures, but not poverty figures, in developing the formula. Three other commenters requested more frequent formula adjustments to ensure that each State receives both the appropriate funding and commodity amounts.

The adjustments are based on Federal unemployment figures rather than State figures to ensure formula consistency from State to State. The same formula tabulations and correction for errors are used nationally, whereas State formula and updates differ considerably. The Department uses the Federal unemployment figures because they are updated on a monthly basis, unlike poverty figures which are based on data collected at 10-year intervals with only major metropolitan area figures being adjusted periodically. Use of poverty figures would not serve TEFAP needs because rural areas are not included in the periodic adjustments.

Section 1569(a) of Pub. L. 99–198 requires the Department to allocate funds to the States for a fiscal year on an "advance basis, dividing such funds among the States in the same proportion as the commodities distributed under this title for such fiscal year are divided among the States." The Department considered changing the adjustment of funds from an annual to a semi-annual basis in order to meet commenter concerns.

This approach was rejected, however, because of the complication that would arise from the reallocation of funds also required under section 1569(a). The Department firmly believes that a semi-annual adjustment of funds in addition to the required reallocation of funds would adversely affect TEFAP since the resulting uncertainty in funding would seriously hamper a State's ability to effectively budget for the year.

In order to meet the legislation intent that funds be provided in proportions that approximate commodity distribution, the Department intends to retain the annual adjustment of funding and reallocate any funds that States are unable to use among other States, based on considerations such as commodity distribution levels.

Section 251.8 Availability and allocation of funds.

In recognition of the provision of section 1569(a) of Pub. L. 99–198 which requires funds to be made available on an advance basis, paragraphs (c) and (d) have been revised to provide funding on an advance basis and to delete the corresponding limitation placed upon advance payments to emergency feeding organizations.

Section 251.8(d) of the interim regulations required each State agency to make available at least 20 percent of its allocation for local storage and distribution costs. Additionally, paragraph (d) stated that, in accordance with earlier legislation, payments to emergency feeding organizations shall not exceed 5 percent of the value of commodities distributed by such emergency feeding organizations.

One commenter supported this section in its entirety. Four others questioned the 20 percent minimum allocation of funds for local costs stating the minimum should be a higher percentage or a formula should be used to determine funds available for local use. Since section 1569(a) of Pub. L. 99–198 restates the requirement that each State agency make available to emergency feeding organizations at least 20 percent of the allocation, the final rule remains unchanged. If the State sees fit, and if the appropriate funding is available, the State agency can, of course, increase this allocation to the emergency feeding organizations.

One State agency wrote that it currently pays all warehousing costs for the storage and distribution of surplus foods until these foods are distributed to eligible households. The State pays these costs in lieu of billing more than 500 local organizations and considers it appropriate that these storage costs be included as part of the 20 percent to be used for local costs. Section 1569(a) of Pub. L. 99–198 clarifies that a State agency may not charge for commodities made available to emergency feeding organizations. However, section 1569(a) provides that if a State makes a payment using State funds to cover the direct expenses of an emergency feeding

organization, the amount of that payment may be counted toward the 20 percent requirement. Paragraph (d) has been revised accordingly.

A related change has been made in paragraph (j)(2) of 7 CFR Part 250.6 extending the effective date regarding the restriction on distribution charges through September 30, 1987. This date coincides with the extension of section 208 of the Act.

Paragraph (d) has been further revised to delete the restriction that emergency feeding organizations receive no more than 5 percent of the value of commodities distributed in any fiscal year by such organizations. A corresponding deletion has been made in § 251.9(a). This restriction was placed on previous fiscal year funding allocations by section 204(b) of the Temporary Emergency Food Assistance Act of 1983. In amending the Act with Pub. L. 99–198, Congress omitted the restriction. However, because the Department believes that it may be desirable to place a limit on the amount of funds an emergency feeding organization may receive in any fiscal year, this issue will be addressed in the proposed rulemaking which will include discretionary provisions of Pub. L. 99–198.

New paragraph (e) has been added to implement the reallocation requirement of section 1569(a) of Pub. L. 99–198. Under section 1569(a), if a State agency is unable to use all of the funds allocated to it, the Secretary is required to reallocate the unused funds among other States. A corresponding revision has also been made to paragraph (c) to make the provision of advance funding contingent upon any amounts recovered or withheld for reallocation. The Department expects reallocation of funds to take place on or before July 1 of each fiscal year in accordance with procedures established by FNS. Paragraph § 251.7(b) *Funds adjustments*, and paragraph § 251.8(c) *Payment to States*, have been expanded to reflect the reallocation of funds required under this paragraph.

Section 251.9 Miscellaneous provisions.

Section 251.9(a) of the proposal would have required that each emergency feeding organization collect and retain household participation information, as well as the data and methods used to determine household eligibility. The rule proposed that all records be retained for 3 years.

Eighteen comments were received. One commenter requested elimination of § 251.9(a) in its entirety. Five commenters concurred with records being kept on a household rather than a participant basis. Three commenters recommended elimination of all information collection requirements while another suggested that information be collected on a sample basis only.

Other commenters recommended that, because of space limitations at the local level, records either be retained for less than 3 years or stored at the State agency, or alternatively, that retention only of financial records (rather than household participation records) be required.

As stated in the proposed rule and consistent with the commenters' recommendations, information will continue to be collected on a household rather than a participant basis. This will ease the actual collection burden and also reduce the time needed to compile the information into participation reports. Consistent with the requirement of distribution rates based on household size, § 251.9(a) requires distribution sites to collect and record the number of persons in each household. The final rule has been modified in an effort to facilitate information storage at local distribution sites. The final rule states that all records will be retained for 3 years by the "emergency feeding organization"; this term excludes individual distribution sites if distribution is conducted from multiple locations. Both space constraints and the temporary nature of many distribution sites make this alternative more feasible.

Paragraph (e) *Relationship to the Food Stamp Program*, has been deleted since section 1506 of Pub. L. 99–198 deleted section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2011–2029) which prohibited Federal food distribution in areas where the Food Stamp Program operates. Subsequent paragraphs have been redesignated. A corresponding deletion has been made to § 250.4, to remove the prohibition on donated food distribution in areas where the Food Stamp Program is in effect.

Section 251.9(f)(1) of the proposal addressed the information collection and submission components of the Financial Status Report (SF–269). Six comments were received concerning this section. All of the commenters recommended further definition and clarification of State and local distribution costs.

The Department believes these regulations are not the appropriate place in which to provide a detailed explanation of these various costs; however, as mentioned above, the definition of "storage and distribution costs" in § 251.3(f) has been expanded to cite examples of such costs. To provide technical assistance to State agencies and FNS Regional offices regarding costs, FNS will continue to issue policy memoranda as the need arises. In addition, FNS financial management units at both national and regional levels are available to address questions concerning allowable costs.

Further, Department-wide policies and standards, as well as the principles for determining allowable costs, are explained in 7 CFR Part 3015, Uniform Federal Assistance Regulations. Part 3015, which establishes rules implementing OMB Circulars A–87, A–102 and A–110, is cited in § 251.8(b) of the interim regulations. The citation is retained in the final rule.

Accordingly, § 251.9(f)(1), newly redesignated as § 251.9(e)(1), will be retained in its entirety.

Section 251.9(f)(2) of the proposal required each State agency to report the number of persons being served and the amount of each commodity being distributed within the State during each month. This report was required to be submitted within 30 days after the end of the month to which it pertains.

Twenty-eight comments were received. Nine commenters recommended that the number of households, not persons, be included on this report. Five commenters opposed this reporting requirement in its entirety. Other commenters recommended that the report be submitted quarterly, semi-annually or annually rather than on a monthly basis with a 60-day rather than a 30-day period required for report submission. Several other commenters suggested this monthly report be incorporated into form FNS–155 which is a form currently being required under § 250.6(s) to report the amount of commodities being distributed through TEFAP.

To facilitate submission of participation and commodity distribution information, several changes are being made from the proposed rule. To eliminate duplication of effort, the monthly report described in § 251.9(f)(2) of the proposed rule will be incorporated into form FNS–155. In addition, the frequency for reporting participation data will be changed to quarterly, as a result of comments received. Furthermore, since the requirement for participation records in § 251.9(a)(3) is on a household basis, participation figures will be collected on a household rather than an individual basis. The emergency feeding organizations will only be required to report these figures to the State on a quarterly basis. The emergency feeding

organization will have 30 days from the end of the reporting quarter in which to submit its participation figures to the State. For example, a report showing July, August and September household participation figures must be submitted to the State by October 30. The State agency will then incorporate the participation figures into a State report and submit it as a quarterly addendum to form FNS–155.

State Monitoring System

Section 251.9(g) of the proposal required each State agency to develop a monitoring plan for the annual review of all emergency feeding organizations within the State. This system was intended to ensure that the emergency feeding organizations operate TEFAP in compliance with program requirements. Additionally, the rule proposed that a report of the review findings must be submitted by the State to each emergency feeding organization.

Thirty-two comments were received. Two commenters concurred with the monitoring component. Several others opposed it, particularly in light of the fact that no additional administrative funds are provided specifically for this function. Seventeen commenters recommended that all emergency feeding organizations be reviewed annually with only a percentage or no distribution sites to be reviewed. Eight other commenters suggested reviewing both a percentage of emergency feeding organizations and distribution sites.

After reviewing the comments and analyzing the number of emergency feeding organizations and distribution sites in each State, the Department has reassessed the monitoring requirements in the proposed rule. As a result of the revised definition of emergency feeding organization, the requirements outlined in newly redesignated paragraph (f) of this rule are less stringent than originally proposed.

The State will still be required to monitor every emergency feeding organization on an annual basis. In a few States, however, the number of emergency feeding organizations is so large as to make annual reviews of all of them impractical. In these situations, and with adequate State justification, the FNS Regional office may permit the State to monitor less than 100 percent of the emergency feeding organizations. However, the monitoring component is one method the State and Department, in turn, have of assessing operational aspects of TEFAP. Additionally, reviews can provide valuable information about the need for technical assistance at both the State and local levels. Because of the importance of the monitoring component, this requirement will be waived only in cases where there is a very high number of emergency feeding organizations. In order to reduce the monitoring burden, while still ensuring program accountability at the local level, the final regulations require that one-third or 50 distribution sites, whichever is fewer, must be monitored by the State agency annually.

In selecting the distribution sites for review, the State agency must rank all the sites in the States according to the number of households served by each site in the previous quarter, and then select for review the first 25 sites, or the first one-sixth of all sites, whichever is fewer, which served the greatest number of households. The selection of the remainder of the sites to be reviewed is left to the discretion of the State agency. In addition, all reviews are to be made during actual distribution and/or eligibility determinations at the site. The Department believes that these requirements are necessary to maximize the usefulness of the limited number of site reviews required under this section, while limiting the burden of such reviews on the State agency.

Commodity Distribution for Political Interests

Section 251.9(g) ensures that commodities will not be distributed to households through TEFAP as a means of furthering the political interest of any individual or party. While this provision is currently found in Part 250 and has been applicable to the distribution of commodities under Part 251 since the program was implemented, the Department has received several inquiries and complaints concerning alleged misuse of commodities in this respect. To ensure that all organizations and persons involved with the operation of TEFAP are made aware of this restriction, this provision, found in § 250.6(f)(7), is being added in its entirety to these final regulations.

List of Subjects

7 CFR Part 250

Aged, Agricultural commodities, Business and industry, Food assistance programs, Food donations, Food processing, Grant programs—social programs, Infants and children, Price support programs, Reporting and recordkeeping requirements, School breakfast and lunch programs, Surplus agricultural commodities.

7 CFR Part 251

Aged, Agricultural commodities, Business and industry, Food assistance programs, Food donations, Grant programs, Social programs, Indians, Infants and children, Price support programs, Reporting and recordkeeping requirements, School breakfast and lunch programs, Surplus agricultural commodities.

Accordingly, 7 CFR Part 250 and 7 CFR Part 251 are amended as follows:

PART 250—DONATIONS OF FOOD FOR USE IN THE UNITED STATES, ITS TERRITORIES AND POSSESSIONS AND AREAS UNDER ITS JURISDICTION

1. The authority citation for Part 250 continues to read as follows:

Authority: Sec. 32, Pub. L. 74–320, 49 Stat. 744 (U.S.C. 612c); Pub. L. 75–165, 50 Stat. 323 (15 U.S.C. 713c); secs. 6, 9, 60 Stat. 231, 233, Pub. L. 79–396, (42 U.S.C. 1755, 1758); sec. 416 Pub. L. 81–439, 63 Stat. 1058 (7 U.S.C. 1431); sec. 402, Pub. L. 91–665, 68 Stat. 843 (22 U.S.C. 1922); sec. 210, Pub. L. 84–540, 70 Stat. 202 (7 U.S.C. 1859); sec. 9, Pub. L. 85–931, 72 Stat. 1792 (7 U.S.C. 1431b); Pub. L. 86–756, 74 Stat. 899 (7 U.S.C. 1431 nt); sec. 709, Pub. L. 89–321, 79 Stat. 1212 (7 U.S.C. 1446a–1); sec. 3, Pub. L. 90–302, 82 Stat. 117 (42 U.S.C. 1761); secs. 409, 410, Pub. L. 93–288, 88 Stat. 157 (42 U.S.C. 5179, 5180); sec. 2, Pub. L. 93–326, 88 Stat. 286 (42 U.S.C. 1762a); sec. 16, Pub. L. 94–105, 89 Stat. 522 (42 U.S.C. 1766); sec. 1304(a), Pub. L. 95–113, 91 Stat. 980 (7 U.S.C. 613c nt); sec. 311, Pub. L. 95–478, 92 Stat. 1533 (42 U.S.C. 3030a); sec. 10, Pub. L. 95–627, 92 Stat. 3623 (42 U.S.C. 1760); Pub. L. 98–8, as amended, (7 U.S.C. 612c note); (5 U.S.C. 301), unless otherwise noted.

§ 250.4 [Amended]

2. Section 250.4 is amended by removing the fourth sentence of paragraph (a), including (a) (1), (2) and (3).

§ 250.6 [Amended]

3. Section 250.6, paragraph (j)(2) is amended by removing the date "1985" from the first sentence and inserting "1987" in its place.

4. Part 251 is revised to read as follows:

PART 251—TEMPORARY EMERGENCY FOOD ASSISTANCE PROGRAM FOR FISCAL YEARS 1986 AND 1987

Sec.

Authority: Pub. L. 98–8, as amended; 7 U.S.C. 612c note.

§ 251.1 General purpose and scope.

This part announces the policies and prescribes the regulations necessary to carry out certain provisions of the Temporary Emergency Food Assistance Act of 1983, (7 U.S.C. 612c *note*).

§ 251.2 Administration.

(a) Within the United States Department of Agriculture (the "Department"), the Food and Nutrition Service (FNS) shall have responsibility for the distribution of food commodities and allocation of funds under the part.

(b) Within the States, distribution to emergency feeding organizations and receipt of payments for storage and distribution shall be the responsibility of the State agency which has: (1) Been designated for such responsibility by the Governor or other appropriate State executive authority; and (2) entered into an agreement with the Department for such distribution and receipt in accordance with paragraph (c) of this section.

(c) Each State agency which has been designated to make distributions of donated food to emergency feeding organizations and to receive payments for storage and distribution costs in accordance with § 251.8 of this part shall perform those functions pursuant to an agreement entered into with the Department.

§ 251.3 Definitions.

For the purposes of this part:

(a) The terms used in this part that are defined in Part 250 of this chapter shall have the meanings ascribed to them therein.

(b) "Distribution site" means the location(s) where the emergency feeding organization actually distributes commodities to needy persons under this part.

(c) "Emergency feeding organization" means any public or nonprofit private organization which has entered into an agreement with the designated State agency to provide nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons, and which receives commodities under agreements pursuant to § 251.2(c). Emergency feeding organizations include charitable institutions, food banks, hunger centers, soup kitchens, and similar public or private nonprofit eligible recipient agencies.

(d) "Formula" means the formula on the basis of which commodities and funding available under this part will be allocated among States. The amount of such commodities or funds to be provided to each State will be based 60 percent on the number of persons in households within the State having incomes below the poverty level and 40 percent on the number of unemployed persons within the State.

(e) "State agency" means the State government unit designated by the Governor or other appropriate State executive authority which has entered into an agreement with the United States Department of Agriculture under § 251.2(c).

(f) "Storage and distribution costs" means direct costs for the operation of the program that are incurred by an emergency feeding organization or by a State for intrastate storage and distribution of commodities donated under this part. Storage and distribution costs include the costs paid by an emergency feeding organization or paid by a State on behalf of an emergency feeding organization of (1) transporting, storing, handling, and distributing commodities incurred after they are received by the organization; (2) costs associated with determination of eligibility, verification and documentation; (3) costs involved in publishing announcements of times and locations of distribution; and (4) costs of recordkeeping, auditing, and other administrative procedures required for program participation.

(g) "Value of commodities distributed" means the Department's cost of acquiring commodities for distribution under this part.

§ 251.4 Availability of commodities.

(a) *General.* The Department shall make commodities available for distribution and use in accordance with the provisions of this part and also in accordance with the terms and conditions of Part 250 of this chapter to the extent that the Part 250 terms and conditions are not inconsistent with this part.

(b) *Displacement.* State agencies shall require that emergency feeding organizations receiving commodities under this part shall not diminish their normal expenditures for food because of receipt of commodities. Additionally, the Secretary shall withhold commodities from distribution if it is determined that the commodities would substitute for the same or a similar product that would otherwise be purchased in the market.

(c) *Allocations.* (1) Allocations of commodities shall be made to State agencies on the basis of the formula defined in Sec. 251.3(d). (2) FNS shall promptly notify State agencies regarding their allocation of commodities to be made available under this part.

(d) *Quantities requested.* State agencies shall: (1) Request commodities only in quantities which can be utilized without waste in providing food assistance to needy persons under this part; (2) ensure that no emergency feeding organization receives commodities in excess of anticipated use, based on inventory records and controls, or in excess of its ability to accept and store such commodities; and (3) establish distribution rates, based on household size, to be used by emergency feeding organizations which provide commodities to needy persons in households.

(e) *Initial processing and packaging.* The Department will furnish commodities to be distributed to institutions and to needy persons in households in forms and units suitable for institutional and home use.

(f) *Bulk processing by States.* Commodities may be made available to a State agency or, at the direction of the State agency, directly to private companies for processing bulk commodities for use by emergency feeding organizations. (1) The Department will reimburse the State agency at the current flat rate for such processing. (2) Minimum yields and product specifications established by the Department shall be met by the processor. (3) The State shall require the processor to meet State and local health standards. (4) The external shipping containers of processed products shall be clearly labeled "Donated by the U.S. Department of Agriculture—Not to be Sold or Exchanged". Internal packaging shall be clearly marked "Donated by the U.S. Department of Agriculture—Processed Under Agreement with the State of ———." FNS may grant waivers to the internal label requirement if the enforcement of this requirement precludes a State's participation in the program, or in cases where other processors are not available who are able to meet the labeling requirement within the allowed reimbursement. (5) Processors and State agencies shall also meet the basic minimum requirements of § 250.15.

(g) *Interstate cooperation.* State agencies may enter into interagency cooperative agreements to provide jointly or to transfer commodities to an emergency feeding organization when such organization serves needy persons in a contiguous area which crosses States' borders.

(h) *Distribution in rural areas.* State agencies shall encourage emergency feeding organizations to implement or expand commodity distribution activities to relieve situations of emergency and distress through the

provision of commodities to needy households in rural areas of the State.

§ 251.5 Eligibility determinations.

(a) *Eligible emergency feeding organizations.* Prior to making distribution to these agencies, the State agency shall determine that they are eligible as emergency feeding organizations under this part and shall enter into agreements in accordance with § 251.2(b) of this chapter when such agreements have not already been entered into.

(b) *Criteria for determining recipient eligibility.* Each State agency shall establish criteria for determining the eligibility of households to receive commodities provided under this part for household use. The criteria must enable the State to ensure that only households who are in need of food assistance because of inadequate household income receive commodities. The criteria shall include income-based standards and the methods by which households may demonstrate eligibility under such standards and may include a requirement that the household reside in the State, provided that length of residency is not used as an eligibility criterion.

§ 251.6 Distribution plan.

(a) *Contents of the plan.* The State agency shall submit for approval by the appropriate FNS Regional Office a plan which contains: (1) A description of the criteria established in accordance with § 251.5(b) for determining that applicant households are in need of food assistance under this part; (2) the rates for distributing commodities to households in accordance with § 251.4(d)(3); and (3) a description of the program monitoring system including a detailed explanation of any factors which may contribute to the State's requesting approval of exceptions to conducting the minimum number of reviews required by § 251.9(f).

(b) *Plan submission.* For Fiscal Year 1986, the distribution plan must be submitted no later than the effective date of this part, and for subsequent fiscal years the plan must be submitted no later than October 1 of each year.

§ 251.7 Formula adjustments.

(a) *Commodity adjustments.* The Department will make semi-annual adjustments of the commodity allocation for each State based on updated unemployment statistics. These adjustments will be effective for the 6-month periods beginning January 1 and July 1 of each fiscal year.

(b) *Funds adjustments.* The Department will make annual adjustments of the funds allocation for each State based on updated unemployment statistics. These adjustments will be effective for the entire fiscal year unless recovered, withheld, or reallocated in accordance with § 251.8(e).

§ 251.8 Payment of funds for storage and distribution costs.

(a) *Availability and allocation of funds.* Funds made available to the Department for State and local costs associated with the distribution of commodities under this part shall, in any fiscal year, be distributed to each State agency on the basis of the funding formula defined in § 251.3(d).

(b) *Uniform Federal Assistance Regulations.* Funds provided under this section shall be subject to the Department's regulations issued under 7 CFR Part 3015.

(c) *Payment to States.* (1) Funds under this section shall be made available by means of U.S. Treasury Department checks or letters of credit in favor of the State agency. The State agency shall use any funds received without delay in accordance with paragraph (d) of this section.

(2) Upon notification by the FNS Regional Office that an agreement has been entered into in accordance with § 251.2(c) of this part, FNS shall issue a grant award pursuant to FNS Instruction 407–3 (Grant Award Process), and promptly make funds available to each State agency within the State's allocation either through issuance of a letter of credit or a U.S. Treasury check pursuant to submission of the SF–270, Request for Advance or Reimbursement. State agencies shall receive funds through a letter of credit if program payments are more than $120,000 for the year. To the extent funds are available and subject to the provisions of § 251.8(e), funds will be made available to State agencies on an advance basis.

(3) Each State agency shall return to FNS any funds made available under this section either through the original allocation or through subsequent reallocations which are unobligated as of the end of the fiscal year for which they were made available. Such return shall be made as soon as practicable but in no event later than 30 days following demand made by FNS.

(d) *Use of Funds.* (1) Funds made available under this part shall be used by State agencies or emergency feeding organizations only for those costs incurred in the storage and distribution of commodities under this part.

(2)(i) Each State agency shall make available to emergency feeding organizations not less than 20 percent of the funds allocated in accordance with paragraph (a) of this section to pay for or provide advance payments to cover storage and distribution costs incurred by emergency feeding organizations. State agencies shall not charge for commodities made available to emergency feeding organizations, except that, State funds expended to cover the storage and distribution costs of emergency feeding organizations may be counted toward meeting the 20 percent requirement. (ii) The remaining amount of the allocation may be used for State storage and distribution costs related to emergency feeding organizations.

(e) *Recovery and reallocation.* If, during the course of the fiscal year, the Department determines that a State agency is unable to use all of the funds allocated to it during the fiscal year, the Department shall recover or withhold and reallocate such unused funds among other States.

§ 251.9 Miscellaneous provisions.

(a) *Records.* (1) State agencies and emergency feeding organizations shall maintain records to document the receipt, disposal, and inventory of commodities received under this part in accordance with requirements of § 250.6(r) of this chapter.

(2) In addition to maintaining financial records in accordance with 7 CFR Part 3015, State agencies which receive funds under this part shall maintain records to document the amount of funds paid to emergency feeding organizations for the actual storage and distribution costs incurred by any emergency feeding organization. State agencies shall ensure that emergency feeding organizations maintain records as required by this paragraph.

(3) Each distribution site shall keep accurate and complete records showing the data and method used to determine the number of eligible households served at that site.

(4) Each distribution site shall collect for each household participating in the program the name of the household member receiving commodities, the address of the household (to the extent practicable), the number of persons in the household, and the basis for determining that the household is eligible to receive commodities.

(5) All records required by this section shall be retained by the emergency feeding organization for a period of 3 years from the close of the Federal Fiscal Year to which they pertain.

(b) *Commodities not income.* In accordance with section 206 of Pub. L. 98–8, as amended, and notwithstanding any other provision of law, commodities

distributed under this part shall not be considered income or resources for any purposes under any Federal, State, or local law.

(c) *Nondiscrimination.* There shall be no discrimination in the distribution of foods donated under this part because of race, color, national origin, sex, age, or handicap.

(d) *Prohibition on sale or other disposal in commercial channels.* In accordance with section 205(b) of Pub. L. 98–8, as amended, except as otherwise provided in § 251.4(f) of this part, none of the commodities distributed under this part shall be sold or otherwise disposed of in commercial channels in any form.

(e) *Reports.* (1) Designated State agencies shall identify funds obligated and disbursed to cover the costs associated with the program at the State and local level. State and local costs shall be identified separately. The data shall be identified on the Financial Status Report (SF–269), which is submitted by State agencies to FNS Regional Offices on a quarterly basis. The quarterly report shall be submitted no later than 30 calendar days after the end of the quarter to which it pertains. The final report shall be submitted no later than 90 calendar days after the end of the fiscal year to which it pertains.

(2) Each State agency shall report, on a monthly basis, the amounts of commodities distributed under this part using form FNS–155.

(3)(i) Emergency feeding organizations shall report to the State agency no later than 30 days following the end of the quarter to which such data pertain, household participation figures which have been collected in accordance with paragraph (a) of this section.

(ii) Each State agency shall report to FNS the total number of households served within the State, based on the latest available reports received from emergency feeding organizations, as a quarterly addendum to the form FNS–155.

(f) *State Monitoring System.* (1) Each State agency shall monitor the operation of the program. To comply with this requirement the State agency shall develop and submit, as part of the distribution plan required by Sec. 251.6, a description of its monitoring system.

(2) Unless specific exceptions are approved in writing by the FNS Regional Office, the State monitoring system shall include (i) an annual review of all emergency feeding organizations within the State; and (ii) an annual review, to be conducted simultaneously with actual distribution and/or eligibility determinations, of one-third or 50, whichever is fewer, of all distribution sites within the State.

(3) In selecting distribution sites for review, the State shall rank all the sites according to the number of participating households during the previous Federal fiscal quarter and select for review the first 25 sites, or first one-sixth of all sites, whichever is fewer, which served the greatest number of households.

(4) Each review must encompass eligibility determinations, food ordering procedures, storage and warehousing practices, inventory controls, approval of distribution sites, and reporting and recordkeeping requirements.

(5) Upon concurrence by FNS, reviews of emergency feeding organizations or distribution sites which have been conducted by FNS Regional Office personnel may be incorporated into the minimum coverage required by paragraph (f)(2) of this section.

(6) The State agency shall submit a report of review findings to each emergency feeding organization. The report shall include: (i) A description of each deficiency found and factors contributing to each; (ii) requirements for corrective actions; and (iii) timetable for completion of corrective action. The State agency shall monitor each emergency feeding organization's implementation of corrective action identified in the report.

(g) *Commodity distribution for political interest.* The distribution of commodities under this part shall not be used as a means for furthering the political interest of any individual or party.

(Approved by the Office of Management and Budget under control number 0584–0313)

(Catalog of Federal Domestic Assistance No. 10.568)

Dated: April 9, 1986.

Robert E. Leard,

Administrator.

[FR Doc. 86–8420 Filed 4–15–86; 8:45 am]

BILLING CODE 3410–30–M

Soil Conservation Service

7 CFR Part 614

Conservation Operations; Reconsideration and Appeal Procedures

AGENCY: Soil Conservation Service, USDA.

ACTION: Interim rule.

SUMMARY: This rulemaking establishes interim procedures for the reconsideration or appeal of certain decisions made regarding a conservation reserve program and relating to highly erodible land conservation and wetland conservation.

Section 1243 (a), 99 stat. 1515 of the Food Security Act of 1985, directs the Secretary of Agriculture to establish, by regulation, appeal procedures under which a person who is adversely affected by any determination under subtitles A through E of the Act may seek review of such determination.

DATES: These regulations are effective on April 16, 1986. Comments must be received on or before May 16, 1986 to be assured of consideration.

ADDRESS: Written comments on the interim regulations are to be submitted to Galen S. Bridge, Deputy Chief for Programs, Soil Conservation Service, USDA, P.O. Box 2890, Washington, DC 20013, or telephone (202) 447–4630.

FOR FURTHER INFORMATION CONTACT: Gary A. Margheim, Director, Land Treatment Program Division, Soil Conservation Service, USDA, P.O. Box 2890, Washington, DC 20013, or telephone (202) 382–1870.

SUPPLEMENTARY INFORMATION:

Background

The Food Security Act of 1985 (the Act), Pub. L. 99–198, 99 stat. 1354 *et seq.* which became effective on December 23, 1985, contains specific provisions to encourage the conservation and wise use of the Nation's soil and water resources. These provisions are set forth in three subtitles of Title XII: (1) Highly erodible land conservation (subtitle B, 99 stat. 1506–1507); (2) wetland conservation (subtitle C, 99 stat. 1507–1508); and (3) a conservation reserve program (CRP) (subtitle D, 99 stat. 1509–1514).

During the implementation and enforcement of those provisions, various determinations must be made by officials responsible for their administration. These determinations include whether a particular parcel of land meets the definitions of "highly erodible land," "wetland," or "converted wetland" under the Act, sections 1201 (a), (7), (16), (4), respectively, 99 stat. 1504–1505; and whether a conservation system or conservation plan meets the technical standards of the Soil Conservation Service relating to the production of an agricultural commodity on highly erodible land (sections 1212 (a) (2) and (b) (3), 99 stat. 1506–1507 or relating to the conversion of highly erodible cropland from agricultural commodity production to a less intensive use (section 1232 (a) (1), 99 stat. 1509).

Section 1243(a), 99 stat. 1515, directs the Secretary of Agriculture to establish,

by regulation, appeal procedures under which a person who is adversely affected by any determination under subtitles A through E of the Act may seek review of such determination. The procedures established in this rulemaking provide such a process for the decisions discussed above, as is specified in § 614.1 of this rule.

It was determined to include in these procedures requests for review of the decision of a conservation district to withhold approval of a conservation system or a conservation plan as described in sections 1212 (a)(2) and (b)(3) and 1232(a)(1), since such decisions will be based upon Soil Conservation Service technical standards and since, in the absence of the local conservation district, the Soil Conservation Service will be in the same decision-making situation. It would be incongruous to have a review for the relatively few instances in which the Soil Conservation Service will have sole approval of a conservation system or a conservation plan, but not provide review in the more common situation of conservation district determinations. Furthermore, it would be impractical and unwieldy, if not impossible, for the Department of Agriculture to implement a review process, as required by the Act, for conservation district decisions that is extraneous to the process established by this rule.

Executive Order 12291

This interim rule has been reviewed under the Department of Agriculture procedures implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1, and it has been determined that the proposed rule will affect the economy by less than $100 million a year. The rule will not significantly raise costs or prices for consumers, industries, government agencies, or geographic regions. There will not be significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, this rule is classified as "nonmajor."

Interim Rule Status

Pursuant to section 1231(b)(1) of the Act, 99 stat. 1509, the Secretary of Agriculture is directed to enter into the Conservation Reserve Program (CRP) contracts covering not less than 5 million acres during the 1986 crop year. The procedures established by these regulations apply to the CRP and certain decisions made under that program. Because owners and operators are already making crop decisions for the 1986 crop year, the CRP regulations have already been published as interim rules (**Federal Register** Vol 51. No 49 March 13, 1986). Accordingly, these regulations must be published as interim rules effective on the date of publication. In light of the foregoing, it has been determined, pursuant to 5 U.S.C. 533, that publication for public comment prior to implementation would be impractical and contrary to the public interest, and that good cause exists for making this rule effective upon publication. Comments are requested on this rule, particularly as to the scope of decisions covered and the ease with which the procedures may be understood. Comments must be received by May 16, 1986 to be assured of consideration. After the comments have been received and reviewed, a final rule will be published setting forth any changes to these regulations which are determined necessary.

Regulatory Flexibility Act

General notice or proposed rulemaking is not required for this interim rule by 5 U.S.C. 553 or any other law. Accordingly, the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, do not apply to this interim rule.

Paperwork Reduction Act

The provisions of this regulation do not contain reporting and recordkeeping requirements subject to approval by the Office of Management and Budget pursuant to the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 7 CFR Part 614

Administrative practice and procedure, Determinations, Reconsiderations, Appeals, Hearings, Soil conservation.

Accordingly, Subchapter B of Chapter VI of Title 7 of the Code of Federal Regulations is amended by adding a new Part 614 as follows:

SUBCHAPER B—CONSERVATION OPERATIONS

PART 614—RECONSIDERATION AND APPEAL PROCEDURES

Sec.

Authority: Sec. 1243(2), Pub. L. 99–198, 99 Stat. 1515 (5 U.S.C. 601)

§ 614.1 Purpose and scope.

(a) The regulations contained in this part are issued pursuant to Title XII of the Food Security Act of 1985, Pub. L. 99–198 (the Act). These regulations set forth the procedures under which an owner or operator may seek reconsideration of or appeal from certain decisions made by officials of the Soil Conservation Service (SCS) regarding eligibility for participation in the Conservation Reserve Program as authorized by subtitle D of Title XII and implemented under 7 CFR, Part 704, or regarding the applicability of the compliance requirements of the highly erodible land and the wetland conservation provisions of subtitles B and C, respectively, of Title XII.

(b) Requests for reconsideration or appeals under these procedures are limited to the following determinations:

(1) Highly erodible land determinations:

(i) The land capability classification of a field or portion thereof;

(ii) The average annual rate of erosion for a field or portion thereof.

(2) Wetland determinations:

(i) The determination that certain land is a "wetland," as defined by the Act;

(ii) The determination that certain land is a "converted wetland," as defined by the Act.

(3) The determination by a conservation district, or by a designated conservationist in those areas where no conservation district exists, that a conservation system or a conservation plan should not be approved.

§ 614.2 Definitions.

"Area conservationist" means the Soil Conservation Service official in charge of providing supervisory and management services to a group of field offices within a state, as set forth in part § 600.5 of this chapter. Some states do not have area conservationists.

"Chief" means the Chief, Soil Conservation Service whose authorities and duties as the highest official in the agency are set forth in part § 600.5 of this chapter.

"Conservation district" means any district or unit of state or local government formed under state law or territorial law for the express purpose of developing and carrying out a local soil and water conservation program. Such district or unit of government may be referred to as a conservation district,

soil conservation district, soil and water conservation district, resource conservation district, natural resource district, land conservation committee, or a similar name.

"Conservation plan" means a document setting forth a conservation system(s) for the land, water, and related resources of an owner or operator and which reflects the owner or operator's decisions regarding planned land use and specific conservation treatment, including the extent and time schedule for application of such treatment. A conservation plan may consist of one or more conservation systems.

"Conservation system" means the management or treatment of land to achieve identified erosion control objectives.

"Designated conservationist" means the Soil Conservation Service official, usually the district conservationist, who the state conservationist has designated to be responsible for the program or compliance requirement to which this rule is applicable.

"Owner or operator" means any person owning or operating a farm or ranch that has been determined by the designated conservationist, area conservationist, or the state conservationist to contain highly erodible land or wetland and whose right to participate in the Conservation Reserve Program or any agriculture commodity program is adversely affected by such determination.

"Person" means an individual, partnership, association, corporation, estate or trust, or other business enterprise or legal entity and, whenever applicable, a state, a political subdivision of a State, or an agency thereof.

"Reviewing authority" shall mean the designated conservationist, area conservationist, state conservationist or Chief, as appropriate.

"State conservationist" means the Soil Conservation Service official in charge of agency operations within a state, as set forth in part 600 of this chapter. In Puerto Rico and the U.S. Virgin Islands, the Director of the Caribbean Area Office shall, insofar as applicable, perform the functions of the state conservationist.

§ 614.3 Initial determinations and reconsiderations.

(a) All determinations covered by § 614.1(b) shall be in writing and shall inform the owner or operator of their right to reconsideration, the procedures for requesting reconsideration and pursuing such request, and the effect of failing to request reconsideration. The determination document shall be mailed or hand delivered to the owner or operator.

(b) Any determination made as a result of a reconsideration under § 614.4 shall set forth the determination, the basis for the determination, including all factors, technical criteria, and facts relied upon in making the determination; and shall inform the owner or operator of their right to appeal, if applicable, and the procedures for requesting and pursuing such appeal. Determinations upon reconsideration shall be provided to the owner or operator in the manner prescribed in paragraph (a) of this section.

§ 614.4 Request for reconsideration.

(a) Any owner or operator who is adversely affected by a determination made by a conservation district or a designated conservationist may request a reconsideration by the person who made the initial determination.

(b) Such a request for reconsideration must be in writing, must set forth the reasons for the request and any supporting statements or evidence, and must be mailed or filed with the office making initial determination within the time period set forth in § 614.6.

(c) If a request for reconsideration is not filed as required by this section, the initial determination of the conservation district or designated conservationist cannot be appealed.

§ 614.5 Appeals.

(a) Any owner or operator who is adversely affected by an initial determination of the conservation district or designated conservationist, which has been reconsidered, may appeal to the area conservationist or, in states without areas, to the state conservationist.

(b) Any owner or operator who is adversely affected by the determination of the area conservationist, under paragraph (a) of this section, may appeal to the state conservationist.

(c) Any owner or operator who is adversely affected by the determination of the state conservationist, under paragraph (b) of this section may appeal such determination to the Chief.

(d) All appeals must be made in accordance with the requirements of §§ 614.6 and 614.7.

(e) Determinations by the Chief are the final decisions of the Department of Agriculture from which there is no further administrative review.

§ 614.6 Time limitations for filing requests for reconsideration or appeals.

(a) A request for reconsideration or appeal from any determination shall be filed within 15 days after the written notice of the determination is mailed to or otherwise made available to the owner or operator. An appeal shall be considered "filed" when personally delivered or, if mail is used, when postmarked.

(b) If the final date for filing a request for reconsideration or appeal prescribed in paragraph (a) of this section falls on a Saturday, Sunday, legal holiday, or other day that the office to which the appeal is sent is closed, the time for filing shall be extended to the close of business on the next working day.

(c) A request for reconsideration or appeal filed with a reviewing authority other than the appropriate one provided for in this part shall not be denied because of misdirection of the request.

§ 614.7 Form of request for reconsideration or appeal.

(a) Each request for reconsideration or appeal shall be in writing and signed by the owner or operator or authorized representative and shall be supported by a written statement of facts, which may be submitted with or as a part of the request for reconsideration or appeal.

(b) In the case of reconsideration, the owner or operator may request an informal meeting. In the case of an appeal, the owner or operator may either request an informal hearing or request that a determination be made by the reviewing authority without a hearing on the basis of the written statement submitted and other information available to the reviewing authority. All appeals to the Chief shall be based upon the administrative record developed in previous proceedings and relevant written statements. Informal hearings will not be held at the Chief's level.

§ 614.8 Nature of hearing for appeals.

(a) The hearing shall be held at the time and place designated by the reviewing authority.

(b) The hearing shall be conducted by the reviewing authority in the manner deemed most likely to obtain the facts relevant to the matter at issue. The owner or operator shall be advised of the issues involved. The reviewing authority may confine the presentation of facts and evidence to pertinent matters.

(c) The owner or operator or authorized representative shall be given full opportunity to present facts and information relevant to the matter in issue and may present oral or documentary evidence. The reviewing authority may request or permit persons

other than those appearing on behalf of the owner or operator to give information or evidence at the hearing and, in such event, may permit the owner or operator to question those persons.

(d) The reviewing authority shall have prepared a written record containing a clear, concise statement of the facts as asserted by the owner or operator and material facts found by the reviewing authority. The names of interested persons appearing at the hearing shall be included. Any documents presented in evidence should be identified. A verbatim transcript may be taken if: (1) The owner or operator requests before the hearing begins that the reviewing authority provides for such a transcript and agrees to pay the expense thereof, or (2) the reviewing authority feels that the nature of the case makes such a transcript desirable.

(e) If, at the time scheduled for the hearing, the owner or operator is absent and no representative appears on their behalf, the reviewing authority shall, after a reasonable period of time, close the hearing, or may, in the discretion of the reviewing authority, accept information and evidence submitted by other persons at the hearing.

§ 614.9 Appeals determinations.

(a) The reviewing authority prior to making a determination may request the owner or operator to produce additional evidence deemed relevant or may develop additional evidence from other sources.

(b) Upon completing the review and within program authorities, the reviewing authority may affirm, modify, or reverse any determination the reviewing authority made initially or a lower reviewing authority made, or may remand the matter to a lower reviewing authority for such further consideration as is deemed appropriate.

(c) The owner or operator shall be notified in writing of the determination.

(d) The notification shall clearly set forth the basis for the determination and shall inform the owner or operator of the right to further appeal, if any, and of the procedures for pursuing such appeal.

(e) Copies of documents, information, or evidence upon which a determination is made or which will form the basis of the determination, upon request, shall be made available to the owner or operator.

§ 614.10 Reopening of hearing.

The reviewing authority may, upon its own motion or upon request of the owner or operator, reopen any hearing for any reason it deems appropriate unless the matter has been appealed to or considered by a higher reviewing authority.

Wilson Scaling,

Chief.

[FR Doc. 86-8060 Filed 4-15-86; 8:45 am]

BILLING CODE 3410-16-M

Federal Grain Inspection Service

7 CFR Part 800

Administration; Conditions for Obtaining or Withholding Official Services

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Federal Grain Inspection Service (FGIS or Service) is amending its Refusal of Official Services regulations by adding procedures granted under the United States Grain Standards Act for assessing and collecting civil penalties, and making other nonsubstantive changes to facilitate use of the regulations.

EFFECTIVE DATE: May 16, 1986.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., Information Resources Staff, USDA, FGIS, Room 1661, South Building, 14th Street and Independence Avenue SW., Washington, DC 20250, (202) 382-1738.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512-1. The action has been classified as nonmajor, because it does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

Kenneth A. Gilles, Administrator, FGIS, has determined that this final rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because most users of the inspection and weighing services do not meet the requirements for small entities.

Discussion of Final Regulations

FGIS is amending its regulations on Refusal of Official Services by incorporating the civil penalty provisions of section 10 of the United States Grain Standards Act (Act) (7 U.S.C. 86). Section 10 states, in relevant part, that in addition to, or in lieu of, criminal penalties under Section 14 of the Act or the refusal of official services, a civil penalty, not to exceed $75,000 for each such violation, may be assessed against any person who has knowingly committed any violation of section 13 of the Act or has been convicted of any violation of other Federal law with respect to the handling, weighing, or official inspection of grain. Before a civil penalty is assessed, the Service must provide the person with an opportunity for a hearing. Failure to pay the penalty may result in the commencement of a civil action by the Attorney General. The title of § 800.50 is being revised to more accurately reflect the contents of the section, and other minor nonsubstantive revisions are being made in paragraphs (a) and (b) to improve clarity.

FGIS proposed these revisions in the January 7, 1986, **Federal Register** (51 FR 606). Three comments were received on the proposed changes.

One commenter supported the proposed changes. While no one opposed the civil penalty provisions, two commenters questioned the reasonableness of the summary refusal of services provisions (§ 800.50(b)). The summary refusal of services provisions are specifically authorized by Section 10(d) of the Act. Section 10(d) provides that a person must be afforded an opportunity for a hearing before official services are refused. The summary refusal of services provisions, which allow FGIS to withhold official services for up to 7 days without first affording the applicant a hearing, can only be invoked when the Administrator has determined (1) that there is cause for action as specified in Section 10 of the Act, (2) that providing services would be inimical to the integrity of the inspection or weighing systems, and (3) that such action is in the best interest of the official system under the Act. This rule merely incorporates in the regulations authority explicitly authorized by the Act. Therefore, the summary refusal of services provisions are being retained.

Miscellaneous nonsubstantive changes are made in the final rule for clarity and to eliminate unnecessary duplication of text including deletion of language regarding civil penalty hearings in proposed § 800.50(e).

List of Subjects in 7 CFR Part 800

Administrative practice and procedure, Export, Grain.

Accordingly, 7 CFR Part 800 is amended as follows:

PART 800—GENERAL REGULATIONS—CONDITIONS FOR OBTAINING OR WITHHOLDING OFFICIAL SERVICES

1. The authority citation for Part 800 continues to read as follows:

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

2. Section 800.50 is amended by revising the title and paragraphs (a) and (b), and by adding paragraphs (d), (e), and (f) to read as follows:

§ 800.50 Refusal of official services and civil penalties.

(a) *Grounds for refusal.* Any or all services available to an applicant under the Act may be refused, either temporarily or indefinitely, by the Service for causes prescribed in section 10(a) of the Act. Such refusal by the Service may be restricted to the particular facility or applicant (if not a facility) found in violation or to a particular type of service, as the facts may warrant. Such action may be in addition to, or in lieu of, criminal penalties or other remedial action authorized by the Act.

(b) *Provision and procedure for summary refusal.* The Service may, without first affording the applicant (hereafter in this section "respondent") a hearing, refuse to provide official inspection and Class X or Y weighing services pending final determination of the proceeding whenever the Service has reason to believe there is cause, as prescribed in section 10 of the Act, for refusing such official services and considers such action to be in the best interest of the official services system under the Act: Provided that within 7 days after refusal of such service, the Service shall afford the respondent an opportunity for a hearing as provided under subparagraph (c)(2) of this section. Pending final determination, the Service may terminate the temporary refusal if alternative managerial, staffing, financial, or operational arrangements satisfactory to the Service can be and are made by the respondent.

* * * * *

(d) *Assessment of civil penalties.* Any person who has knowingly committed any violation of section 13 of the Act or has been convicted of any violation of other Federal law with respect to the handling, weighing, or official inspection of grain may be assessed a civil penalty not to exceed $75,000 for each such violation as the Administrator determines is appropriate to effect compliance with the Act. Such action may be in addition to, or in lieu of, criminal penalties under section 14 of the Act, or in addition to, or in lieu of, the refusal of official services authorized by the Act.

(e) *Provisions for civil penalty hearings.* Before a civil penalty is assessed against any person, such person shall be afforded an opportunity for a hearing as provided under subparagraph (c)(2) of this section.

(f) *Collection of civil penalties.* Upon failure to pay the civil penalty, the Service may request the Attorney General to file civil action to collect the penalty in a court of appropriate jurisdiction.

Dated: April 7, 1986.

Kenneth A. Gilles,

Administrator.

[FR Doc. 86–8498 Filed 4–15–86; 8:45 am]

BILLING CODE 3410-EN-M

Agricultural Marketing Service

7 CFR Ch. X

[Docket Nos. AO–160–A64, etc.]

Milk in the Middle Atlantic and Other Marketing Areas; Order Amending Orders

7 CFR Part	Marketing area	AO Nos.
1004	Middle Atlantic	AO–160–A64
1001	New England	AO–14–A61
1002	New York-New Jersey	AO–71–A75
1006	Upper Florida	AO–356–A24
1007	Georgia	AO–366–A26
1011	Tennessee Valley	AO–251–A29
1012	Tampa Bay	AO–347–A27
1013	Southeastern Florida	AO–286–A34
1030	Chicago Regional	AO–361–A23
1032	Southern Illinois	AO–313–A34
1033	Ohio Valley	AO–166–A54
1036	Eastern Ohio-Western Pennsylvania.	AO–179–A50
1040	Southern Michigan	AO–225–A37
1044	Michigan Upper Peninsula	AO–299–A24
1046	Louisville-Lexington-Evansville.	AO–123–A55
1049	Indiana	AO–319–A34
1050	Central Illinois	AO–355–A23
1064	Greater Kansas City	AO–23–A56
1065	Nebraska-Western Iowa	AO–86–A43
1068	Upper Midwest	AO–178–A39
1075	Black Hills	AO–248–A19
1076	Eastern South Dakota	AO–260–A27
1079	Iowa	AO–295–A36
1093	Alabama-West Florida	AO–386–A5
1094	New Orleans-Mississippi	AO–103–A47
1096	Greater Louisiana	AO–257–A34
1097	Memphis	AO–219–A42
1098	Nashville	AO–184–A49
1099	Paducah	AO–183–A41
1102	Fort Smith	AO–237–A35
1106	Southwest Plains	AO–210–A46
1108	Central Arkansas	AO–243–A38
1120	Lubbock-Plainview	AO–328–A26
1124	Oregon-Washington	AO–368–A15
1125	Puget Sound-Inland	AO–226–A31
1126	Texas	AO–231–A53
1131	Central Arizona	AO–271–A26
1132	Texas Panhandle	AO–262–A36
1134	Western Colorado	AO–301–A19
1135	Southwestern Idaho-Eastern Oregon.	AO–380–A6
1136	Great Basin	AO–309–A26
1137	Eastern Colorado	AO–326–A23
1138	Rio Grande Valley	AO–335–A31
1139	Lake Mead	AO–374–A10

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action amends the Middle Atlantic and 43 other Federal milk marketing orders. The order changes increase the Class I differentials in 35 orders and provide a specific minimum Class I differential for each of the 44 orders for a two-year period. The order changes were mandated by Congress through the enactment of the Food Security Act of 1985 (Pub. L. 99–198).

The order changes must be effective by May 1, 1986 for milk received on and after that date. Accordingly, a recommended decision and the opportunity to file exceptions thereto were omitted. A hearing on implementation of these provisions was held January 28, 1986.

At least the required percentage of the producers in each market have approved the issuance of the amended orders.

EFFECTIVE DATE: May 1, 1986.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Services, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–4829.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing: Issued January 3, 1986; published January 13, 1986 (51 FR 1378).

Expedited Final Decision: Issued March 14, 1986; published March 20, 1986 (51 FR 9669).

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

The following findings are hereby made with respect to the aforesaid tentative marketing agreements and orders.

(a) *Findings upon the basis of the hearing record.* A public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the respective marketing areas. The hearing was held pursuant to

the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said orders as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act as amended by the Food Security Act of 1985; and

(2) The said orders as hereby amended regulate the handling of milk in the same manner as, and are applicable only to persons in the respective classes of industrial or commercial activity specified in a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* This order amending each of the aforesaid orders must be effective on May 1, 1986, as required by the Food Security Act of 1985. Because of the mandated time constraint, it is not possible to delay the effective date of this order for 30 days after its publication in the **Federal Register**. However, it is noted that the provisions of this order are already known to handlers. The decision of the Assistant Secretary containing all amendment provisions of this order was issued March 14, 1986 (51 FR 9669). Also, the changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers.

(c) *Determinations.* It is determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in sec. 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within each of the respective marketing areas, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order amending each of the specified orders, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the respective orders as hereby amended; and

(3) The issuance of this order amending each of the specified orders is approved of or favored by at least two-thirds (three-fourths in the case of the Memphis, Tennessee, Fort Smith, Arkansas, and Michigan Upper Peninsula marketing areas) of the producers who were engaged in the production of milk for sale in the respective marketing areas during the determined representative period, or who participated in a referendum and who during the determined representative period were engaged in the production of milk for sale in the marketing area.

List of Subjects in 7 CFR Ch. X

Milk marketing orders, Milk, Dairy products.

The authority citation for 7 CFR Chapter X continues to read as follows:

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

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of milk in each of the specified marketing areas shall be in conformity to and in compliance with the terms and conditions of each of the aforesaid orders, as amended, and as hereby further amended, as follows:

PART 1001—MILK IN THE NEW ENGLAND MARKETING AREA

1. In § 1001.50, paragraph (a) is revised to read as follows:

§ 1001.50 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof the Class I price in Zone 21 shall be the basic formula price for the second preceding month plus $2.52. Through April 30, 1988, and thereafter until amended, the differential value for Zone I shall be $3.24.

* * * * *

PART 1002—MILK IN THE NEW YORK-NEW JERSEY MARKETING AREA

1. In § 1002.50a, paragraph (a) is revised to read as follows:

§ 1002.50a Class prices.

* * * * *

(a) For Class I–A milk, from the effective date hereof the Class I price in the 201–210 mile freight zone shall be the basic formula price for the second preceding month plus $2.55. Through April 30, 1988, and thereafter until amended, the differential value in the 1–10 mile freight zone shall be $3.14.

* * * * *

PART 1004—MILK IN THE MIDDLE ATLANTIC MARKETING AREA

1. In § 1004.50 paragraph (a) is revised to read as follows:

§ 1004.50 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $3.03.

* * * * *

PART 1006—MILK IN THE UPPER FLORIDA MARKETING AREA

1. In § 1006.50, paragraph (a) is revised to read as follows:

§ 1006.50 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $3.58.

* * * * *

PART 1007—MILK IN THE GEORGIA MARKETING AREA

1. In § 1007.50, paragaraph (a) is revised to read as follows:

§ 1007.50 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $3.08.

* * * * *

PART 1011—MILK IN THE TENNESSEE MARKETING AREA

1. In § 1011.50, paragraph (a) is revised to read as follows:

§ 1011.50 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $2.77.

* * * * *

PART 1012—MILK IN THE TAMPA BAY MARKETING AREA

1. In § 1012.50, paragraph (a) is revised to read as follows:

§ 1012.50 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $3.88.

* * * * *

PART 1013—MILK IN THE SOUTHEASTERN FLORIDA MARKETING AREA

1. In § 1013.50, paragraph (a) is revised to read as follows:

§ 1013.50 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $4.18.

* * * * *

PART 1030—MILK IN THE CHICAGO MARKETING AREA

1. In § 1030.50, paragraph (a) is revised to read as follows:

§ 1030.50 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $1.40.

* * * * *

PART 1032—MILK IN THE SOUTHERN ILLINOIS MARKETING AREA

1. In § 1032.50 paragraph (a) is revised to read as follows:

§ 1032.50 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $1.92.

* * * * *

PART 1033—MILK IN THE OHIO VALLEY MARKETING AREA

1. In § 1033.51, paragraph (a) is revised to read as follows:

§ 1033.51 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $2.04.

* * * * *

PART 1036—MILK IN THE EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

1. In § 1036.50, paragraph (a) is revised to read as follows:

§ 1036.50 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $1.95.

* * * * *

PART 1040—MILK IN THE SOUTHERN MICHIGAN MARKETING AREA

1. In § 1040.50, paragraph (a) is revised to read as follows:

§ 1040.50 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $1.75.

* * * * *

PART 1044—MILK IN THE MICHIGAN UPPER PENINSULA MARKETING AREA

1. In § 1044.51 paragraph (a) is revised to read as follows:

§ 1044.51 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof, the Class I price in Zone 1 shall be the basic formula price for the second preceding month plus $1.15. For plants located in Zone 1(a) the price shall be the price specified for Zone 1 less 10 cents; for plants located in Zone 2 the price shall be the price specified for Zone 1 plus 20 cents. Through April 30, 1988, and thereafter until amended, the differential value for Zone 2 shall be $1.35 and for plants located outside the marketing area and west of Lake Michigan, the price (subject to § 1044.53) shall be that specified for Zone 1 and for plants located outside the marketing area and east of Lake Michigan, the price (subject to § 1044.53) shall be that specified for Zone 2.

* * * * *

PART 1046—MILK IN THE LOUISVILLE-LEXINGTON-EVANSVILLE MARKETING AREA

1. In § 1046.50, paragraph (a) is revised to read as follows:

§ 1046.50 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $2.11.

* * * * *

PART 1049—MILK IN THE INDIANA MARKETING AREA

1. In § 1049.50, paragraph (a) is revised to read as follows:

§ 1049.50 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $2.00.

* * * * *

PART 1050—MILK IN THE CENTRAL ILLINOIS MARKETING AREA

1. In § 1050.50 paragraph (a) is revised to read as follows:

§ 1050.50 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $1.61.

* * * * *

PART 1064—MILK IN THE GREATER KANSAS CITY MARKETING AREA

1. In § 1064.50, paragraph (a) is revised to read as follows:

§ 1064.50 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $1.92.

* * * * *

PART 1065—MILK IN THE NEBRASKA-WESTERN IOWA MARKETING AREA

1. In § 1065.50, paragraph (a) is revised to read as follows:

§ 1065.50 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $1.75.

* * * * *

PART 1068—MILK IN THE UPPER MIDWEST MARKETING AREA

1. In § 1068.50, paragraph (a) is revised to read as follows:

§ 1068.50 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $1.20.

* * * * *

PART 1075—MILK IN THE BLACK HILLS, SOUTH DAKOTA MARKETING AREA

1. In § 1075.51, paragraph (a) is revised to read as follows:

§ 1075.51 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $2.05.

* * * * *

PART 1076—MILK IN THE EASTERN SOUTH DAKOTA MARKETING AREA

1. In § 1076.50, paragraph (a) is revised to read as follows:

§ 1076.50 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $1.50.

* * * * *

PART 1079—MILK IN THE IOWA MARKETING AREA

1. In § 1079.50, paragraph (a) is revised to read as follows:

§ 1079.50 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $1.55.

* * * * *

PART 1093—MILK IN THE ALABAMA-WEST FLORIDA MARKETING AREA

1. In § 1093.50, paragraph (a) is revised to read as follows:

§ 1093.50 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $3.08.

* * * * *

PART 1094—MILK IN THE NEW ORLEANS-MISSISSIPPI MARKETING AREA

1. In § 1094.50, paragraph (a) is revised to read as follows:

§ 1094.50 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $3.85.

* * * * *

PART 1096—MILK IN THE GREATER LOUISIANA MARKETING AREA

1. In § 1096.50, paragraph (a) is revised to read as follows:

§ 1096.50 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $3.28.

* * * * *

PART 1097—MILK IN THE MEMPHIS, TENNESSEE MARKETING AREA

1. In § 1097.50, paragraph (a) is revised to read as follows:

§ 1097.50 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $2.77.

* * * * *

PART 1098—MILK IN THE NASHVILLE, TENNESSEE MARKETING AREA

1. In § 1098.50, paragraph (a) is revised to read as follows:

§ 1098.50 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $2.52.

* * * * *

PART 1099—MILK IN THE PADUCAH, KENTUCKY MARKETING AREA

1. In § 1099.50, paragraph (a) is revised to read as follows:

§ 1099.50 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $2.39.

* * * * *

PART 1102—MILK IN THE FORT SMITH, ARKANSAS MARKETING AREA

1. In § 1102.50, paragraph (a) is revised to read as follows:

§ 1102.50 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $2.77.

* * * * *

PART 1106—MILK IN THE SOUTHWEST PLAINS MARKETING AREA

1. In § 1106.50, paragraph (a) is revised to read as follows:

§ 1106.50 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $2.77.

* * * * *

PART 1108—MILK IN THE CENTRAL ARKANSAS MARKETING AREA

1. In § 1108.50, paragraph (a) is revised to read as follows:

§ 1108.50 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $2.77.

* * * * *

PART 1120—MILK IN THE LUBBOCK-PLAINVIEW, TEXAS MARKETING AREA

1. In § 1120.50, paragraph (a) is revised to read as follows:

§ 1120.50 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $2.49.

* * * * *

PART 1124—MILK IN THE OREGON-WASHINGTON MARKETING AREA

1. In § 1124.51, paragraph (a) is revised to read as follows:

§ 1124.51 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $1.95.

* * * * *

PART 1125—MILK IN THE PUGET SOUND-INLAND MARKETING AREA

1. In § 1125.50, paragraph (a) is revised to read as follows:

§ 1125.50 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $1.85.

* * * * *

PART 1126—MILK IN THE TEXAS MARKETING AREA

1. In § 1126.50, paragraph (a) is revised to read as follows:

§ 1126.50 Class prices.

* * * * *

(a) *Class I prices.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $3.28

* * * * *

PART 1131—MILK IN THE CENTRAL ARIZONA MARKETING AREA

1. In § 1131.50, paragraph (a) is revised to read as follows:

§ 1131.50 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $2.52.

* * * * *

PART 1132—MILK IN THE TEXAS PANHANDLE MARKETING AREA

1. In § 1132.50, paragraph (a) is revised to read as follows:

§ 1132.50 Class prices

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $2.49.

* * * * *

PART 1134—MILK IN THE WESTERN COLORADO MARKETING AREA

1. In § 1134.50, paragraph (a) is revised to read as follows:

§ 1134.50 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $2.00.

* * * * *

PART 1135—MILK IN THE SOUTHERN IDAHO-EASTERN OREGON MARKETING AREA

1. In § 1135.50, paragraph (a) is revised to read as follows:

§ 1135.50 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $1.50.

* * * * *

PART 1136—MILK IN THE GREAT BASIN MARKETING AREA

1. In § 1136.50, paragraph (a) is revised to read as follows:

§ 1136.50 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $1.90.

* * * * *

PART 1137—MILK IN THE EASTERN COLORADO MARKETING AREA

1. In § 1137.50, paragraph (a) is revised to read as follows:

§ 1137.50 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $2.73.

* * * * *

PART 1138—MILK IN THE RIO GRANDE VALLEY MARKETING AREA

1. In § 1138.50, paragraph (a) revised to read as follows:

§ 1138.50 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $2.35.

* * * * *

PART 1139—MILK IN THE LAKE MEAD MARKETING AREA

1. In § 1139.50, paragraph (a) is revised to read as follows:

§ 1139.50 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $1.60.

* * * * *

Effective date: May 1, 1986.

Signed at Washington, DC, on April 10, 1986.

Karen K. Darling,

Deputy Assistant Secretary, Marketing Inspection Services.

[FR Doc. 86-8421 Filed 4-15-86; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1135

[Docket No. AO-380-A5]

Milk in the Southwestern Idaho-Eastern Oregon Marketing Area; Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This order amends the Southwestern Idaho-Eastern Oregon Federal milk order by relaxing the standards required under the order for distributing plants, supply plants, and producers to participate in the marketwide pool. The percentage of a pool distributing plant's total receipts that must be accounted for as route dispositions is reduced from 40 to 25 percent. The amount of its receipts that a pool supply plant is required to ship to pool distributing plants also is reduced from 40 to 25 percent. The requirement that at least one day's production of milk be physically received at a pool plant during each of the months of September through February in order for the rest of the producer's milk to be eligible for unlimited diversion is changed to a requirement that one day's production of each producer's milk must be physically received at a pool plant for three consecutive months on a one-time basis. The limit on the percentage of a handler's milk that may be diverted to nonpool plants is changed from 70 percent in the months of September through February and 80 percent in other months to 80 percent in all months.

EFFECTIVE DATE: June 1, 1986.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States

Department of Agriculture, Washington, DC 20250, (202) 447-7311.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Prior documents in this proceeding:

Notice of Hearing: Issued August 29, 1985; published September 4, 1985 (50 FR 35829).

Recommended Decision: Issued February 6, 1986; published February 12, 1986 (51 FR 5199).

Final Decision: Issued March 14, 1986; published March 20, 1986 (51 FR 9677).

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the Southwestern Idaho-Eastern Oregon order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Southwestern Idaho-Eastern Oregon marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area; and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order amending the order is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

List of Subjects in 7 CFR Part 1135

Milk marketing order, Milk, Dairy products.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Southwestern Idaho-Eastern Oregon marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

PART 1135—MILK IN THE SOUTHWESTERN IDAHO-EASTERN OREGON MARKETING AREA

1. The authority citation for CFR Part 1135 continues to read as follows:

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

2. In § 1135.7, the first sentence of paragraph (a)(2) and the test in paragraph (b) preceding (b)(1) are revised to read as follows:

§ 1135.7 Pool plant.

* * * * *

(a) * * *

(2) Total route disposition (except filled milk) during the month equal to not less than 25 percent of such receipts. * * *

* * * * *

(b) A supply plant from which during the month the volume of fluid milk products, except filled milk, transferred to pool distributing plants is 25 percent or more of a Grade A milk received at the plant from dairy farmers (including producer milk diverted from the plant by the plant operator but excluding producer milk diverted to the plant pursuant to § 1135.13), subject to the following conditions:

* * * * *

3. In § 1135.13, paragraphs (f) (1), (2), (3), (4), and (5) are revised to read as follows:

§ 1135.13 Producer milk.

* * * * *

(f) * * *

(1) Milk of a dairy farmer who was not a "producer" in the preceding two months shall not be eligible for diversion until one day's production of milk is physically received at a pool plant;

(2) During each of a dairy farmer's first three months as a "producer" under this order, and after any period of two months or longer that a dairy farmer is not a "producer" under this order, milk of the dairy farmer shall not be eligible for diversion unless during the month one day's production of milk of such dairy farmer is physically received as producer milk at a pool plant;

(3) The total quantity of milk diverted by a cooperative association during any month may not exceed 80 percent of the producer milk that the cooperative association causes to be delivered to or diverted from pool plants during the month. Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of the producer milk which the associations cause to be delivered to the pool plants or diverted from pool plants during the month if each association has filed a request in writing with the market administrator on or before the first day of the month the agreement is to be effective. This request shall specify the basis for assigning over-diverted milk to the producer deliveries of each cooperative according to a method approved by the market administrator;

(4) The total quantity of milk diverted during the month by a proprietary bulk tank handler described in § 1135.9(d) may not exceed 80 percent of the producer milk that the handler causes to be delivered to or diverted from pool plants during the month;

(5) The operator of a pool plant may divert for its account any milk that is not under the control of a cooperative association or a proprietary bulk tank handler that diverts milk during the month pursuant to paragraphs (f) (3) and (4) of this section. The total quantity so diverted during any month may not exceed 80 percent of the producer milk received at or diverted from such pool plant during the month that is eligible to be diverted by the plant operator; and

* * * * *

4. In § 1135.50, paragraph (a) is revised to read as follows:

§ 1135.50 Class prices.

* * * * *

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus $1.50.

* * * * *

Effective date: June 1, 1986.

Signed at Washington, DC, on: April 10, 1986.

Karen K. Darling,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 86-8494 Filed 4-15-86; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-NM-121-AD; Amdt. 39-5289]

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) applicable to certain Boeing Model 747 airplanes, which requires inspection for overheating and cracks, and replacement, if necessary, of the outboard engine strut aft diagonal brace, and modification of the firewall openings in the strut lower aft bulkhead. This action is prompted by recent reports of overheating of the forward lug end of the aft diagonal brace. This condition, if not corrected, could result in separation of an engine from the airplane.

EFFECTIVE DATE: May 27, 1986.

ADDRESSES: The applicable service information 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 of the outboard engine strut diagonal brace was published in the **Federal Register** on December 6, 1985 (50 FR 49944). The comment period for the proposal closed on January 28, 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 on behalf of one ATA member. The member airline requested that the initial inspection deadline of 200 landings be changed to 350 landings so that the airplanes would not have to be rescheduled into their home base. The FAA does not fully concur with this change. The initial inspection requires a detailed visual inspection for cracking, an eddy current conductivity test for hardness, and the installation of sealant backup plates and heat resistant sealant over the firewall opening in the strut lower aft bulkhead. The FAA has determined that it is necessary to perform the detailed visual inspection and the installation of sealant backup plates and the heat resistant sealant within 200 landings. However, the FAA has determined that safety would not be compromised if the eddy current conductivity test were deferred to 400 landings after the effective date of the AD. The AD has been revised to reflect this.

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 change noted above.

It is estimated that 11 airplanes of U.S. Registry will be affected by this AD, that it will take approximately 8 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 $3,520 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 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 the Administrator, the Federal Aviation Administration amends Section 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 equipped with General Electric CF6-50 and Pratt and Whitney JT9D-70A engines, listed in Boeing Service Bulletin 747-54A2117, Revision 1, dated November 8, 1985, certificated in any category. To prevent failure of the outboard engine strut aft diagonal brace, accomplish the following, unless already accomplished:

A. Within the next 200 landings after the effective date of this AD, perform a close visual (detailed) inspection for cracking in the brace, and install sealant backup plates and heat resistant sealant over the firewall openings in the strut lower aft bulkhead, in accordance with Boeing Service Bulletin 747-54A2117, Revision 1, or later FAA-approved revisions. Repeat the close visual (detailed) inspection at intervals not to exceed 200 landing until the inspection required by paragraph B., below, is accomplished.

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. Within the next 400 landings after the effective date of this AD, perform an eddy current conductivity test of the strut diagonal brace to determine its heat treat temper condition in accordance with Boeing Service Bulletin 747-54A2117, Revision 1, or later FAA-approved revisions. Repeat the close visual (detailed) inspection of the strut diagonal brace for cracking specified in paragraph A., above.

C. If the strut diagonal brace conductivity readings indicate an acceptable brace, as defined by Boeing Service Bulletin 747-54A2117, Revision 1, or later FAA-approved

revisons, and no cracks are found, no further action is required relative to the diagonal brace.

D. If the strut diagonal brace conductivity readings indicate a possible unacceptable brace, and no cracks are found, visually reinspect the brace lugs for cracks at intervals not to exceed 200 landings until the actions required by paragraph E. of this AD are accomplished.

E. If the strut diagonal brace conductivity readings indicate a possible unacceptable brace, and no cracks are found, accomplish the strut diagonal brace strength verification (Rockwell Hardness Testing) and any necessary corrective action, in accordance with Boeing Service Bulletin 747-54A2117, Revision 1, or later FAA-approved revisions, as follows:

1. within 2,000 landings for airplanes that have accumulated less than 3,000 landings;

2. within 1,500 landings for airplanes that have accumulated 3,000 to 6,000 landings; and

3. within 1,000 landings for airplanes that have accumulated over 6,000 landings.

F. Cracked parts must be replaced prior to further flight.

G. Upon 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.

H. 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.

I. 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 27, 1986.

Issued in Seattle, Washington, on April 9, 1986.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 86-8389 Filed 4-15-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-AAL-2]

Establishment of Quinhagak, AK, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes a transition area with a base 700 feet above the surface at Quinhagak, AK, (lat. 59°45'24" N., long. 161°52'48" W.). A public instrument approach procedure has been developed and the transition area will provide protected airspace for the approach/departure and missed approach procedures.

EFFECTIVE DATE: 0901 UTC, July 3, 1986.

FOR FURTHER INFORMATION CONTACT: 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:

History

On January 31, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a transition area at Quinhagak, AK, (51 FR 3987). An instrument approach procedure has been developed and the transition area is required in order to provide protected airspace for approach/departure and missed approach procedures. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations establishes a transition area with a base 700 feet above the surface at Quinhagak, AK. A public instrument approach procedure has been developed and this transition area is needed in order to provide protected airspace for aircraft arriving/departing Quinhagak Airport.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

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

§ 71.18 [Amended]

2. Section 71.181 is amended as follows:

Quinhagak, AK [New]

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Quinhagak Airport (lat. 59°45'24" N., long. 161°52'48" W.) and within 9.5 miles northwest and 4.5 miles southeast of the 051° radial from the Quinhagak VOR (lat. 59°45'09" N., long. 161°53'16" W.) extending from the the VOR to 18.5 miles northeast of the VOR.

Issued in Washington, DC, on April 7, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-8391 Filed 4-15-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 368

[Docket No. 60115-6015]

Export Licensing; Elimination of Form ITA-646, International Import Certificate Cross-Reference Card

AGENCY: Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: As a result of the review of export licensing policy being conducted in conjunction with regulatory simplification (47 FR 44747, Oct. 12, 1982), the Office of Export Licensing has

determined that Form ITA-646 International Import Certificate-Cross-Reference Card need no longer be submitted with Form ITA-645P/ATF-4522/DSP-53, International Import Certificate.

EFFECTIVE DATE: April 16, 1986.

FOR FURTHER INFORMATION CONTACT: John Black or Patti Muldonian, Export Administration, Telephone: (202) 377-2440.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

1. Because this rule concerns a foreign and military affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291, and it is not subject to the requirements of that Order. Accordingly, no preliminary or final Regulatory Impact Analysis has to be or will be prepared.

2. Section 13(a) of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Accordingly, it is being issued in final form. However, like other Department of Commerce rules, comments from the public are always welcome. Comments should be submitted to: Betty Ferrell, Office of Technology and Policy Analysis, Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, DC 20044.

3. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

4. This rule mentions an information collection requirement under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* This requirement has been approved by the Office of Management and Budget under control number 0625-0064.

List of Subjects in 15 CFR Part 368

Imports, Penalties.

Accordingly, the Export Administration Regulations (15 CFR Parts 368-399) is amended as follows:

PART 368—[AMENDED]

1. The authority citation for 15 CFR Part 368 is revised to read as follows and the authority citations following all the sections in Part 368 are removed:

Authority: Pub. L. 96-72, 93 Stat. 503, 50 U.S.C. App. 2401 *et. seq.*, as amended by Pub. L. 97-145 of December 29, 1981 and by Pub. L. 99-64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 18, 1985).

2. Section 368.2 is amended by revising paragraph (a)(1) to read as follows:

§ 368.2 International Import Certificate.

(a) *Procedure*—(1) *General.* Where a person in the United States purchases or expects to receive commodities from one of the foreign countries participating in the IC/DV procedure and is required by the government of the exporting country to furnish an Import Certificate, that person shall use the Form ITA-645P, ATF-4522/DSP-53, International Import Certificate. All items on the International Import Certificate are required to be completed. The form shall be sent to the Office of Export Licensing or the nearest District Office listed in § 368.2(a)(2), in triplicate for commodities on the Commodity Control List, and in quadruplicate for nuclear related commodities. Representations by the importer that the commodities will be entered into the United States do not preclude the temporary unloading of the commodities in a foreign trade zone for subsequent entry into the economy of the United States.

* * * * *

Dated: April 10, 1986.

Walter J. Olson,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 86-8401 Filed 4-15-86; 8:45 am]

BILLING CODE 3510-DT-M

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15 CFR Parts 370, 371, 372, 373, 375, 376, 377, 379, 386, and 399

[Docket No. 51205-5205]

Export Administration Regulations; Editorial Clarifications and Corrections

AGENCY: Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: The purpose of this document is to correct erroneous references and discrepancies that are present in the Export Administration Regulations. Nonconsecutive footnote designations are renumbered at the part level, footnotes are corrected and obsolete footnotes, removed, footnotes and text inadvertently dropped from the Regulations are correctly added, and a reference in the Commodity Control List, which Export Administration maintains, listing those items controlled for export by the U.S. Department of Commerce, is clarified. This rule does not make any substantive changes, and whatever text is added or revised merely conforms the regulations published in the Code of Federal Regulations with those that currently appear in the Export Administration Regulations.

EFFECTIVE DATE: April 16, 1986.

FOR FURTHER INFORMATION CONTACT: Joan Maguire, Regulations Branch, Export Administration, Department of Commerce, Washington, DC 20230 (Telephone: (202) 377-4479).

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

1. Because this rule concerns a foreign and military affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291, and it is not subject to the requirements of that Order. Accordingly, no preliminary or final Regulatory Impact Analysis has to be or will be prepared.

2. Section 13(a) of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Further, no other law requires that notice of proposed rulemaking and an opportunity for public comment be given for this rule. Accordingly, it is being issued in final form. However, as with other Department of Commerce rules, comments from the public are always welcome. Written comments (six copies) should be submitted to: Betty Ferrell, Regulations Branch, Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, DC 20044.

3. Because a notice of proposed rulemaking and an opportunity for

public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

4. This rule mentions collections of information under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0625–0001 and 0625–0003. The editorial clarifications and corrections being made do not affect these collections.

List of Subjects

15 CFR Parts 370 and 377

Administrative practice and procedure.

15 CFR Parts 371, 372, 373, 375, 376, 379, 386, and 399

Exports.

15 CFR Part 377

Marketing quotas.

15 CFR Part 379

Science and technology.

Accordingly, Parts 370–373, 375–377, 379, 386, and 399 of the Export Administration Regulations (15 CFR Parts 368–399) are amended as follows:

1. The authority citation for 15 CFR Part 377 is revised, and the authority citations for 15 CFR Parts 370, 372, 375, and 376 continue to read as follows:

Authority: Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended by Pub. L. 97–145 of December 29, 1981 and by Pub. L. 99–64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985).

2. The authority citations for 15 CFR Parts 371, 373, 379, 386 and 399 continue to read as follows:

Authority: Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended by Pub. L. 97–145 of December 29, 1981 and by Pub. L. 99–64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95–223, 50 U.S.C. 1701 *et seq;* E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985).

PART 370—[AMENDED]

§ 370.3 [Amended]

3. In § 370.3, in paragraph (a)(1) introductory text, redesignate footnote number 1 as footnote number 4.

§ 370.10 [Amended]

4. In § 370.10, in paragraph (f)(3), remove footnote number 1.

§ 370.11 [Amended]

5. In § 370.11, in the heading to paragraph (a), introductory text, redesignate footnote number 1 as footnote number 6.

§ 370.13 [Amended]

6. In § 370.13 heading, redesignate footnote number 1 as footnote number 7.

PART 371—[AMENDED]

§ 371.4 [Amended]

7. In § 371.4, in paragraph (a) heading, redesignate footnote number 1 as footnote number 2; in paragraph (a)(1), redesignate footnote number 2 as footnote number 3; and in paragraph (c)(2), redesignate footnote number 3 as footnote number 4.

§ 371.5 [Amended]

8. In § 371.5, in paragraph (a)(1), redesignate footnote number 1 as footnote number 5.

§ 371.6 [Amended]

9. In § 371.6, in paragraph (c)(2), redesignate footnote number 1 as footnote number 6.

§ 371.9 [Amended]

10. In § 371.9, in paragraph (a) introductory text, redesignate footnote number 1 as footnote number 7.

§ 371.10 [Amended]

11. In § 371.10, in paragraph (a), introductory text, redesignate footnote number 1 as footnote number 8.

§ 371.12 [Amended]

12. In § 371.12, in paragraph (b) introductory text, redesignate footnote number 1 as footnote number 9 and add "and § 367.9" to the end of the footnote; and in paragraph (c) introductory text, redesignate footnote number 2 as footnote number 10.

§ 371.17 [Amended]

13. In § 371.17, in paragraph (f)(1)(i), redesignate footnote number 3 as footnote number 11.

§ 371.18 [Amended]

14. In § 371.18, in paragraph (a)(1), redesignate footnote number 1 as footnote number 12.

§ 371.22 [Amended]

15. In § 371.22, in paragraph (b) introductory text, redesignate footnote number 1 as footnote number 13; and in paragraph (b)(4), redesignate footnote number 2 as footnote number 14.

PART 372—[AMENDED]

16. In § 372.11, in paragraph (h)(1), revise the first sentence to read as follows:

§ 372.11 Amending export licenses.

* * * * *

(h) *Procedure for submitting amendment requests—*(1) *Number of copies.* An amendment request shall be submitted in duplicate on Form ITA–685P,[3] Request for the Notice of Amendment Action. * * *

[3] Form ITA–685P is printed in triplicate sets to provide a copy for the applicant's file.

* * * * *

PART 373—[AMENDED]

§ 373.1 [Amended]

17. In § 373.7, in paragraph (b)(4), redesignate footnote number 4 as footnote number 1; and in paragraphs (h)(1) (i) and (ii) and (h)(3) introductory text, redesignate footnote numbers 5 to 7 as footnote numbers 2 to 4.

PART 375—[AMENDED]

§ 375.2 [Amended]

18. In § 375.2, in paragraph (d)(1), remove footnote number 1

§ 375.3 [Amended]

19. In § 375.3, in paragraph (i)(1)(i), redesignate footnote number 1 as footnote number 2.

§ 375.5 [Amended]

20. In § 375.5, in paragraph (a), redesignate footnote number 1 as footnote number 3.

§ 375.9 [Amended]

21. In § 375.9, in paragraphs (f) heading and (g)(1) introductory text, redesignate footnote numbers 1 and 2 as footnote numbers 4 and 5.

PART 376—[AMENDED]

§ 376.8 [Amended]

22. In § 376.8, in paragraph (b)(1) introductory text, redesignate footnote number 1 as footnote number 2.

PART 377—[AMENDED]

§ 377.6 [Amended]

23. In § 377.6, in paragraph (e)(2), in paragraph (d) of the Affidavit, redesignate footnote number 1 as footnote number 2.

PART 379—[AMENDED]

§ 379.4 [Amended]

24. In § 379.4, make the following changes:

a. In paragraph (b)(1)(i)(*d*), redesignate footnote number 1 as footnote number 9;

b. In paragraph (c) introductory text, redesignate footnote number 1 as footnote number 10;

c. In paragraph (c)(1)(i), redesignate footnote numbers 1 and 2 as footnote numbers 11 and 12;

d. In paragraph (c)(1)(ii) introductory text, redesignate the internal reference to footnote number 3 as footnote number 13 and add footnote number 13 as follows:

§ 379.4 General License GTDR: Technical data under restriction.

* * * * *

(c) * * *

(1) * * *

(ii) * * * for such facilities [13];

[13] Such activities may also require a specific authorization from the Secretary of Energy pursuant to section 57.b(2) of the Atomic Energy Act of 1954, as amended, as implemented by the Department of Energy's regulations published in 10 CFR Part 810.

* * * * *

e. In paragraph (d) introductory text, redesignate footnote numbers 2a and 3a as footnote numbers 14 and 15;

f. In paragraph (d)(5), redesignate footnote number 4, added at 50 FR 3743, January 28, 1985, as footnote number 16;

g. In paragraphs (d)(7) and (e)(1), redesignate footnote numbers 4 and 5 as footnote numbers 17 and 18;

h. In paragraph (f)(1) introductory text, redesignate footnote numbers 1 (four places) and 2 as footnote numbers 19 (four places) and 20;

i. In paragraphs (f)(2)(i) (*a*) and (*b*), and (f)(2)(ii) introductory text, redesignate footnote numbers 8, 9, and 12 as footnote numbers 21, 22, and 23;

j. In paragraphs (f)(2)(ii) (*a*) and (*c*), revise "Country Group Q, S, W, Y," to read "Country Group Q, S, W,[21] Y,"; and

k. In paragraphs (f)(2) (iii) and (iv), redesignate footnote numbers 12 and 13 as footnote number 24.

25. In § 379.5, in paragraphs (e) (1) and (2) headings, redesignate footnote number 1 as footnote number 25; and in paragraphs (e)(1)(vii) and (e)(2)(x), redesignate footnote numbers 2 and 3 as footnote numbers 26 and 28. Revise paragraph (e)(2)(ix) to read as follows:

§ 379.5 Validated license applications.

* * * * *

(e) * * *

(2) * * *

(ix) Watercraft of hydrofoil and hovercraft (air bubble) design [27];

[27] This commodity is not listed on the Commodity Control List since it is under the export control jurisdiction of the U.S. Maritime Administration. However, technical data relating to this commodity are under the export control jurisdiction of the Office of Export Licensing.

* * * * *

PART 386—[AMENDED]

26. In § 386.3, in paragraph (p)(1) introductory text, footnote number 3 is redesignated as footnote number 4 and revised to read as follows:

§ 386.3 Shipper's Export Declaration.

* * * * *

(p) * * *

(1) * * * The Shipper's Export Declaration for In-transit Goods, Commerce Form 7513,[4] * * *

[4] Form 7513 may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, and from local customs offices.

§ 386.6 [Amended]

27. In § 386.6, in paragraphs (d)(1) and (d)(2)(i)(*a*), remove footnote number 4; and in paragraph (d)(2)(i)(*b*), redesignate footnote number 2 published at 50 FR 29206, 7–18–85, as footnote number 6.

§ 386.7 [Amended]

28. In § 386.7 heading, redesignate footnote number 1, as footnote number 7.

§ 386.8 [Amended]

29. In § 386.8, in paragraph (b)(6), revise the heading and add a sentence to the end of the paragraph as set forth below.

§ 386.8 Authority of customs offices and postmasters in clearing shipments.

* * * * *

(b) * * *

(6) *Seizure and detention.* * * * In addition to the authority of the customs office to seize and detain commodities or technical data, both customs officials and officials of the Office of Export Enforcement are authorized to detain any shipment held for review of the Declaration or for physical examination of the commodities or technical data, whenever such action is deemed to be necessary to assure compliance with the Export Administration Regulations.

* * * * *

PART 399—[AMENDED]

30. The Commodity Control List (Supplement No. 1 to § 399.1), Commodity Group 5, Electronics and Precision Instruments, is amended in ECCN 1572A, under the "List of Types of Recording and/or Reproducing Equipment Controlled by ECCN 1572A," in the Exception 4 paragraph, by revising the reference to "Sub-paragraph (a)(i)" to read "Paragraph (a)".

Dated: April 10, 1986.

Walter J. Olson,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 86–8400 Filed 4–15–86; 8:45 am]

BILLING CODE 3510-DT-M

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15 CFR Parts 370 and 399

[Docket No. 51209–5209]

Export Administration Regulations; Technical Corrections and Clarifications

AGENCY: Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: Export Administration is issuing this document to make technical corrections and clarifications to the definition of Distribution License, the Commodity Control List (CCL), and a commodity interpretation of numerical control systems. The definition of Distribution License contained in 15 CFR 370.2 is being changed to eliminate a reference to a validity period that was revised at 50 FR 21562, May 24, 1985. A Technical Note to Export Control Commodity Number (ECCN) 6599G is being certified and updated by removing references to "ECCN 4529B" which was removed at 49 FR 50632, Dec. 31, 1984. Also, Interpretation 7, "Numerical Control Systems," is amended to reflect the revised ECCN 1091A published at 50 FR 37112, Sept. 11, 1985.

EFFECTIVE DATE: April 16, 1986.

FOR FURTHER INFORMATION CONTACT: Joan Maguire, Regulations Branch, Export Administration, Department of Commerce, Washington, DC 20230 (Telephone: (202) 377–4479).

SUPPLEMENTARY INFORMATION:

Regulatory Changes

On May 24, 1985 (50 FR 21562), Export Administration published a final rule revising the Distribution License (DL) procedure under 15 CFR Part 373. This rule changed the validity period of a DL from one year to two years for new applications that can be extended once by amendment for another two-year period. Thereafter, under the revised rule, a new application must be submitted that, if approved, will be valid for four years. The definition of Distribution License contained in 15 CFR 370.2 is now being changed to eliminate the reference to the obsolete validity period presently specified in the regulations.

Export Administration maintains the Commodity Control List (CCL), which lists those items subject to Department of Commerce export controls. ECCN 1091A, which applies to numerical control systems for machinery, appears under Group 0, Metal-Working Machinery, on the CCL. ECCN 1091A was revised at 50 FR 37112, September 11, 1985, as a result of the review of strategic controls maintained by the U.S. and certain allied countries through the Coordinating Committee (COCOM). The changes being made by this document to Interpretation 7 of Supplement No. 1 to § 399.2 reflect the revised ECCN 1091A. Also, in revised Interpretation 7, paragraph (b)(1) relating to the classification of Computer Numerical Control (CNC) units is incorporated at the request of the Automated Manufacturing Equipment Technical Advisory Committee (AMETAC) and the difference between classifying CNC equipment under Schedule B numbers and ECCN 1091A is clarified in paragraph (c).

Rulemaking Requirements

1. Because this rule concerns a foreign and military affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291, and it is not subject to the requirements of that Order. Accordingly, no preliminary or final Regulatory Impact Analysis has to be or will be prepared.

2. Section 13(a) of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Further, no other law requires that notice of proposed rulemaking and an opportunity for public comment be given for this rule. Accordingly, it is being issued in final form. However, as with other Department of Commerce rules, comments from the public are always welcome. Written comments (six copies) should be submitted to: Betty Ferrell, Regulations Branch, Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, DC 20044.

3. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under section 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

4. This rule mentions collections of information under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0625–0001, 0625–0052, and 0625–0152. The additional clarifications and corrections being made do not affect these collections.

List of Subjects

15 CFR Part 370

Administrative practice and procedure.

15 CFR Part 399

Exports.

Accordingly, Parts 370 and 399 of the Export Administration Regulations (15 CFR Parts 368–399) are amended as follows:

1. The authority citation for 15 CFR Part 370 continues to read as follows:

Authority: Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended by Pub. L. 97–145 of December 29, 1981 and by Pub. L. 99–64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985).

2. In § 370.2, the definition of Distribution License is revised to read as follows:

PART 370—[AMENDED]

§ 370.2 Definitions of terms.

* * * * *

Distribution License (§ 373.3). A special license authorizing export of eligible commodities to approved consignees in specified countries, without dollar value or quantity limits. The consignees must be foreign distributors or users of the licensed commodity.

* * * * *

3. The authority citation for 15 CFR Part 399 continues to read as follows:

Authority: Pub. L. 96–72, 93 Stat, 503, 50 U.S.C. App. 2401 *et seq.*, as amended by Pub. L. 97–145 of December 29, 1981 and by Pub. L. 99–64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95–223, 50 U.S.C 1701 *et seq.*, E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985).

4. In Supplement No. 1 to § 399.1 (the Commodity Control List), Group 5, Electronics and Precision Instruments, the Technical Note to ECCN 6599G is amended by removing in the first and second sentences, "or 4529B" and by revising in the second sentence, "either 1529A or 4529B, as appropriate" to read "1529A, since the computing facility is essential to the product".

5. In Supplement No. 1 to § 399.2, Interpretation 7 is revised to read as follows:

Supplement No. 1 to § 399.2—Interpretations.

* * * * *

Interpretation 7: Numerical Control Systems

(a) *Technical notes.* (1) "Numerical control" is defined as the "automatic control of a process performed by a device that makes use of numeric data usually introduced as the operation is in progress" (Ref. ISO 2382).

(2) "Contouring control" is defined as "two or more numerically controlled motions operating in accordance with instructions that specify the next required position and the required feed rates to that position. These feed rates are varied in relation to each other so that a desired contour is generated" (Ref. ISO/DIS 2806).

(3) For definitions of computer-related terms, see ECCN 1565, Advisory Note 16.

(4) A "direct numerical control system" (DNC) is defined as "a system connecting a set of numerically controlled machines to a common memory for part program or machine program with provision for on-demand distribution of data to the machines" (Ref. ISO/DIS 2806.2).

(5) Axis nomenclature shall be in accordance with international standard ISO 841, "Numerical Control Machines—Axis and Motion Nomenclature".

(6) The value of the positioning accuracy does not include the width of backlash. The value is determined by the usual statistical methods (random tests), i.e., by approaching from only one direction a minimum of 5 measurement points up to a maximum of 25 measurement points as random tests along one axis. National standards may be used for this measuring method: e.g., the German standard VDI, "Statistical testing of the operational and positioning accuracy of machine-tools VDI–DGQ3441, March, 1977".

(b) *Classification of CNC units and specially designed subassemblies.* (1) Computer Numerical Control (CNC) units, specially designed for controlling machine tools (i.e., do not utilize "associated" or "incorporated" computers as defined in ECCN 1565A) are controlled by their functional characteristics as described in ECCN 1091A without regard to ECCN 1565A computer parameters.

(2) Specially designed sub-assemblies for CNC units, including specially designed printed circuit boards, are also controlled under ECCN 1091A.

(c) *Export documentation.* (1) When preparing an export license application for a numerical control system, the machine tool and the control unit are classified separately. If either the machine tool or the control unit requires a validated license, then the entire system requires a license. If either a machine tool or a control unit is exported separately from the system, the exported component is classified on the export license application

without regard to the other parts of a possible system.

(2) When preparing the Shipper's Export Declaration (SED), however, a system being shipped complete (i.e., machine and control unit), should be reported under the Schedule B number for the machine. When either a control unit or a machine is shipped separately, it should be reported under the Schedule B number appropriate for the individual item being exported.

* * * * *

Dated: April 10, 1986.

Walter J. Olson,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 86-8399 Filed 4-15-86; 8:45 am]

BILLING CODE 3510-DT-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230 and 239

[Release No. 33-6639]

Revisions to Form S-18 and Regulation A to Designate the Appropriate Filing Place for Registrants in the Region Covered by the Philadelphia Regional Office

AGENCY: Securities and Exchange Commission.

ACTION: Final rule amendment.

SUMMARY: The Commission is amending Form S-18 and Regulation A to provide that registraints whose principal business operations are conducted in the region covered by the Philadelphia Regional Office may file their Form S-18 registration statements and their Regulation A offering statements either at the Commission's principal office in Washington, DC or with the Atlanta or the New York Regional Office.

EFFECTIVE DATE: May 16, 1986.

FOR FURTHER INFORMATION CONTACT: Richard K. Wulff, (202) 272-2644, Office of Small Business Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: Form S-18 is a short form registration statement which may be used by companies who are not subject to the reporting provisions of sections 13 of 15(d) of the Securities Exchange Act of 1934 [1] ("Exchange Act") to register securities under the Securities Act of 1933 [2] ("Securities Act"). The amount of securities that may be registered on this form may not exceed $7.5 million. Form S-18 provides that a registration statement on that Form may be filed, at the election of the registrant, either at the Commission's principal office in Washington, DC or in the Regional Office for the region in which the registrant's principal business operations are conducted or are proposed to be conducted.

Regulation A [3] provides an exemption from the registration provisions of the Securities Act for any offering made in accordance with all of the conditions of the Regulation. Generally only $1.5 million may be raised in any twelve month period in reliance on the exemption and an offering statement providing specified information must be filed with the Commission. Rule 255 of Regulation A provides that the offering statement should be filed with the Regional Office for the region in which the issuer's principal business operations are conducted or proposed to be conducted.

On May 16, 1986, the Commission is consolidating its offices in Arlington and Philadelphia. The reconfigured office will be located in Philadelphia and will be designated the Philadelphia Regional Office. This office will not process registration statements on Form S-18 or offering statements under Regulation A. The amendments being adopted today will provide that registrants whose principal business operations are located or will be located in the region covered by the Philadelphia Regional Office may elect to make their filings either at the headquarters office in Washington, D.C. or at the Atlanta or New York Regional Office.

Any registration statements on Form S-13, post-effective amendments to such registration statements, or offering statements on Regulation A which are pending in the Washington Regional Office on May 16, 1986 will be processed in the Commission's principal office in Washington, DC.

Statutory Authority and Text of Amendments

The amendments to the Commission's rules and forms are being adopted by the Commission pursuant to section 19 of the Securities Act of 1933.

List of Subjects in 17 CFR Parts 230 and 239

Reporting and recordkeeping requirements, Securities.

In accordance with the foregoing, Title 17, Chapter 11 of the Code of Federal Regulations is amended as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. The authority citations for 17 CFR Part 230 Regulation A—General Exemptions, (§§ 230.251—230.264) is revised to read as follows:

Authority: Secs. 230.251 to 230.264 issued under sec. 3, 19, 48 Stat. 85, as amended; 15 U.S.C. 77c, 77s, unless otherwise noticed.

2. By revising paragraph (c) of 230.255 to read as follows:

§ 230.255 Filing of offering statement.

* * * * *

(c) The offering statement shall be filed with the Regional Office for the region in which the issuer's principal business operations are conducted or are proposed to be conducted in the United States; *Provided however,* that if the registrant's principal business operations are conducted or proposed to be conducted in the region covered by the Philadelphia Regional Office, the offering statement may be filed either at the Commission's principal office in Washington, DC or with the Atlanta or the New York Regional Office. The Offering statement of any issuer having or proposing to have its principal business operations in Canada shall be filed with the Regional Office nearest the place where the issuer's principal business operations are conducted or proposed to be conducted, unless the offering is to be made through a principal underwriter located in the United States, in which case the offering statement shall be filed with the Regional Office for the region in which such underwriter has its principal office. If the application of the previous sentence would require a filing with the Philadelphia Regional Office, such filing may be made either at the Commission's principal Office in Washington, DC or with the Atlanta or the New York Regional Office.

* * * * *

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

3. The authority citation for 17 CFR Part 239 continues to read in Part as follows:

Authority: The Securities Exchange Act of 1933, 15 U.S.C 77a, *et seq.* * * *

4. By revising Paragraph II A of Form S-18 described in §239.38 to read as follows:

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[1] 15 U.S.C. 78a-78jj (1976 and Supp. v. 1981) as amended by Act of June 6, 1983, Pub. L. 78-38.

[2] 15 U.S.C. 77a-77aa (1976 and Supp. v. 1981), *as amended* by Business Regulatory Reform Act of 1982, Pub. L. 97-261, 19(d), 96 Stat. 1121 (1982).

[3] 17 CFR 230.251-230.264.

§ 239.28 Form S–18, optional form for the registration of securities to be sold to the public by the issuer for an aggregate cash price not to exceed $7,500,000.

* * * * *

II. Place of Filing

A. At the election of the registrant, all registration statements on Form S–18 and related papers filed with the Commission should be filed either at its principal office in Washington, DC or in the Regional Office for the region in which the registrant's principal business operations are conducted, or are proposed to be conducted; *Provided, however,* that if the registrant's principal business operations are conducted or are proposed to be conducted in the region covered by the Philadelphia Regional Office, the registration statement may be filed either with the Atlanta or the New York Regional Office. The Registration statement of any registrant having or proposing to have its principal business operations in Canada may file with the Regional Office nearest the place where the registrant's principal business operations are conducted, or are proposed to be conducted; *Provided, however,* that if the offering is to be made through a principal underwriter located in the United States, the registration statement may be filed with the Regional Office for the region in which such underwriter has its principal office. If the application of the previous sentence would require a filing with the Philadelphia Regional Office, such filing may be made with the Atlanta or the New York Regional Office.

* * * * *

By the Commission.

John Wheeler,

Secretary.

April 14, 1986.

[FR Doc. 86–8667 Filed 4–15–86; 9:28 am]

BILLING CODE 8010–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

[T.D. 86–76]

Customs Regulations Amendment Relating to the Customs Field Organization; Davenport, IA, and Rock Island and Moline, IL

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This notice changes the field organization of the Customs Service by establishing a new port of entry, on a 2-year trial basis, at Davenport, Iowa, and Rock Island and Moline, Illinois. This change is being made as part of Customs continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public.

EFFECTIVE DATE: May 16, 1986.

FOR FURTHER INFORMATION CONTACT: Richard Coleman, Office of Inspection and Control, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229 (202–566–8157).

SUPPLEMENTARY INFORMATION:

Background

Customs ports of entry are places (seaports, airports, or land border ports) designated by the Secretary of the Treasury where Customs officers or employees are assigned to accept entries of merchandise, clear passengers, collect duties, and enforce the various provisions of Customs and related laws.

The Quad-City Development Group filed an application with Customs requesting the establishment of a new Customs port of entry at Davenport, Iowa, and Rock Island and Moline, Illinois. A review of that application confirmed that the proposed port met the minimum Customs criteria for establishing ports of entry. These standards, published as T.D. 82–37 in the **Federal Register** on March 9, 1982 (47 FR 10137), list 2,500 consumption entries per year as the minimum, potential Customs workload for establishment of a port of entry. The Davenport-Rock Island-Moline port committed itself to 3738 consumption entries per year in its application, approximately 150 percent of the 2,500 minimum required.

A notice proposing the establishment of the Davenport-Rock Island-Moline port of entry was published in the **Federal Register** on October 17, 1985 (50 FR 42035). In that notice, Customs stated that it was not certain if the major importers in the proposed port area would choose to incur the extra expense of importing their merchandise by in-bond shipments to the proposed port area, rather than to continue the simple and less expensive clearance of the merchandise at the first port of arrival at the U.S.-Canadian border or elsewhere. Therefore, the notice indicated that the port, if established, would be done so on a 2-year trial basis. Customs believes that a 2-year period will provide sufficient time for the port to establish itself and attract business. At the end of the 2-year period, the practicality of maintaining a port of entry at Davenport-Rock Island-Moline will be reevaluated in light of the actual Customs workload. The notice solicited public comment on the matter.

By T.D. 86–14, published in the **Federal Register** on February 5, 1986 (51 FR 4559), the criteria used in evaluating applications to establish ports of entry and stations were revised. The revisions reflect the increased minimum value for commercial entries, delete references to informal entries, and require a commitment by any applicant that is attempting to qualify for port or station status by satisfying the cargo workload standard (2,500 consumption entries), to make optimal use of electronic data transfer capability to permit integration with Customs Automated Commercial System (ACS). Future port and station applicants must comply with T.D. 86–14, as well as with the applicable criteria in T.D. 82–37.

Discussion of Comments

All of the comments received in response to the notice favored establishment of the port. The commenters cited the benefits that such a port would provide to the regions' growing international trade business as well as the over-all positive effect on the area's economic and employment outlook.

After analysis of the comments and further review of the matter, Customs is establishing, on a 2-year trial basis, a port of entry at Davenport, Iowa, and Rock Island and Moline, Illinois.

Changes in the Customs Field Organization

The Secretary of the Treasury is advised by the Commissioner of Customs in matters affecting the establishment, abolishment, or other change in ports of entry. Customs ports of entry are established under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR 1949–1953 Comp., Ch. II), and pursuant to authority provided by Treasury Department Order No. 101–5 (47 FR 2449).

Customs has determined that it is in the public interest to establish, on a 2-year trial basis, a port of entry at Davenport, Iowa, and Rock Island and Moline, Illinois. The limits of the port of entry of Davenport-Rock Island-Moline are as follows:

In Rock Island County, Illinois, the Townships of Andalusia, Blackhawk, Rock Island, South Rock Island, Moline, South Moline, Coal Valley, Hampton, Zuma, and Coe; in Henry County, Illinois, the Townships of Colona, Hanna, and Edford; and in Scott County, Iowa, the Townships of Buffalo, Blue Grass, Hickory Grove, Sheridan, Lincoln, LeClaire, Pleasant Valley, Bettendorf, and that area of the City of

Davenport enclosed within the present limits of these townships.

List of Subjects in 19 CFR Part 101

Customs duties and inspection, Exports, Imports, Organization and functions (Government agencies).

PART 101—GENERAL PROVISIONS

To reflect this change, the list of Customs regions, districts, and ports of entry in § 101.3(b), Customs Regulations (19 CFR 101.3(b)), is amended by adding, "Davenport, Iowa, and Rock Island and Moline, Ill., including the territory described in T.D. 86–76." directly below, "CHICAGO, ILL., including territory described in T.D. 71–121." in the column headed, "Ports of entry" in the Chicago, Illinois district.

Executive Order 12291

Because this will not result in a "major rule" as defined in section 1(b) of E.O. 12291, the regulatory impact analysis and review prescribed by section 3 of that E.O. is not required.

Regulatory Flexibility Act

Pursuant to the provisions of section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*), it is certified that the regulations set forth in this document will not have a significant economic impact on a substantial number of small entities. Accordingly, the regulation is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Customs routinely establishes and expands Customs ports of entry throughout the U.S. to accommodate the volume of Customs-related activity in various parts of the country. Although this amendment may have a limited effect upon some small entities in the area affected, it is not expected to be significant because establishing and expanding port limits at Customs ports of entry in other areas has not had a significant economic impact upon a substantial number of small entities to the extent contemplated by the Act. Nor is it expected to impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Drafting Information

The principal author of this document was John E. Doyle, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Approved: April 3, 1986.

Francis A. Keating, II,

Assistant Secretary of the Treasury.

William von Raab,

Commissioner of Customs.

[FR Doc. 86–8513 Filed 4–15–86; 8:45 am]

BILLING CODE 4820–02–M

RAILROAD RETIREMENT BOARD

20 CFR Part 295

Railroad Retirement Annuities

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: The Railroad Retirement Board adds a new Part 295 to Chapter II of the Board's regulations implementing section 419 of the Railroad Retirement Solvency Act of 1983, which amended section 14 of the Railroad Retirement Act to provide that, with respect to annuity amounts payable for months beginning with September 1983, the Board must comply with a court decree of divorce, annulment or legal separation, or with the terms of any court-approved property settlement incident to any such decree, which characterizes specified benefits as property subject to distribution.

EFFECTIVE DATE: April 16, 1986.

FOR FURTHER INFORMATION CONTACT: Karl Blank, General Attorney, Railroad Retirement Board, Bureau of Law, 844 Rush Street, Chicago, Illinois 60611, (312) 751–4941 (FTS 387–4941).

SUPPLEMENTARY INFORMATION: Retirement and survivor annuities under the Railroad Retirement Act are composed of independently calculated segments known as tiers. The tier I amount combines both railroad and non-railroad earnings, and is calculated using social security benefit formulas. The tier II amount is calculated under different formulas, generally representing railroad earnings alone. In addition, certain annuitants receive a dual benefit component based on non-railroad wages earned through December 1974, or in some cases through an earlier date. Finally, carrer railroad employees may receive a supplemental annuity ranging from $23 to $43 per month.

In 1979, the United States Supreme Court held that section 14 of the Railroad Retirement Act, which generally provided that no benefit under the Act may be assigned or subjected to other legal process, prohibited a court from awarding one spouse a community interest in any benefits, whether present or expected in the future, to which the other spouse may become entitled under the Railroad Retirement Act. *Hisquierdo* v. *Hisquierdo*, 439 U.S. 572.

Section 419 of Pub. L. 98–76 (97 Stat. 411), enacted on August 12, 1983, amends section 14 of the Act by adding new section 14(b)(2), which provides that non-tier I annuity components are subject to property divisions set forth in state court divorce decrees and court-approved property settlements, effective with respect to benefits payable for months beginning in September 1983. Pursuant to section 14(b)(2), the Board will now honor a final decree of divorce, annulment or legal separation which is issued in accordance with the laws of the jurisdiction of that court and which provides for the division of benefits under the Act, to the extent that: (1) The decree is intended to obligate the Board to make direct payments to the spouse or former spouse, and (2) the employee is entitled to an annuity or annuity component which is subject to division under that section (*i.e.*, a tier II, dual benefit, or supplemental annuity). Similarly, the Board will honor a court-approved property settlement incident to such a decree. As the amenedment to section 14 of the Act specifically exempts that tier I annuity component from division, *Hisquierdo* remains applicable to this component.

The Board published this rule as a proposed rule on September 3, 1985, and invited public comment (50 FR 35568–35571).

The Board received one comment on the proposed regulation. The commenter expressed concern that the definition of "court" found in proposed § 295.2 did not appear to include Indian (native American) tribal courts. The commenter believed that as proposed, the definition could have the effect of undermining the jurisdiction of these courts. To address this concern, and to clarify that the Board will honor a court decree or property settlement issued in connection with a proper proceeding in such a tribunal, § 295.2 has been amended to include all Indian tribal courts subject to chapter 15 of title 25 of the United States Code, pertaining to the Constitutional rights of Indians.

The Board has determined that this is not a major rule under Executive Order 12291. Therefore, no regulatory analysis is required. The information collections associated with this rule have been approved by the Office of Management and Budget.

List of Subjects in 20 CFR Part 295

Railroad employees, Railroad retirement.

Title 20 CFR Chapter II is revised as follows:

1. Title 20 CFR, Chapter II is amended by adding a new Part 295, reading as follows:

PART 295—PAYMENTS PURSUANT TO COURT DECREE OR COURT-APPROVED PROPERTY SETTLEMENT

Sec.

Authority: 45 U.S.C. 231f; 45 U.S.C. 231m.

§ 295.1 Introduction.

(a) *Purpose.* This part implements section 419 of Pub. L. 98–76 (97 Stat. 438), which amended section 14 of the Railroad Retirement Act to provide that, with respect to annuity amounts payable for months beginning with September 1983, the Board must comply with a court decree of divorce, annulment or legal separation, or with the terms of any court-approved property settlement incident to any such decree, which characterizes specified benefits as property subject to distribution. Garnishment of benefits for alimony or child support is dealt with in Part 350 of this chapter.

(b) *Benefits subject to this part.* Only the following benefits or portions of benefits under the Railroad Retirement Act are subject to this part:

(1) Employee annuity net tier II benefit component as provided under section 3(b) of the Railroad Retirement Act;

(2) Employee annuity vested dual benefit component as provided under section 3(h) of the Act;

(3) Employee annuity net proportionate share of the annuity increases as provided under section 3(f) of the Act; and

(4) Supplemental annuities as provided under section 2(b) of the Act.

§ 295.2 Definitions.

As used in this part—

Act means the Railroad Retirement Act.

Court means any court of competent jurisdiction of any state, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands; any court of the United States (as defined in section 451 of title 28 of the United States Code) having competent jurisdiction; any Indian court as defined by section 1301 of title 25 of the United States Code; or any court of competent jurisdiction of a foreign country with which the United States has an agreement requiring the United States to honor any court order of such country.

Court Decree means a final decree of divorce, dissolution, annulment, or legal separation issued by a court (including a final decree or order modifying the terms of a previously issued decree of divorce, dissolution, annulment, or legal separation), which is issued in accordance with the laws of the jurisdiction of that court and which provides for the division of property.

Division of Property means any transfer of property or its value by an individual to his or her spouse or former spouse in compliance with any community property settlement, equitable distribution of property, or other distribution of property between spouses or former spouses, which is intended as a present and complete settlement of the property rights of the parties.

Employee means an individual who is or was formerly an employee as defined by Part 203 of this chapter.

Final Decree means a decree from which no appeal may be taken or from which no appeal has been taken within the time allowed for taking such appeals under the laws applicable to such appeals, or a decree from which timely appeal has been taken and such appeal has been finally decided under the laws applicable to such appeals.

Property Settlement means an agreement between the parties to a suit for divorce, dissolution, annulment or legal separation in which they expressly agree to a division of their property rights, and which is incorporated in the final decree; is filed with the court in connection with a suit for divorce, dissolution, annulment or legal separation; or is otherwise presented to the court in a suit in accordance with the law of the jurisdiction. An agreement assigning or transferring property between spouses is not within the purview of this part unless it is subsequently approved by a court in connection with a suit for divorce, dissolution, annulment or legal separation.

Spouse or Former Spouse means the husband or wife, or former husband or wife, respectively, of an employee who, on or before the date of a court order, was married to the employee.

§ 295.3 Documentation and service.

(a) *Court decree or property settlement.* The Board will honor a court decree or a property settlement which meets the following criteria:

(1) The court decree or property settlement must provide that the spouse or former spouse is awarded payments from railroad retirement annuities payable to the railroad employee.

(2) The court decree or property settlement must specify an amount to be paid to the spouse or former spouse.

(3) The court decree or property settlement must obligate the Board to make payments directly to the spouse or former spouse.

(4) The court decree or property settlement must clearly identify both the employee and the spouse or former spouse to whom payments are to be made.

(5) The court decree or property settlement submitted to the Board must be a recently certified copy of the document filed with the court. Where the award is made in an order modifying and earlier court decree, copies of both the original decree and the subsequent order must be furnished. In the case of a court-approved property settlement, both the settlement and any decree or order incorporating or approving the settlement must be provided.

(b) *Date of decree.* While only benefits payable for months after August, 1983 are subject to this part, the date the decree is entered or the property settlement is approved may precede September 1, 1983. A subsequent modification of a decree which was entered or a property settlement which was approved prior to September 1, 1983 must be in accord which the law of the jurisdiction in which the original decree was entered or the property settlement was approved.

(c) *Supporting documentation.* The spouse or former spouse shall submit such additional documentation as the Board shall require, including but not limited to:

(1) Identifying information concerning the employee such as social security number, railroad retirement claim number, full name, date of birth, and current address.

(2) Identifying information concerning the spouse or former spouse such as social security number, full name, and current address.

(3) A statement that—

(i) No condition of the law of the jurisdiction in which the decree was entered or the property settlement approved and no condition contained in the decree or agreement which requires termination of payment has occurred;

(ii) If any such condition does occur, the spouse or former spouse will immediately notify the Board; and

(iii) The spouse or former spouse agrees to repay any erroneous payment

arising from occurrence of any such condition.

(d) *Delivery.* Any court decree or property settlement must be delivered by certified or registered mail, return receipt requested, or by personal service, to the Deputy General Counsel of the Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611. Where the decree or property settlement is delivered to any other office of the Board, it shall not be considered delivered until the date it is received by the Deputy General Counsel. Where the decree or property settlement was furnished to any office of the Board prior to September 1, 1983, delivery is not accomplished unitl a copy is received by the Deputy General Counsel subsequent to August 30, 1983.

(Approved by the Office of Management and Budget under Control No. 3220–0042)

§ 295.4 Review of documentation.

(a) *Regularity.* The Deputy General Counsel or his or her designee shall review the court decree or property settlement to determine that it complies with both the law of the jurisdiction, and with Federal law and these regulations.

(b) *Amount.* Ambiguities in the amount to be paid the spouse or former spouse shall be resolved in accord with expressed indications of the court's intent, except that:

(1) Where the amount is expressed in terms of a dollar figure:

(i) If the figure exceeds the total benefits which may be allocated under this part, the excess will be disregarded, provided that any future increase in the benefits subject to this part will be prospectively applied to the excess effective with the date of the benefit increase.

(ii) If the figure is less than the total benefits which may be allocated under this part, only the amount specified will be paid.

(2) Where the amount is expressed as a fraction, percentage, or ratio:

(i) The amount specified shall be applied only against benefits subject to this part, irrespective of the wording of the decree or property settlement.

(ii) When the amount is expressed in terms of a fraction or ratio referring to the length of railroad service, years shall be converted into the equivalent months. If the length of railroad service specified in the decreee or property settlement exceeds the number of creditable service months used by the Board to determine the employee's years of service for calculating an annuity, the actual number used by the Board shall bs substituted. If the decree understates the actual number of creditable railroad service months, the number of years or months set forth in the decree or property settlement will be used.

(3) An amount may be expressed in any other fashion only to the extent to which it may be readily ascertained from records maintained by the Board in the regular course of administration of the Act.

(c) *Notification.* The Deputy General Counsel or his or her designee shall make reasonable effort to notify the spouse or former spouse and the employee of a determination that the decree or property settlement does or does not qualify as a decree or property settlement which will be honored pursuant to this part. This notice will be mailed to the most recent address of each party or representative of each party as shown in the Board's records. A copy of the decree or property settlement will be provided to the employee with this notice. The notice must state:

(1) The rationale for a determination that the decree or property settlement does not comply with this part; or

(2) The dollar amount or proportion of benefits which will be paid to the spouse or former spouse.

(d) *Withholding after notification.*

(1) Where the Deputy General Counsel or his or her designee has notified the spouse or former spouse that a decree or property settlement will be honored under this part, but where the employee is not then entitled to any benefits subject to division under this part, the Associate Executive Director for Retirement Claims will notate the Board's records to reflect both the amount of benefits awarded to the spouse or former spouse pursuant to the decree or property settlement and his or her current address. Where the employee is currently entitled to benefits subject to this part, and the spouse or former spouse has furnished all additional documentation required, the Associate Executive Director for Retirement Claims will take action to withhold from the employee's monthly benefit the amount stated in the Deputy General Counsel's notice under paragraph (c) of this section that the Board will honor the decree or property settlement.

(2) Where the employee was not entitled to benefits subject to this part at the time of the notice by the Deputy General Counsel that the Board will honor the decree or property settlement, but the employee becomes so entitled at a later time, the Board will attempt to contact the spouse or former spouse at the most recent address shown in the Board's records. The notice will inform the spouse or former spouse that an annuity has been awarded, that the spouse or former spouse may, upon submission of all required documentation, receive a portion of the annuity, and that the spouse or former spouse should contact the Board within three months from the date of the notice. The Associate Executive Director for Retirement Claims will initiate withholding of the amount awarded to the spouse or former spouse from the employee's monthly benefit, and will continue to withhold this amount for three successive months; provided, that an initial annuity payment for a retroactive period shall count as one monthly benefit payment. If after the third month's payment has been withheld the Board has received no response from the spouse or former spouse, the amount withheld from the employee's benefit shall be paid to the employee, and the Board take no further action regarding the decree until the spouse or former spouse contacts the board.

(3) Benefits withheld from the employee may not be paid to a spouse or former spouse until the spouse or former spouse has furnished all supporting documentation required pursuant to § 295.3 above. The Board shall allow a reasonable time, not to exceed three months from the date of the initial response from the spouse or former spouse, for the submission of all required documentation. If the documentation is not furnished within the time allowed, payment of the amounts withheld shall be made to the employee.

(4) Any payments made to the employee subsequent to the three-month notice period specified in paragraphs (d)(2) and (d)(3) above, and prior to receipt of a response or required documentation from the spouse or former spouse, shall be considered properly paid to the employee and the board shall have no further liability to the spouse or former spouse with respect to such amounts.

§ 295.5 Limitations.

(a) *Employee benefit entitlement.* Payments will be made to a spouse or former spouse under this part only if the employee has been awarded an annuity under the Railroad Retirement Act. Payments to a spouse or former spouse shall be made only for months and from such amounts with respect to which an annuity is payable to the employee, and shall be suspended or terminated for any month in which the annuity of the employee is suspended or terminated. No arrearage accrues to the spouse or former spouse with respect to any month for which the annuity of the

employee is suspended or reduced as required under the Act.

(b) *Minimum amount.* The amount of payment to a spouse or former spouse may not be less than one dollar per month.

(c) *Prospective payment.* Payment to a spouse or former spouse may accrue no earlier than the later of the date of delivery, pursuant to § 295.3 of this part, of a court decree or property settlement which will be honored under this part, or from October 1, 1983. The amount to be paid the spouse or former spouse under this part will not be increased to satisfy an arrearage due from the employee.

(d) *Payees.* Payment of an amount awarded to a spouse or former spouse by a court decree or property settlement will be made only to the spouse or former spouse except where the Board determines that another person shall be recognized to act in behalf of the spouse or former spouse as provided by Part 266 of this chapter, relating to incompetence. Payment will not be made to the heirs, legatees, creditors or assignees of a spouse or former spouse, except that where an amount is payable to a spouse or former spouse pursuant to this part, but is unpaid at the death of that spouse or former spouse, the unpaid amount may be paid in accordance with § 234.1 of this chapter, pertaining to employee annuities unpaid at death.

(e) *Net amount of benefits.* Notwithstanding the terms of the decree or property settlement, the amount of benefits payable to the employee which are subject to this part shall not include:

(1) Amounts deducted to satisfy a debt due the United States, including any amount withheld to recover erroneous payments under the Railroad Retirement Act, Railroad Unemployment Insurance Act, or any other acts administered by the Board, and the amount of any Medicare Part B premium; and

(2) Benefits which are waived pursuant to § 262.6 of this chapter.

(f) *Termination.* Payments to a spouse or former spouse terminate on the earlier of—

(1) The date on which the employee annuity terminates;

(2) The date required by the court decree or property settlement or the law of the jurisdiction in which the court decree or property settlement was entered; or

(3) The last day of the month before the month in which the spouse or former spouse dies.

(g) *Priority.* In the event that the Deputy General Counsel receives more than one decree or property settlement from competing parties, benefits shall be available to satisfy the decrees or property settlements on a first come, first served basis governed by the date of receipt by the Deputy General Counsel. Conflicting decrees or property settlements received on the same day shall be accorded priority based upon the earliest date upon which the decree or property settlement became final.

§ 295.6 Disclosure of information.

(a) *Immunity from process.* The provision for the payment of benefits under this part pursuant to a court decree or property settlement shall not be construed to be a waiver of the sovereign immunity of the Railroad Retirement Board as an agency of the United States Government. The Board may not be joined in a suit for divorce, dissolution, annulment or legal separation, or otherwise subjected to the jurisdiction of any state court. Subpoenas, notices of joinder, interrogatories, orders for production of documents, and like state process issued in connection with a suit for divorce, dissolution, annulment or legal separation will be treated as requests for disclosure of information under this section.

(b) *Request for information.* A response to request for information to be used in connection with a suit for divorce, dissolution, annulment or legal separation may be made by the Deputy General Counsel or his or her designee, by the Associate Executive Director for Retirement Claims, or by a contact representative of the Board's field service.

(c) *Information available.* In the absence of signed authorization from the employee, a spouse or former spouse who is a party to a suit for divorce, dissolution, annulment or legal separation, or his or her legal representative, may be furnished the amount of benefits the employee is currently receiving. If the employee is not currently entitled to benefits, the Board may furnish the amount of any estimated benefit to which the employee would be entitled if he or she were of retirement age at the time of the request, as reflected by the records of the Board, to the extent it is possible for the Board to compute such amount. The Board shall not be required to furnish the present value of future benefits, the amount of benefits payable at a future date, or any other computations based on statistics or procedures not maintained by the Board in the normal course of administration of the Act.

(d) *Certification.* A letter or statement prepared by a Board official in the regular course of duty from the official records of the Board, which refers to the authority of this section and bears his or her signature, shall be a sufficient response for purposes of discharging the responsibilities of the Board under this section. A certification in accordance with this section may be considered a public document for purposes of admissibility as evidence of present or potential benefits under the Act for use in a divorce, dissolution, annulment or legal separation proceeding.

§ 295.7 Miscellaneous.

(a) *Disbursement cycle.* In honoring and complying with a court decree or property settlement, the Board shall not be required to disrupt its normal disbursement cycle, despite any special schedule of accrual or payment of amounts due the spouse or former spouse set forth in the decree or settlement. A decree or settlement received too late to be honored during the disbursement cycle in which it was received shall be honored with respect to the next payment due the employee.

(b) *Liability for payments.* Neither the Board nor any of its employees shall be liable with respect to any payment made to any individual from moneys due from or payable by the Board pursuant to a court decree or property settlement regular on its face, if such payment is made in accordance with this part.

(c) *Liability for disclosures.* No employee of the Board whose duties include responding to requirements contained in this part shall be subject under any law to any disciplinary action or civil or criminal liability or penalty for, or on account of, any disclosure of information made by such employee in connection with the performance of the employee's duties in making such response.

(d) *Applicable law.* For purposes of a proceeding under this part, the Board will apply the law of the jurisdiction in which the court decree or property settlement was issued unless it comes to the attention of the Board that the state of issuance has no contact with the plaintiff or defendant in the action; in which case, the Board may, in its sole discretion, apply the law of any jurisdiction with significant interest in the matter.

(e) *Erroneous payments.* If a spouse or former spouse receives a payment pursuant to this part from an employee's benefit, and the Board later determines that the employee was not entitled to all or part of those benefits for any month, the amount of the employee's benefits which was paid to the spouse or former spouse in excess of the amount which was actually payable shall be an erroneous payment to the spouse or

former spouse within the meaning of section 10 of the Railroad Retirement Act.

Dated: April 8, 1986.

By Authority of the Board:
For the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 86-8408 Filed 4-15-86; 8:45 am]

BILLING CODE 7905-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 42, 43, 58, 280, 571, 850, 880, 881, 882, 883, and 941

[Docket No. R-86-1273; FR-2205]

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; Technical Amendments, Correction

AGENCY: Office of the Secretary, HUD.

ACTION: Technical rule, correction.

SUMMARY: This document corrects a technical rule published in the **Federal Register** on Thursday, February 27, 1986 (51 FR 6911), that conformed cross-references in the Department's regulations to the new sections in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act). This action is necessary to correct a section contained in the rule to reflect addition of an Office of Management and Budget approved control number.

FOR FURTHER INFORMATION CONTACT: Melvin Geffner, Deputy Director, Relocation and Real Estate Division, Room 7174, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone, (202) 755-6336. (This is not a toll-free number.)

Accordingly, the following correction is being made in FR Doc. 86-4216 appearing on page 6911 in the issue of February 27, 1986:

On page 6912, third column, item 2, "section 42.20" is corrected to read "section 42.10".

Dated: April 11, 1986.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 86-8531 Filed 4-15-86; 8:45 am]

BILLING CODE 4210-32-M

DEPARTMENT OF JUSTICE

28 CFR Part 0

[Order No. 1130-86]

Delegations of Authority

AGENCY: Department of Justice.

ACTION: Final Rule.

SUMMARY: The Land and Natural Resources Division seeks to update the Code of Federal Regulations to include directives issued within the past five years delegating authority from the Assistant Attorney General for the Land and Natural Resources Division to the Deputy Assistant Attorneys General, Section Chiefs and United States Attorneys. These directives delegate authority pursuant to the authority delegated to the Assistant Attorney General by the Attorney General at 28 CFR Chapter 1, Part 0, Subpart M and Subpart Y, §§ 0.160, 0.162, 0.164, 0.168.

EFFECTIVE DATE: The amendments to Directive No. 7-76 (3-83, 3-86) became effective February 3, 1983, and January 13, 1986. Directive 1-86 became effective January 9, 1986. Directive No. 6-85 became effective February 4, 1985. Directive 6-83 became effective April 12, 1983. Directive 6-81 became effective April 27, 1981.

FOR FURTHER INFORMATION CONTACT: Anne H. Shields, Acting Chief, Policy, Legislation and Special Litigation Section, Land and Natural Resources Division, Room 2615, 9th and Pennsylvania Avenue, Washington, DC 20530, (202)-633-2714.

SUPPLEMENTARY INFORMATION: The directives delegate various types of authority from the Assistant Attorney General for the Land and Natural Resources Division to the Deputy Assistant Attorneys General and Section Chiefs of that Division and to United States Attorneys. The amendments to Directive No. 7-76 increase the authority of the Deputy Assistant Attorneys General, Section Chiefs and United States Attorneys to accept offers in compromise of monetary claims. Directive 1-86 delegates authority to deny or grant Freedom of Information Act requests or Privacy Act requests to the Deputy Assistant Attorney General responsible for supervising the Policy, Legislation and Special Litigation Section. Directive 6-85 delegates authority to the Chief of the Land Acquisition Section to stipulate or agree in behalf of the United States to exclude any property that may have been or may be taken on behalf of the United States by a declaration of taking. Directive 6-83 delegates authority to the Chief of the Wildlife and Marine Resources Section to rule upon petitions for remission or mitigation of civil or criminal forfeitures filed with the Attorney General pursuant to various wildlife and fisheries statutes. Directive 6-81 establishes the Division's policy of notice to appropriate state officials of action against the states. This order is not a rule within the meaning of Executive Order 12291, section 1(a) because it is a regulation related to agency management under section (1)(a)(3), and therefore, exempted under 1(a). This order is not covered by the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because it will not have an undue impact on small businesses.

List of Subjects in 28 CFR Part 0

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

By virtue of the authority invested in me by 5 U.S.C. 301 and 28 U.S.C. 509, 510, the appendix to subpart Y of Part 0 of Title 28 of the Code of Federal Regulations is amended as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Appendix to Subpart Y—[amended]

1. The authority citation for Part 0 of Chapter 1 of title 28 of the Code of Federal Regulations continues to read as follows:

Authority: 5 U.S.C. 301, 2303; 8 U.S.C. 1103; 15 U.S.C. 644(k); 18 U.S.C. 4201 *et seq.*, 6003(b); 21 U.S.C. 871, 881(d), 904; 22 U.S.C. 263a, 1621-1645o, 1622 note; 28 U.S.C. 509, 510, 515, 524, 542, 543, 552, 552a, 569; 31 U.S.C. 200(c); 50 U.S.C. app. 2001-2017p; Pub. L. No. 91-513, sec. 501; EO 11919; EO 11267; EO 11300.

2. In the Section headed **Land and Natural Resources Division**, Directive 7-76, effective October 29, 1976, is amended as follows:

a. In Section I, paragraph A.1. (Delegation to United States Attorneys), the figure "$100,000" is removed and the figure "$200,000" is inserted in the seven places the figure appears.

b. In Section II, paragraph A (Delegation to Deputy Assistant Attorneys General), the figure "$250,000" is removed and the figure "$500,000" is inserted in the two places the figure appears.

c. In Section II, paragraph B (Delegation to Section Chiefs), the figure "$200,000" is removed and the figure "$300,000" is inserted in the two places the figure appears.

d. In Section II, paragraph C (Delegations to United States Attorneys), the figure "$100,000" is removed and the figure

"$200,000" is inserted in the one place the figure appears.

3. Immediately after Directive No. 7–76 in the section headed **Land and Natural Resources Division**, a new Directive 1–86 is added to read as follows:

[Directive 1–86]

Pursuant to the authority vested in me under 28 CFR § 16.4(b) and § 16.42(b), I delegate to the Deputy Assistant Attorney General who supervises the Policy, Legislation and Special Litigation Section, or to whoever is acting in that capacity, the authority to grant to deny any request for a record of the Land and Natural Resources Division made pursuant to the Freedom of Information Act, 5 U.S.C. 552, or the Privacy Act of 1974, 5 U.S.C. 552a.

Effective Date: January 9, 1986.

4. Immediately after Directive No. 1–86 in the section headed **Land and Natural Resources Division**, a new Directive 6–85 is added to read as follows:

[Directive 6–85]

Delegation of Authority to Chief, Land Acquisition Section, to Stipulate or Agree in Behalf of the United States to Exclude Property Taken on Behalf of the United States by Declaration of Taking or Otherwise

Section 258f of the Declaration of Taking Act, 40 U.S.C. 258a, *et seq.*, contains the following provision:

In any condemnation proceeding instituted by or on behalf of the United States, the Attorney General is authorized to stipulate or agree in behalf of the United States to exclude any property or any part thereof, or any interest therein, that may have been, or may be, taken by or on behalf of the United States by declaration of taking or otherwise.

The foregoing authority has been delegated to the Assistant Attorney General, Land and Natural Resources Division, by the Attorney General, Chapter I, Part O, Subpart M, §§ 0.65 and 0.160(a)(2), Title 28, Code of Federal Regulations.

In view of the frequency of agency requests that this office stipulate or agree to exclude property or parts of property taken by declaration of taking or otherwise, and in the interest of efficient administration of the duties and responsibilities of this office, I hereby make the following limited delegation of authority to stipulate or agree to such exclusions (revestments).

The Chief, Land Acquisition Section, is authorized to stipulate or agree in behalf of the United States to exclude (revest) any property or any part thereof, or any interest therein, that may have been, or may be taken by or on behalf of the United States by declaration of taking or otherwise, when:

1. The exclusion (revestment) has been requested or approved in writing by a duly authorized officer of the agency for which the property was taken; and

2. In the case of a partial exclusion (revestment) in connection with an overall settlement of the case, the combined amount of the monetary payment of compensation and the government's appraised value of the land to be excluded (revested) does not exceed the monetary limitation on the Section Chief's settlement authority; or

3. In the case of an exclusion (revestment) that is not part of an overall settlement of the case, the government's appraised value of the land to be excluded (revested) together with any payment of compensation for possession and/or litigation expenses do not exceed the monetary limitations of the Section Chief's settlement authority.

Provided that the delegation of settlement authority shall not extend to any revestment which raises precedential questions or policy issues. In such instances, the decision on whether to stipulate or agree to exclusions of property shall remain with the Assistant Attorney General of the Land and Natural Resources Division.

Effective Date: February 4, 1985.

5. Immediately after Directive No. 6–85 in the section headed **Land and Natural Resources Division**, a new Directive 6–83 is added to read as follows:

[Directive 6–83]

By virtue of the authority vested in me by Part 0 of Title 28, Code of Federal Regulations § 0.65, the Section Chief of the Wildlife and Marine Resources Section is now authorized to rule upon petitions for remission or mitigation of civil or criminal forfeitures filed with the Attorney General pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531–1543); the Lacey Act and related provisions (18 U.S.C. 41–44, 47); the Airborne Hunting Act (16 U.S.C. 742j–1); the Migratory Bird Act (16 U.S.C. 701, *et seq.*); the Bold and Golden Eagle Protection Act (16 U.S.C. 668–668d); the Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*); the National Wildlife Refuge System Administration Act (16 U.S.C. 668dd, 668ee); the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*); the Tuna Conventions Act (16 U.S.C. 951 *et seq.*); the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*,) the Sockeye Salmon or Pink Salmon Fishing Act (16 U.S.C. 776 *et seq.*); the Protection of Sea Otters on the High Seas Act (16 U.S.C. 1171 *et seq.*); the Northern Pacific Halibut Act (16 U.S.C. 772 *et seq.*); and the North Pacific Fisheries Act (16 U.S.C. 1021 *et. seq.*).

The Section Chief of the Wildlife and Marine Resources Section shall base his decision upon a review of all the pertinent facts including the petition for remission or mitigation, the report and recommendation of the appropriate United States Attorney, the report of the seizing law enforcement agency, and the report prepared within the Section.

Following the adverse decision a petitioner may request the Assistant Attorney General for the Land and Natural Resources Division to review the decision of the Section Chief.

The above directive shall be effective immediately and shall be the interim procedure in effect until promulgation of regulations by the Department of Justice which address the remission and mitigation process in the Land and Natural Resources Division.

Effective Date: April 12, 1983.

6. Immediately after Directive No. 6–83 in the section headed **Land and Natural Resources Division**, a new Directive 6–81 is added to read as follows:

[Directive 6–81]

This directive establishes the Division's policy of notice to appropriate state officials of action against states. The Chief of each section in the Land and Natural Resources Division shall:

1. Insure that each attorney in his or her respective section reads, becomes familiar with, and complies with this directive.

2. In each suit or claim brought against state government, agencies, and entities;

(a) Satisfy the Deputy Assistant Attorney General to whom the section reports of compliance with this directive,

(b) Before such suit or claim is brought, advise the Attorney General and governor of any affected state as to the nature of the contemplated action and the terms of the remedy sought and

(c) Place a memorandum in the file of the case of matter, indicating compliance with this directive.

Such prior notice may:

(1) Result in settlement of the action in advance of its filing on terms acceptable to the United States,

(2) Permit the state to bring to our attention facts or issues that may change our outlook on the action, or

(3) Permit the State Attorney General and the Governor to respond knowledgeably to inquires from local officials and the media when the action is commenced.

Because the actual situation covered by this directive may vary from section to section, no single detailed procedure can be established but common sense should prevail. To that end, the state through its Attorney General and Governor should get fair warning and an opportunity to resolve the litigation. The notice should be given sufficiently in advance of the contemplated action to allow state officials to respond.

Where a Section Chief believes he has good cause to seek an exception from the terms of this directive he should discuss the matter with the Deputy Assistant Attorney General to whom he or she reports.

Effective Date: April 27, 1981.

Dated: April 3, 1986.

Edwin Meese III,

Attorney General.

[FR. Doc. 86–8403 Filed 4–15–86; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS BELKNAP (CG 26) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS without interfering with its special function as a naval cruiser. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: March 31, 1986.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, U.S. Navy Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332–2400, Telephone number: (202) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS BELKNAP (CG 26) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Annex I, section 3(a), pertaining to the location of the forward masthead light in the forward quarter of the ship, and Annex I, section 3(a), pertaining to the horizontal distance between the forward and aft masthead lights. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special functions and purposes of the vessel. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended].

1. Table Five of § 706.2 is amended by adding the following vessel:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained
USS BELKNAP	CC 26						×	×	30

Dated: March 31, 1986.

John Lehman,

Secretary of the Navy.

[FR Doc. 86–8445 Filed 4–15–86; 8:45 am]

BILLING CODE 3810–AE–M

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS HORNE (CG 30) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS without interfering with its special function as a naval cruiser. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: March 31, 1986.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, U.S. Navy Admiralty Counsel, Office of the Judge Advocate General Navy Department, 200 Stovall Street, Alexandria, VA 22332–2400, Telephone number: (202) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS HORNE (CG 30) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Annex I, section 3(a), pertaining to the location of the forward masthead light is the forward quarter of the ship, and Annex I, section 3(a), pertaining to the horizontal distance between the forward and aft masthead lights. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special functions and purposes of the vessel. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed

herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. § 1605.

§ 706.2 [Amended].

1. Table Five of § 706.2 is amended by adding the following vessel:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained
USS HORNE	CG 30						×	×	30

Dated: March 31, 1986.

John Lehman,

Secretary of the Navy.

[FR Doc. 86-8446 Filed 4-15-86; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS SURIBACHI (AE 21) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a combat stores vessel. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: March 31, 1986.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400. Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS SURIBACHI (AE 21) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 3(a), pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with its special functions as a combat stores vessel. The Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine Safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table Five of § 706.2 is amended by adding the following vessel:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained
USS SURIBACHI	(AE 21)							×	87

Dated: March 31, 1986.
John Lehman,
Secretary of the Navy.
[FR Doc. 86-8447 Filed 4-15-86; 8:45 am]
BILLING CODE 3810-AE-M

VETERANS ADMINISTRATION

DEPARTMENT OF DEFENSE

38 CFR Part 21

Veterans Education; Waiver of Right To Receive Benefits Under the G.I. Bill

AGENCY: Veterans Administration and Department of Defense.
ACTION: Final regulations.

SUMMARY: These regulations implement those provisions of the Veterans' Compensation and Program Improvements Amendments of 1984 which affect VEAP (the Post-Vietnam Era Veterans' Educational Assistance Program). The most far-reaching provision permits some veterans who are eligible for benefits under the G.I. Bill to waive their eligibility and elect to receive benefits under VEAP instead. These regulations will acquaint the public with the way in which the VA (Veterans Administration) intends to implement these provisions of law.

EFFECTIVE DATE: March 2, 1984.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veteran Benefits, Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420, (202) 389-2092.

SUPPLEMENTARY INFORMATION: On pages 37700 and 37701 of the **Federal Register** of September 17, 1985, there was published a notice of intent to amend Part 21 of implement portions of the Veterans' Compensation and Program Improvement Amendments of 1984. Interested people were given 30 days to submit comments, suggestions or objections to the proposal.

The VA and the Department of Defense received no comments, suggestions or objections. Accordingly, the VA and the Department of Defense are making the proposal final without change.

The VA and the Department of Defense are making these regulations retroactively effective on March 2, 1984. Retroactive effect is justified for the following reasons. These regulations are liberalizing since they relieve several restrictions. These changes are interpretive rules which construe the meaning of some of the provisions of Pub. L. 98-223.

Moreover, the VA and the Department of Defense find that good cause exists for making these regulations, like the sections of the statute they implement, retroactively effective on March 2, 1984. To achieve the maximum benefit of this legislation for the the affected individuals it is necessary to implement these provisions of law as soon as possible. A delayed effective date for these regulations would be contrary to statutory design; would complicate administration of these provisions of law; and might result in denial of a benefit to a veteran who is entitled by law to it.

The VA and the Department of Defense have determined that these regulations are not major rules as that term is defined by E.O. 12291, entitled. Federal Regulation. The regulations will not cause a major increase in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans' Affairs and the Secretary of Defense certify that the regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b) these regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because these changes affect only individual benefit recipients. Furthermore, any impact will be the result of the underlying law. It will result from the regulations themselves.

The Catalog of Federal Domestic Assistance number for the program affected by this regulation is 64.120.

List of Subjects in 38 CFR Part 21

Civil rights, Claims Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: February 6, 1986.
Everett Alvarez, Jr.,
Acting Administrator.
Approved: March 14, 1986.
Lieutenant General E.A. Chavarrie,
Deputy Assistant Secretary of Defense.

PART 21—[AMENDED]

1. Section 21.5022 is revised to read as follows:

§ 21.5022 Eligibility under more than one program.

(a) *Concurrent benefits under more than one program.* An individual eligible to receive educational assistance under 30 U.S.C. ch. 32 and the provisions of the § 21.5000 series of VA regulations is not eligible to receive educational assistance allowance under 38 U.S.C. ch. 34. An individual may not receive educational assistance under 38 U.S.C. ch. 32 concurrently with benefits under any of the following provisions of law for the same program:

(1) 38 U.S.C. ch. 31,
(2) 38 U.S.C. ch. 35,
(3) 10 U.S.C. ch. 107,
(4) Section 903 of the Department of Defense Authorization Act, 1981, or
(5) The Hostage Relief Act of 1980.

(38 U.S.C. 1781(b); Pub. L. 98-223)

(b) *Total eligibility under more than open program.* (1) No one may receive a combination of educational assistance benefits under 38 U.S.C. ch. 32 and any of the following provisions of law for more than 48 months (or part-time equivalent):

(i) 38 U.S.C. ch. 35,
(ii) 10 U.S.C. ch. 107,
(iii) Section 903 of the Department of Defense Authorization Act, 1981, or
(iv) The Hostage Relief Act of 1980.

(2) No one may receive assistance under 38 U.S.C. ch. 31 in combination with assistance under 38 U.S.C. ch. 32 in excess of 48 months (or the part-time equivalent) unless the VA determines that additional months of benefits under 38 U.S.C. ch. 31 are necessary to accomplish the purposes of a rehabilitation program.

(38 U.S.C. 1631. 1795; Pub. L. 94-502. Pub. L. 96-466, Pub. L. 98-223)

2. Section 21.5040 is amended by revising paragraph (b)(1)(ii) and adding paragraph (g) to read as follows:

§ 21.5040 Basic eligibility.

* * * * *

(b) * * *
(1) * * *
(ii) Must not have and except as provided in paragraph (g) of this section

must not have had basic eligibility under 38 U.S.C. ch. 34;

* * * * *

(g) *Election to receive educational assistance allowance under 38 U.S.C. ch. 32.* Some individuals who have eligibility under 38 U.S.C. ch. 34 may elect instead to receive educational assistance allowance under 38 U.S.C. ch. 32.

(1) In order to qualify to make this election the veteran must—

(i) Have served a period of active duty for training for at least 181 concecutive days under provisions of 10 U.S.C. 511(d) in an enlistment in the Army National Guard or the Air National Guard or as a reservist in the Army, Navy, Air Force, Marine Corps or Coast Guard Reserve. At least one of the 181 consecutive days of active duty for training must have occurred before January 1, 1977.

(ii) After December 31, 1976 have served on active duty for a period of one year or more so that the service described in paragraph (g)(1)(i) of this section is the sole reason for the veteran's potential eligibility for educational assistance allowance under 38 U.S.C. ch. 34.

(iii) Never have received educational assistance allowance under 38 U.S.C. ch. 34 for pursuit of a program of education.

(iv) Otherwise have basic eligibility under 38 U.S.C. ch. 32 by meeting the requirements listed in this section.

(2) If a veteran makes an election and negotiates an educational assistance check under 38 U.S.C. 32, the election is irrevocable.

(3) If, as a result of the retroactive effect of this regulation or due to other circumstances, a veteran negotiates an educational assistance check under 38 U.S.C. ch. 32 without knowledge of his or her eligibility under 38 U.S.C. ch. 34, the negotiation of the check shall not constitute an irrevocable election to receive educational assistance allowance under 38 U.S.C. ch. 32.

(38 U.S.C. 1602(1); Pub. L. 98–223)

3. In Section 21.5058, paragraph (b) is revised to read as follows:

§ 21.5058 Resumption of participation.

* * * * *

(b) A person who has disenrolled in order to receive educational assistance allowance under 38 U.S.C. ch. 34 may not reenroll if he or she negotiated a check under that chapter for pursuit of a program of education. Any other person who has disenrolled may reenroll, but will have to qualify again for minimum participation as described in § 21.5052(a).

(38 U.S.C. 1602(1), 1621; Pub. L. 98–223)

* * * * *

4. In § 21.5060, paragraph (a) is revised to read as follows:

§ 21.5060 Disenrollment.

(a) *Voluntary disenrollment.* (1) An individual may disenroll at anytime after the initial 12 months of participation.

(2) An individual may elect to disenroll at anytime within the initial 12 months of participation only.

(i) For reasons of personal hardship; or

(ii) Because he or she has decided to receive educational assistance allowance under 38 U.S.C. ch. 34 rather than electing to receive educational assistance allowance under ch. 32. See § 21.5040(g).

(38 U.S.C. 1602, 1621; Pub. L. 94–502, Pub. L. 98–223)

* * * * *

[FR Doc. 86–8458 Filed 4–15–86; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-6-FRL-3003-1]

Approval and Promulgation of Implementation Plans; State of Louisiana, Regulation 22.22

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The purpose of this notice is to approve a revision to the State Implementation Plan (SIP) and Air Quality Regulations for Louisiana which were submitted to EPA by the Governor of the State on July 14, 1983. The revised Sections of the State regulation concern the State's test methods and pressure limitations for determining the leak-tightness of gasoline tank trucks and their loading and unloading operations. The revised Sections were submitted by the State for the purpose of meeting the requirements of Part D of the Clean Air Act (CAA), and to assist the State in the continued maintenance of the National Ambient Air Quality Standards (NAAGS) throughout Louisiana. This notice also amends 40 CFR Part 52.970.

EFFECTIVE DATE: This action will be effective on June 16, 1986, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

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

U.S. Environmental Protection Agency, Region 6, Library, 1201 Elm Street, Dallas, Texas 75270.

The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, DC

U.S. Environmental Protection Agency, Public Information Reference Unit, EPA Library, Rm. 2404, 401 M Street, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Ricardo Saucedo, SIP New Source Section, Air, Pesticides and Toxics Division, EPA, Region 6, 1201 Elm Street, Dallas, Texas 75270 (214) 767–9834, FTS 729–9834. Reference Docket File Number LA–85–01.

SUPPLEMENTARY INFORMATION:

I. Background

The Governor of Louisiana submitted to EPA revisions to the State's SIP for air pollution control on July 14, 1983. The submittals revised sections 22.22.1(A) and 22.22.2(A) of the SIP and the State's Air Quality Regulations. Public hearings were held and the revised sections were adopted by the Louisiana Environmental Control Commission on September 23, 1983. Brief descriptions of the revised sections and EPA's actions are outlined below. An analysis of the revised sections and EPA's determination of their approvability is provided in EPA's evaluation report [1], which is available for public review at the address listed in the Addresses section of this notice.

II. Description of the Revised Sections

Revised section 22.22.1(A) outlines the test methods and pressure limitations to be used when testing for the leak-tightness of gasoline tank trucks and their vapor collection systems. Revised section 22.22.2(A) outlines the test method and limitations for volatile organic compound (VOC) emissions from the loading and unloading operations of tank trucks at gasoline terminals.

Louisiana has revised sections 22.22.1(A) and 22.22.2(A) changing the reference to a test procedure for pressure limitation in gasoline tank trucks. The reference has been changed from a CTG document to the Air Quality Division's Source Test Manual. The requirements of the Source Test Manual are at least as stringent as those found in the above referenced CTG. Therefore, the revised sections 22.22.1(A) and 22.22.3(A) meet the recommendations

[1] EPA Review of Louisiana Revisions to sections 22.22.1(A) and 22.22.2(A).

outlined in EPA's CTG for tank trucks, and meet the requirements of Part D which requires RACT and VOC sources operating in ozone nonattainment areas of a State.

EPA's ACTION

EPA has reviewed these revisions to the Louisiana SIP and is approving them as submitted. This action is taken without prior proposal because the changes are non-controversial and EPA anticipates no adverse comments on them. The public should be advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days of publication that someone wishes to submit adverse or critical comments, this action will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will withdraw the final action and will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. Written comments on this action should be addressed to John R. Hepola, Chief, SIP New Source Section (Address is listed under Region 6, Library in the Addresses section of this notice).

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 16, 1986. This action may not be challenged later in proceedings to enforce its requirements (See 307(b)(2)).

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

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

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Hydrocarbons, Incorporation by reference.

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

Dated: April 10, 1986.

Lee M. Thomas,

Administrator.

PART 52—[AMENDED]

Part 52 of Chapter 1, Title 40, 40 CFR Part 52 is amended as follows:

Subpart T—Louisiana

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.970 is revised by adding paragraph (c)(42) as follows:

§ 52.970 Identification of plan.

* * * * *

(c) * * *

(42) Revisions to the Air Control Regulation 22.22 as adopted by the Louisiana Environmental Control Commission on September 23, 1982, and submitted by the Governor on July 14, 1983.

(i) Incorporation by reference

(A) Regulation 22.22.1(A) and 22.22.2(A) Letter dated July 14, 1983, from the State of Louisiana and which change the reference for the test methods from a CTG document to the Louisiana Air Quality Regulations Division's Source Test Manual. These regulations were adopted on September 23, 1982.

[FR Doc. 86-8505 Filed 4-15-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 5F3186/R831; FRL-3002-2]

Pesticides; Chlorimuron Ethyl; Herbicide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the herbicide chlorimuron ethyl in or on the raw agricultural commodity soybeans. The regulation was requested by E.I. du Pont de Nemours and Co. and establishes the maximum permissible level for residues of the herbicide in or on soybeans.

EFFECTIVE DATE: Effective on April 16, 1986.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Robert J. Taylor, Product Manager (PM) 25, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 243, CM 2, 1921 Jefferson Davis Highway, Arlington, VA, 22202, (703) 557-1800.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of April 17, 1985 (50 FR 15219), which announced that E.I. du Pont de Nemours and Co. had submitted pesticide petition 5F3186 to EPA proposing to amend 40 CFR Part 180 by establishing a tolerance for residues of the herbicide chlorimuron ethyl [ethyl 2-[[[[(4-chloro-6-methoxypyrimidin-2yl)amino]carbonyl]amino]sulfonyl benzoate] in or on the raw agricultural commodity soybeans at 0.05 part per million (ppm).

There were no comments received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The data considered in the petition include several acute studies, a 90-day feeding study in mice fed dosages of 0, 3.75, 18.75, 187.5, and 750 milligrams/kilogram/day (mg/kg/day) with a no-observable-effect level (NOEL) of 18.75 mg/kg/day; a 90-day feeding study in dogs fed dosages of 0, 2.5, 37.5, and 187.5 mg/kg/day with a NOEL of 2.5 mg/kg/day; a 1-year feeding study in dogs fed dosages of 0, 0.625, 6.25, and 37.5 mg/kg/day with a NOEL of 6.25 mg/kg/day; an 18-month chronic feeding study in mice fed dosages of 0, 1.875, 18.75, and 187.5 mg/kg/day with a NOEL of 12.5 mg/kg/day and no oncogenic effects observed under the conditions of the study at doses up to and including 187.5 mg/kg/day (highest dosage tested (HDT)); a chronic feeding (oncogenicity) study in rats fed 0, 1.25, 12.5, and 125 mg/kg/day with a NOEL of 12.5 mg/kg/day and no oncogenic effects observed under the conditions of the study at doses up to and including 125 mg/kg/day (HDT); a two-generation reproduction study in rats fed dosages of 0, 1.25, 12.5, and 125 mg/kg/day with a maternal NOEL of 12.5 mg/kg/day and a fetotoxic NOEL of 1.25 mg/kg/day; a teratology study in rats fed dosages of 0, 30, 150, and 600 mg/kg/day with a teratogenic NOEL of 150 mg/kg/day, a fetotoxic NOEL of 30 mg/kg/day and a maternal toxicity NOEL of 30 mg/kg/day; a teratology study in rabbits fed dosages of 0, 15, 60, and 300 mg/kg/day with a maternal toxicity NOEL of 60 mg/kg/day, a fetotoxic NOEL of 15 mg/kg/day and no teratogenic effects at 300 mg/kg/day (HDT); and a battery of mutagenicity testing (Ames test, *in vivo* bone marrow assay, and unscheduled DNA synthesis assay), all negative.

The acceptable daily intake (ADI) based on the 1-year dog study (NOEL of

6.25 mg/kg/day) and using a hundredfold safety factor is calculated to be .0625 mg/kg/day. The maximum permissible intake (MPI) for a 60-kg human is calculated to be 3.70 mg/kg/day. The theoretical maximum residue contribution (TMRC) for this tolerance for a 1.5-kg diet is calculated to be 0.00069 mg/day. The current action will use .0184 percent of the ADI. There are no published tolerances for this chemical.

No desirable data are lacking.

The nature of the residue is adequately understood, and an adequate analytical method (high-pressure liquid chromatography (HPLC) using a photoconductivity detector) is available for enforcement purposes.

Because of the long lead time from establishing this tolerance to publication of the enforcement methodology in the Pesticide Analytical Manual II, an interim analytical methods package is being made available to State pesticides enforcement chemists when requested from:

By mail: Information Service Section (TS-757C), Program Management Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-357-3262).

There are currently no actions pending against registration of this chemical. Negligible secondary residues are expected to occur in meat, milk, poultry, or eggs from this use.

Based on the information considered by the Agency, it is concluded that the tolerance will protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after the date of publication in the Federal Register, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. M-3708 (A-110), 401 M St., SW., Washington, DC 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are legally sufficient to justify the relief sought.

The Office of Management and Budget (OMB) has exempted this regulation from OMB requirements of Executive Order 12291 pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: April 4, 1986.

Steven Schatzow,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

1. The authority citation for 40 CFR Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a, unless otherwise noted.

2. Therefore, Part 180 is amended by adding new § 180.429, to read as follows:

§ 180.429 Chlorimuron ethyl; tolerance for residues.

A tolerance is established for the residues of the herbicide chlorimuron ethyl [ethyl 2-[[[[(4-chloro-6-methoxypyrimidin-2yl) amino]carbonyl]amino]sulfonyl] benzoate] in or on the raw agricultural commodity soybeans at 0.05 part per million.

[FR Doc. 86-8508 Filed 4-15-86; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 435

[BERC-297-FC]

Medicaid Program; Treatment of Social Security Cost-of-Living Increases for Individuals Who Lose SSI Eligibility

Correction

In FR Doc. 86-7994, beginning on page 12325, in the issue of Thursday, April 10, 1986, make the following correction.

On page 12328, third column, fourth complete paragraph, ninth line, "1905(f)" should read "1902(f)".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 531

[Docket No. LVM 82-01; Notice 6]

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

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

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

SUMMARY: This rule is issued in response to a petition filed by Rolls-Royce Motors, Ltd. (Rolls-Royce) requesting that it be exempted from the generally applicable average fuel economy standard of 27.5 miles per gallon (mpg) for 1987-1989 model year passenger automobiles, and that a lower alternative standard be established for it. This rule grants Rolls-Royce that exemption and establishes an alternative standard of 11.2 mpg for Rolls-Royce for years 1987-1989.

DATES: Effective May 16, 1986. This exemption and alternative standard apply to Rolls-Royce for model years 1987-1989. Petitions for reconsideration may be submitted by May 16, 1986.

ADDRESS: Petitions for reconsideration may be submitted to: Administrator, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. It is requested, but not required, that 10 copies be submitted.

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

SUPPLEMENTARY INFORMATION: NHTSA is exempting Rolls-Royce from the generally applicable average fuel economy standard for 1987-1989 model year passenger automobiles and establishing an alternative standard applicable to Rolls-Royce for those model years. This exemption is issued under the authority of section 502(c) of the Motor Vehicle Information and Cost Savings Act, as amended ("the Act") (15 U.S.C. 2002(c)). Section 502(c) provides that a passenger automobile manufacturer which manufactures fewer than 10,000 vehicles annually may be exempted from the generally applicable average fuel economy standard for a particular model year if that standard is greater than the low volume manufacturer's maximum feasible average fuel economy and if NHTSA

establishes an alternative standard for the manufacturer at its maximum feasible level. Section 502(e) of the Act (15 U.S.C. 2002(e)) requires NHTSA, in determining maximum feasible average fuel economy, to consider:

(1) Technological feasibility;

(2) Economic practicability;

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

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

This final decision was preceded by a proposed decision announcing the agency's tentative conclusion that Rolls-Royce should be exempted from the generally applicable 1987–1989 passenger automobile average fuel economy standards, and that an alternative standard of 11.2 mpg should be established for Rolls-Royce in those model years, 50 FR 23738, June 5, 1985. No comments were received on the proposed decision.

The agency is adopting the tentative conclusions set forth in the proposed decision as its final conclusions, for the reasons set forth in the proposed decision. Based on the conclusions that the maximum feasible average fuel economy level for Rolls-Royce in years 1987–1989 is 11.2 mpg, that other Federal motor vehicle standards will not affect achievable fuel economy beyond the extent considered in the proposed decision, and that the national effort to conserve energy will not be affected by granting this requested exemption, NHTSA hereby exempts Rolls-Royce from the generally applicable passenger automobile average fuel economy standard for the 1987–1989 model years and establishes an alternative standard of 11.2 mpg for Rolls-Royce in those years.

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

The agency has also considered the environmental implications of this decision in accordance with the National Environmental Policy Act and determined that this decision will not significantly affect the human environment. Regardless of the fuel economy of a vehicle, it must pass the emissions standards which measure the amount of emissions per mile travelled. Thus, the quality of the air is not affected by this exemption and alternative standard. Further, since Rolls-Royce's 1987–1989 automobiles cannot achieve better fuel economy than 11.2 mpg, granting this exemption will not affect the amount of gasoline available.

Since the Regulatory Flexibility Act may apply to a decision exempting a manufacturer from a generally applicable standard, I certify that this decision will not have a significant economic impact on a substantial number of small entities. This decision does not impose any burdens on Rolls-Royce. It does relieve the company from being subject to infeasible standards for model years 1987–1989 and from having to pay civil penalties for noncompliance with those standards. Small organizations and small governmental jurisdictions generally are not purchasers of Rolls-Royce automobiles. In any event, since the prices of 1987–1989 Rolls-Royce automobiles are not affected by this decision, the purchasers will not be affected.

List of Subjects in 49 CFR Part 531

Energy conservation, Gasoline, Imports, Motor vehicles.

In consideration of the foregoing, 49 CFR Part 531 is amended by revising § 531.5(b)(2) to read as follows. The introductory text of (b) is shown for the convenience of the reader and remains unchanged.

PART 531—PASSENGER AUTOMOBILE AVERAGE FUEL ECONOMY STANDARDS

49 CFR 531.5(b)(2) is hereby revised to read as follows:

§ 531.5 Fuel economy standards.

* * * * *

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

* * * * *

(2) Rolls-Royce Motors, Inc.

Model year	Average fuel economy standard (miles per gallon)
1978	10.7
1979	10.8
1980	11.1
1981	10.7
1982	10.6
1983	9.9
1984	10.0
1985	10.0
1986	11.0
1987	11.2
1988	11.2
1989	11.2

Issued on April 9, 1986.

Diane K. Steed,

Administrator.

[FR Doc. 86–8374 Filed 4–15–86; 8:45 am]

BILLING CODE 4910–59–M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 74–14; Notice 43]

Federal Motor Vehicle Safety Standards

Correction

In FR Doc. 86–6231 beginning on page 9800 in the issue of Friday, March 21, 1986, make the following corrections:

1. On page 9810, in the first column, in § 571.208, S4.1.3.2.2, second line, delete "S4.1.3.4 and".

2. On the same page, in the second column, in S4.1.3.4(a)(1), seventh line, the words "is counted" were repeated. Delete the repetition.

3. On page 9811, in the first column, S7.4.2(c), in the second line, "an" should read "any".

4. On page 9812, in S10.4.2, in the eighth line, "by" should read "be".

5. On page 9813, in the first column, S7.4(b)(1), in the last line, the second reference should read "S7.4.4"

6. On the same page, in the same column, S7.4(b)(2)(i), in the last line, the first two references should read "S7.4.2, S7.4.3".

6. On the same page, in the same column, S7.4(b)(2)(ii), in the sixth line, "7.4.3" should read "S7.4.3".

BILLING CODE 1505–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 642

[Docket No. 21021-216]

Fishery Conservation and Management; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic

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

ACTION: Final rule; technical amendment.

SUMMARY: NOAA issues this final rule implementing a technical amendment to the regulation for the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). This rule deletes the requirement for observers aboard vessels fishing purse seines for Spanish and king mackerel. The intended effect is to remove a requirement in the regulations that does not reflect the intent of the FMP.

EFFECTIVE DATE: February 3, 1986.

FOR FURTHER INFORMATION CONTACT: Donald W. Geagan, 813-893-3722.

SUPPLEMENTARY INFORMATION: NOAA published a final rule on February 4, 1983 (48 FR 5270), to implement the FMP. The final rule at § 642.24(b) required observers to be aboard vessels using purse seines to fish for Spanish and king mackerel. The rule did not present any time period for the requirement.

The FMP clearly states that the requirement for observers aboard purse seine vessels was for statistical and scientific purposes and was to be limited to the first three years the FMP was in effect. Therefore, NOAA amends the rule by deleting the requirement for observers effective February 3, 1986, the end of the three-year time period.

Other Matters

This action is taken under the authority of 50 CFR Part 642 and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 642

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: April 10, 1986.

James E. Douglas, Jr.,

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

PART 642—[AMENDED]

For the reasons set forth in the preamble, 50 CFR Part 642 is amended as follows:

1. The authority citation for Part 642 continues to read as follows:

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

§ 642.7 [Amended]

2. Section 642.7 is amended in paragraph (a)(6) by removing the reference that reads "§ 642.24(c)".

§ 642.24 [Amended]

3. Section 642.24 is amended by removing paragraph (b) and redesignating paragraph (c) as (b).

[FR Doc. 86-8418 Filed 4-15-86; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 671

[Docket No. 60110-6065]

Fishery Conservation and Management; Tanner Crab off Alaska

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

ACTION: Emergency interim rule; modification and extension.

SUMMARY: After further evaluating the biological interactions of two crab fisheries with depressed stocks and the associated socioeconomic impacts of not allowing fishing, and after reviewing the North Pacific Fishery Management Council's (Council) decisions and recommendations regarding the problems involving these fisheries, the Secretary of Commerce has determined that it is necessary to modify his previously issued emergency interim rule and extend that current closure by a second emergency rule. Therefore, this rule closes the fishing season for *Chionoecetes bairdi* in the Bering Sea until June 15, 1986, when the season normally ends. Additionally, this rule closes the Bering Sea District of Registration Area J east of 164° W. longitude and south of 58° N. latitude to fishing for *C. opilio*, but allows retention of legal-sized male *C. bairdi* that are incidentally caught in the *C. opilio* fishery elsewhere in the Bering Sea. The entire Bering Sea District remains closed to directed fishing for *C. bairdi*. This action is intended as a conservation and management measure to protect depressed *C. bairdi* and red king crab stocks, while allowing the more viable *C. opilio* fishery to operate more efficiently by allowing retention of *C. bairdi* incidental catch.

EFFECTIVE DATES: April 14, 1986, until July 14, 1986.

ADDRESS: Copies of documents supporting this action may be obtained from Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802.

FOR FURTHER INFORMATION CONTACT: Raymond E. Baglin (Fishery Biologist, NMFS), 907-586-7230.

SUPPLEMENTARY INFORMATION:

Background

The Secretary of Commerce (Secretary) issued an emergency interim rule (51 FR 2892, January 22, 1986) delaying the scheduled opening of the 1986 *C. bairdi* Tanner crab season for 90 days (until April 14, 1986) in the Bering Sea District of Registration Area J, due to the depressed conditions of *C. bairdi* and red king crab (*Paralithodes camtschatica*), which are caught incidentally in the *C. bairdi* fishery. The delay was intended to provide the Secretary additional time to evaluate (1) the biological effect of the *C. bairdi* fishery on these crab stocks, (2) the socioeconomic effects of not allowing the fishery, and (3) the Council's decisions and recommendations from its January 15-17, 1986, meeting. Public comments were also invited for the duration of the rule. Comments were specifically invited on the necessity of continuing the closure beyond February 1, 1986, and the socioeconomic effects on the industry. The Secretary carefully evaluated each of these factors and concluded that there is no justification at this time to alter the closure of the *C. bairdi* season in that part of the Bering Sea District east of 164° W. longitude and south of 58° N. latitude until after the 1986 NMFS trawl survey next summer. The Secretary has also concluded, however, that *C. bairdi* taken incidentally in the *C. opilio* fishery can be retained without any significant adverse effect on the ability of the *C. bairdi* stock to rebuild to population levels capable of supporting a directed fishery. This retention of incidentally caught *C. bairdi* can be allowed because the Secretary is closing the *C. opilio* fishery in areas where large numbers of *C. bairdi* might be taken. Based on results of the 1985 NMFS trawl survey, NMFS would expect that less than 0.5 million pounds of *C. bairdi* will be taken incidentally in all areas where *C. opilio* fishing will be allowed. This decision was based in part on discussions with NMFS crab biologists and the Alaska

Department of Fish and Game (ADF&G), recommendations received from the Council and its Scientific and Statistical Committee (SSC), and comments from the fishing industry. The Secretary also considered language within the Fishery Management Plan (FMP) for the Tanner crab fishery stating that management measures should promote rebuilding when Tanner crab stocks decline below levels capable of providing the maximum sustainable yield (MSY).

The Council has recommended that the Secretary promulgate an emergency interim rule to close an area containing large concentrations of *C. bairdi* and red king crab to all commercial trawling and place catch ceilings on both species for the remaining areas open to trawling. The Council also recommended to the Director, Alaska Region, NMFS (Regional Director), that the *C. bairdi* season not be opened until the 1986 NMFS trawl surveys had been completed. The Council's SSC concluded that *C. bairdi* and red king crab stocks are extremely depressed, and that if the Council's intent is to maximize the opportunity to rebuild the *C. bairdi* stock, the 1986 harvest should be zero. The ADF&G has expressed the opinion that the *C. bairdi* season should remain closed. The Secretary has received comments from representatives of certain segments of the fishing industry requesting a limited season for *C. bairdi* in the Bering Sea; some suggested the area west of 162° W. longitude, while others suggested the area west of 164° W. longitude. These and other comments are responded to below. Based on his further evaluation of all of these factors, the Secretary has concluded that both the *C. bairdi* Tanner crab and red king crab stocks in the Bering Sea remain extremely depressed and that the directed fishery for *C. bairdi* should remain closed. Specific data supporting his preliminary conclusions are contained in the January emergency rule (51 FR 2892, January 22, 1986).

The Secretary has also concluded, however, that the expected harvest and retention of a small number of *C. bairdi* incidental to the *C. opilio* fishery may be allowed without risk of substantial harm to either the *C. bairdi* or red king crab stocks. Closure of the area east of 164° W. longitude and south of 58° N. latitude to all Tanner crab fishing will protect the main concentrations of commercially harvestable *C. bairdi* and red king crab stocks. Allowing an incidental *C. bairdi* harvest in areas open to *C. opilio* should not adversely affect rebuilding of the stocks, and fishermen may be helped by removing the necessity to sort and discard *C. bairdi* while harvesting *C. opilio*.

Currently the regulations at § 671.21(b) provide for an incidental harvest of *C. bairdi* in the *C. opilio* directed fishery in the area north of 58° N latitude and west of 164° W. longitude. This emergency action broadens the area allowing an incidental catch of *C. bairdi* to other areas in the Bering Sea District open to *C. opilio* fishing.

The Secretary therefore extends the January 22, 1986, emergency interim rule and modifies it to allow the retention of *C. bairdi* taken incidentally during fishing for *C. opilio* Tanner crab in the Bering Sea District open to fishing for *C. opilio*.

The 1985 *C. opilio* fishing season was extended from December 31, 1985, to January 15, 1986 (51 FR 757, January 8, 1986) to allow uninterrupted harvesting time in the *C. opilio* fishery until its scheduled FR 47549, November 19, 1985) 1986 fishing season opened.

Under existing regulations the entire Bering Sea District is open to *C. opilio* fishing. Based on his conclusions regarding the need to protect *C. bairdi* and red king crab stocks, the Secretary has determined that the *C. opilio* fishery needs to be closed in the portion of the Bering Sea District east of 164° W. longitude and south of 58° N. latitude. Such closure will not adversely affect *C. opilio* fishermen because few *C. opilio* are found in this area. Therefore, the Secretary closes the *C. opilio* fishery in the portion of the Bering Sea District east of 164° W. longitude and south of 58° N. latitude.

In the event later that the Secretary finds it necessary to close all or part of any area in the Bering Sea to directed fishing for *C. opilio*, he will also prohibit the incidental take of *C. bairdi* in the same area.

Public Comments.

Comments were received from representatives of the North Pacific Fishing Vessel Owners Association, Marine Resources International, Trident Seafoods, and the Coalition of Concerned Crab Fishermen. These comments are summarized and responded to as follows:

The first three commenters requested that the Secretary open the *C. bairdi* fishery west of 162° W. longitude in the Bering Sea, to allow the harvest of 1 million pounds of *C. bairdi* based on the following considerations.

Comment 1: The red king crab stocks are adequately protected. The Council has recommended the establishment of a sizable sanctuary to protect female red king crabs. Incidental catches of females would be minimal in a *C. bairdi fishery* to the west of 162° W. longitude, outside of the sanctuary.

Response. The time/area closure and red king crab harvest ceilings recommended by the Council for the trawl fisheries, if applied to the *C. bairdi* fishery, should provide protection for a substantial proportion of the mature female red king crab stocks. However, based on the distribution of legal *C. bairdi* males in the 1985 NMFS trawl survey, it is likely that if any fishing effort on *C. bairdi* was allowed, it would be concentrated immediately west of and adjacent to 162° W. longitude where significant concentrations of female red king crabs also occur. Thus, significant numbers of female red king crabs might be incidentally caught and handled while in the soft-shell stage. The Secretary, however, believes that *C. opilio* and any incidental catch of *C. bairdi* may safely be taken west of 164° W. longitude, as well as east of 164° W. longitude and north of 58° N. latitude, without the incidental catch of any significant amount of red king crabs.

Comment 2. The *C. bairdi* stock status does not require a total closure. Federal crab biologists have calculated a harvest guideline of 1 million pounds of *C. bairdi* outside the sanctuary area without affecting the recovery of the *C. bairdi* stocks.

Response. After careful consideration of the opinions of the NMFS crab biologists, the ADF&G, the Council, and its SSC, the Secretary has concluded that *C. bairdi* must be protected east of 164° W. longitude and south of 58° N. latitude, given the steep and persistent decline in all segments of the *C. bairdi* stocks, the likelihood that this decline will continue, the low level of the stocks of legal-sized males, and the scientific uncertainty concerning the population level at which continued directed fishing might seriously affect the ability of the stocks to recover and rebuild to former levels of abundance. Retention of incidental catches of *C. bairdi* taken in the remainder of the Bering Sea District open to *C. opilio* fishing may be allowed because NMFS expects few *C. bairdi* to be taken incidental to the *C. opilio* fishery. The vast majority of the *C. bairdi* population is distributed east of 164° W. longitude and south of 58° N. latitude and will be protected.

Comment 3. A joint venture incidental harvest allowance of 320,000 pounds of *C. bairdi* has been recommended by the Council to facilitate the joint venture fisheries for flounders. A similar provision should be made for retention of *C. bairdi* harvested incidentally in the domestic fishery for *C. opilio*.

Response. By this action, the Secretary is allowing retention of *C. bairdi* taken in the *C. opilio* fishery in certain areas. Although the incidental catch of *C. bairdi* is allowed in the joint venture fisheries for flounders, all crabs must be immediately returned to the water.

Comment 4. Crab fisherman relied to their detriment on the November 5, 1985, announced harvest guideline of 3 million pounds for the 1986 Bering Sea fishery, and were given repeated oral assurances of its validity. Based on this, vessels were outfitted and deployed to the Bering Sea. The delayed season opening was not announced until December 24, 1985.

Response. It is unfortunate that emergency actions sometimes result in the necessity for fishermen to change their operating plans. By announcing the delayed season opening three weeks prior to the season, the Secretary believed that vessels would have time to switch to the *C. opilio* fishery or move to one of the remaining areas open to fishing for *C. bairdi*.

Comment 5. The *C. bairdi* fishery is of considerable economic importance to a portion of the crab fleet, with an estimated cost of $20,000 to re-outfit a vessel to participate in the *C. opilio* fishery.

Response. Because of the poor condition of the stocks, there will be no directed fishing for *C. bairdi*. The Secretary has decided to allow retention of legal-sized male *C. bairdi* harvested in the *C. opilio* fishery.

Comment 6. The Council's consideration of the *C. bairdi* circumstance was cursory. The SSC recommended an allowable biological catch (ABC) of 2 to 4 million pounds of *C. bairdi*.

Response. The SSC has noted that the plan specifies that ABC is calculated by applying an exploitation rate of 40 percent to the biomass of legal males. Under the plan, the ABC for the 1986 fishing season is 2.0 to 4.0 million pounds. The plan, however, also states that when Tanner crab stocks have declined to levels below that capable of producing MSY, management measures should promote rebuilding. The MSY in the plan is 32 million pounds. The SSC concluded that the stocks are below the level that can produce MSY and that if it is the Council's intent to maximize the potential for rebuilding, the 1986 harvest level should be zero. The closure of the *C. bairdi* fishery east of 164° W. longitude and south of 58° N. latitude will provide ample protection the *C. bairdi* and red king crab stocks. Elsewhere, possible wastage of some legal-sized male *C. bairdi* crabs taken incidental to the *C. opilio* fishery is avoided.

Comment 7. The fourth commenter requested that the Secretary open the *C. bairdi* fishery west of 164° W. longitude in the Bering Sea.

Response. By this action, the Secretary allows retention of *C. bairdi* taken in the *C. opilio* fishery.

Classification

The Assistant Administrator for Fisheries, NOAA, (Assistant Administrator), has determined that the original rule and this extension of that rule with modifications are necessary to respond to an emergency situation and that they are consistent with the Magnuson Fishery Conservation and Management Act and other applicable law. An environmental assessment (EA) was prepared for the original emergency rule. Based on the EA, the Assistant Administrator determined that no significant impact on the human environment will occur as a result of this rule. A supplement to that assessment has been prepared to analyze the closure of the *C. opilio* fishery east of 164° W. longitude and south of 58° N. latitude. A copy of the EA and its supplement may be obtained from the Regional Director at the address above.

The Assistant Administrator has determined that this extension and modification of that rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management program of the State of Alaska. This determination has been submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act.

This rule is exempt from the normal review procedures of Executive Order 12291 as provided in section 8(a)(1) of that order. The rule is being reported to the Director of the Office of Management and Budget, with an explanation of why it is not possible to follow the procedures of the order.

This rule does not contain a collection of information requirement and therefore is not subject to the provisions of the Paperwork Reduction Act.

As provided in section 608 of the Regulatory Flexibility Act, this extension and modification of the emergency rule responds to an emergency which makes preparation of an initial regulatory flexibility analysis under section 603 and timely compliance with section 604 for a final regulatory flexibility analysis impractical. The preparation of an initial regulatory flexibility analysis has been waived, and the final regulatory flexibility analysis has been delayed because of the negative impact of fishing depressed *C. bairdi* and red king crabs stocks in the area designated in need of emergency action.

The Assistant Administrator also finds that *C. bairdi* Tanner crab and red king crab stocks in the Bering Sea District east of 164° W. longitude and south of 58° N. latitude will be subject to substantial damage in the course of fishing for *C. opilio* unless closure of this area takes effect immediately. Any delay in making this notice effective also will result in unnecessary wastage of *C. bairdi* taken incidentally, with economic costs to the crab fishermen. NOAA, therefore, finds for good cause that it is impracticable and contrary to the public interest to provide advance opportunity for public comment or to delay for 30 days the effectiveness of this rule under provisions of section 553 (b) and (d) of the Administrative Procedure Act.

List of Subjects in 50 CFR Part 671

Fisheries, Reporting and recordkeeping requirements.

Dated: April 11, 1986.

James E. Douglas, Jr.,

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

PART 671—[AMENDED]

For reasons set forth in the preamble, 50 CFR Part 671 is amended as follows.

1. The authority citation for Part 671 continues to read as follows:

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

§ 671.21 [Amended]

2. In § 671.21(a), Table 1, the season dates "Jan. 15 to June 15" for *C. bairdi* in the Bering Sea District of Registration Area J are suspended from April 14, 1986, until June 16, 1986.

3. In 671.21(a), Table 1, after the season dates text "Jan. 15 to Aug. 1." for

C. opilio in the Bering Sea District of Registration Area J, the final period is changed to a comma and the following is added, to read: "except that east of 164° W. longitude and south of 58° N. latitude is closed".

4. In § 671.21 paragraph (b) is suspended until July 14, 1986, and a new paragraph (d) is added to be effective from April 14, 1986, until July 14, 1986, to read as follows:

§ 671.21 Optimum yields and seasons.

* * * * *

(d) *Limitation.*

Legal-sized male *C. bairdi* Tanner crab taken incidentally to the allowed directed fishery for *C. opilio* Tanner crab may be retained.

[FR Doc. 86-8530 Filed 4-14-86; 11:28 am]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 51, No. 73
Wednesday, April 16, 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 ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 430

[Docket No. CAS-RM-80-116]

Energy Conservation Program for Consumer Products; Amendments to Provisions for the Waiver of Consumer Product Test Procedures

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Department of Energy (DOE) proposes to amend the Department's appliance test procedure waiver process by allowing the Assistant Secretary for Conservation and Renewable Energy to grant an interim waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed product test procedures. Manufacturers currently may petition DOE to temporarily waive test procedures for a particular product. A waiver may be granted when characteristics of the product prevent the use of the prescribed test procedures or lead to test procedure results that provide materially inaccurate comparative data. Today's proposal is intended to simplify the waiver process so that a manufacturer, when petitioning DOE for a test procedure waiver, may also request, and if eligible, be granted, an iterim waiver of test procedure requirements while DOE considers the petition for waiver.

The purpose of this Notice of proposed rulemaking is to provide interested persons an opportunity to comment on the proposed rule and to invite interested persons to participate in the rulemaking process.

DATES: Written comments on the proposed rule must be received by the Department by June 16, 1986.

Oral views, data, and arguments may be presented at the public hearing to be held in Washington, DC, on May 20, 1986. Requests to speak at the hearing must be received by the Department no later than 4 p.m., May 19, 1986.

Seven copies of the statement of each speaker for this hearing should be submitted at the hearing.

The length of each presentation is limited to 20 minutes.

ADDRESSES: Written comments, statements and requests to speak at the hearing are to be submitted to: U.S. Department of Energy, Office of Conservation and Renewable Energy, Office of Hearings and Dockets, Consumer Product Test Procedures Interim Waiver, Docket No. CAS-RM-80-116, Room 6B-025, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-9319.

The hearing will begin at 9:30 a.m. on May 20, 1986, and will be held at the U.S. Department of Energy, Forrestal Building, Room 1E-245, 1000 Independence Avenue SW., Washington, DC.

Copies of the transcript of the public hearing and public comments received may be obtained from the DOE Freedom of Information Reading Room, U.S. Department of Energy, Room 1E-190, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-6020, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

For more information concerning public participation in this rulemaking proceeding, see section IV "Public Comment Procedures" of this Notice.

FOR FURTHER INFORMATION CONTACT:

Michael J. McCabe, U.S. Department of Energy, Office of Conservation and Renewable Energy, Mail Station CE-132, Room GF-217, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-9127

Eugene Margolis, Esq., Department of Energy, Office of General Counsel, Mail Station GC-12, Room 6B-128, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-9513

U.S. Department of Energy, Conservation and Renewable Energy, Office of Hearings and Dockets, Room 6B-025, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-9319

SUPPLMENTARY INFORMATION:

I. Introduction

a. Authority

Part B of Title III of the Energy Policy and Conservation Act (EPCA) (Pub. L. 94-163), as amended by the National Energy Conservation Policy Act (NECPA) (Pub. L. 95-619),[1] created the Energy Conservation Program for Consumer Products Other Than Automobiles. The consumer products subject to this program (referred to hereafter as "covered products") are: Refrigerators and refrigerator-freezers; freezers; dishwashers; clothes dryers; water heaters; room air conditioners; home heating equipment, not including furnaces; television sets; kitchen ranges and ovens; clothes washers; humidifiers and dehumidifiers; central air conditioners; and furnaces, as well as any other consumer product classified by the Secretary of Energy, if the product uses a specified minimum amount of energy. See section 322. The Secretary has not so classified any additional products.

Under the Act, the Program consists essentially of three parts: testing, labeling, and energy efficiency standards.

For each of the covered products, the Department of Energy, in consultation with the National Bureau of Standards, is required to establish test procedures which provide test results that reflect the energy efficiency, energy use, or estimated annual operating cost of each covered product. See section 323(b)(1). One hundred and eighty days after a test procedure for a product is adopted, a manufacturer must represent the energy consumption of or the cost of energy consumed by the product only in accordance with the DOE test procedure. See section 323(c). Test procedures have been prescribed

[1] Part B of Title III of EPCA as amended by NECPA, 42 U.S.C. 6291-6309, is referred to in this notice as the "Act."

relating to all products, and are amended on the basis of continuing review. The test procedures are intended for use in other program elements, such as product labeling (administered by the Federal Trade Commission pursuant to section 324 of the Act) and energy efficiency standards, as required by section 325(a)(1) and (c) of the Act.

b. Background

DOE has prescribed test procedures for the covered products numerated in section 322(a)(1)-(13) of the Act. Procedures to allow DOE temporarily to waive test procedure requirement under certain narrow conditions were published by the Department on September 26, 1980. 45 FR 64109. These procedures, contained in § 430.27 of the Code of Federal Regulations allow DOE, upon petition, to waive applicability of test procedures for a particular basic model if the model has design characteristics which either prevent testing according to the prescribed test procedures or which lead to test procedure results that provide materially inaccurate comparative data. Within one year of granting any waiver, DOE is required to publish in the **Federal Register** a notice of proposed rulemaking to amend its regulations so as to eliminate any need for the continuation of such waiver. The waiver terminates on the effective date of the applicable final rule.

II. Discussion

DOE recognizes the need for simplifying the test procedure waiver process. The test procedure waiver regulations presently contain no provisions to allows immediate regulatory relief to a manufacturer that may experience economic hardship during the period DOE is considering such a manufacturer's petition for a test procedure waiver. As a result, manufacturers seeking immediate regulatory relief from test procedure requirements while the applicable petition for waiver is being considered have found it necessary to file an application for exception with DOE's Office of Hearings and Appeals as provided in 10 CFR Part 205, Subpart D. Today's proposal, modeled after the provisions contained in 10 CFR Part 205, Subpart D, would allow any manufacturer to request, concurrently, from the Assistant Secretary for Conservation and Renewable Energy both a waiver from test procedure requirements and an interim waiver from those requirements.

The proposed rule would allow the Assistant Secretary for Conservation and Renewable Energy, upon application, to grant an interim waiver from the test procedure requirements to manufacturers that petition DOE for waiver of such test procedure requirements. The proposed action also would establish procedures for manufacturers to apply for such an interim waiver from test procedure requirements based on an assertion of economic hardship or competive disadvantage during the period the petition for waiver is being considered.

Under the proposed rule, any manufacturer petitioning DOE for a test procedure waiver could file an "Application for Interim Waiver" as part of the petiton for waiver. The application would have to address what economic hardship or competitive disadvantage would result in the event that the application was denied. In determining whether an interim waiver should be granted, the Assistant Secretary would also consider the likelihood of the waiver's being granted and whether the application demonstrates that it would be desirable for public policy reasons to grant immediate relief pending a decision on the petiton for waiver.

Section 430.27(c) of the existing regulation requires each petitioner to notify all competitors and other ascertainable interested parties of the petition for waiver and include in such notice that DOE has published in the **Federal Register** on a certain date the petition and supporting documents. The proposed rule would require any petitioner, upon applying for an interim wavier, to send a copy of such application with a copy of the petition to all competitors and other interested persons. The proposed rule also would require that each applicant, prior to filing with DOE, include a list of those persons to whom the petition for waiver and application for interim waiver are being sent. The applicant would notify each such person that the Assistant Secretary for Conservation and Renewable Energy would receive and consider written comments on the application that are submitted immediately.

The Assistant Secretary would process applications for interim waiver as expeditiously as possible. When administratively feasible, applications for interim waiver would be granted or denied within 15 business days after receipt of the application. Notice of DOE's determination on, and if granted, provisions of, an interim waiver, would be published in the **Federal Register** with DOE's notice of the manufacturer's petition for waiver and DOE's request for comments on the petition. An interim waiver would expire 90 days after issuance or upon DOE's grant or denial of the petition for waiver . The proposed rule also would provide a 180-day extension of an interim waiver if, after 90 days, DOE had not issued a decision on the petition for waiver. Such extension, and/or any other modification of the terms or duration of the interim waiver, would be published in the **Federal Register**, with DOE's Notice of Petition for Waiver and would be based on relevant information in the record, including any comments received by DOE subsequent to the issuance of the interim waiver.

III. Environmental, Regulatory Impact and Regulatory Flexibility Reviews

a. Environmental Review

Pursuant to section 7(c)(2) of the Federal Energy Administration Act of 1974, a copy of this Notice has been submitted to the Administrator of the Environmental Protection Agency for his or her comments concerning the impact of this proposal on the quality of the environment.

Since test procedures under the Energy Conservation Program for Consumer Products are used only to standardize the measurement of energy usage and do not affect the quantity of energy usage, amending the test procedure waiver process will not result in any environmental impacts. Since it is clear that this proposed amendment is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, neither an Environmental Impact Statement nor an Environmental Assessment is required for the proposed rule.

b. Regulatory Impact Review

DOE has concluded that the proposed rule is not a "major rule" for purposes of Executive Order 12291 because it will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, in accordance with section 3(c)(3) of the Executive Order, which applies to rules other than major rules, the proposed rule was submitted

to OMB for review without a regulatory impact analysis.

c. Small Entity Impact Review

In light of the foregoing, the Department has determined and hereby certifies pursuant to section 605(b) of the Regulatory Flexibility Act that the proposal, if promulgated, will not have a "significant economic impact on a substantial number of small entities." The proposed rule affects manufacturers of covered products. As previously discussed, the proposed change would only simplify the test procedure waiver process.

IV. Public Comment Procedures

a. Participation in Rulemaking

DOE encourages the maximum level of public participation in this rulemaking.

DOE has established a comment period of 60 days following publication of this Notice, for persons to submit written comments on this proposal. All written comments and the transcript of the public hearing will be available for review in the DOE Freedom of Information Reading Room. Interested persons may obtain copies of these documents by writing to the DOE Freedom of Information Reading Room at the address specified at the beginning of this Notice. Such persons are advised to contact the DOE Freedom of Information Room in advance of such requests to determine if there will be any charges associated with satisfying their request. Also, persons interested in obtaining a copy of the transcript of the public hearing have the option of purchasing it directly from the transcribing reporter for the public hearing. The identity of the transcribing reporter for the public hearing may be determined by contacting the person in the DOE Conservation and Renewable Energy Office of Hearings and Dockets whose address and telephone number appear at the beginning of this notice.

b. Written Comment Procedures

Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposed amendment set forth in this Notice to the address indicated at the beginning of the notice.

Comments should be identified on the outside of the envelope and on documents submitted to DOE with the designation "Consumer Product Test Procedures Interim Waiver (Docket No. CAS–RM–80–116)." Seven (7) copies are requested to be submitted. All comments received by the date specified at the beginning of this Notice and all other relevant information will be considered by DOE before final action is taken on the proposed regulation. Pursuant to the provisions of 10 CFR 1004.11, any person submitting information which he or she believes to be confidential and exempt by law from public disclosure should submit one complete copy of the document, and six (6) copies, if possible, from which the information believed to be confidential has been deleted. DOE will make its own determination with regard to the confidential status of the information and treat it according to its determination.

Factors of interest to DOE, when evaluating requests to treat as confidential information that has been submitted, include: (1) A description of the item; (2) an indication as to whether and why such items of information have been treated by the submitting party as confidential, and whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) an indication as to when such information might lose its confidential character due to the passage of time; and (7) whether disclosure of the information would be in the public interest.

c. Public Hearing

1. *Procedures for Submitting Requests to Speak.* The time and place of the public hearing are indicated at the beginning of this notice. DOE invites any person who has an interest in today's proposed rule, or who is a representative of a group or class of persons that has an interest in the proposed rule, to make a written request for an opportunity to make an oral presentation. Such requests should be directed to the address indicated at the beginning of this notice and must be received by the time specified at the beginning of this notice. Requests may be hand delivered to such address between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday except Federal Holidays. Requests should be labeled "Consumer Product Test Procedures Interim Waiver (Docket No. CAS–RM–80–116)" both on the document and on the envelope. The person making the request should briefly describe the interest concerned and give a telephone number where he or she may be contacted.

DOE will notify speakers of the time they have been scheduled to speak at the hearing. Each person to be heard is requested to submit seven (7) copies of his or her statement at the hearing.

In the event any person wishing to testify cannot meet this requirement, alternative arrangements can be made with the Office of Hearings and Dockets in advance of the hearing by so indicating in the letter requesting to make an oral presentation.

2. *Conduct of Hearing.* DOE reserves the right to select the persons to be heard at this hearing, to schedule the respective presentations, and to establish the procedures governing the conduct of the hearing. Each presentation shall be limited to 20 minutes.

A DOE official will be designated to preside at the hearing. The hearing will not be a judicial or an evidentiary-type hearing, but will be conducted in accordance with 5 U.S.C. 553 and section 336 of the Act. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person who wishes to ask a question at the hearing may submit the question in writing to the presiding officer to be asked of any person making a statement at the hearing. The presiding officer will determine whether the question is relevant and whether time limitations permit it to be presented for answer.

Any further procedural rules regarding proper conduct of the hearing will be announced by the presiding officer.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Energy conservation, Household appliances.

In consideration of the foregoing, it is proposed to amend Part 430 of Chapter II of Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, DC, March 27, 1986.

Donna R. Fitzpatrick,

Assistant Secretary, Conservation and Renewable Energy.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

1. The authority citation for Part 430 continues to read as follows:

Authority: Sec. 323(b), Pub. L. 94–163, 89 Stat. 917, as amended by Pub. L. 95–619, 92 Stat. 3266, 42 U.S.C. 6293 (b).

2. Section 430.27 is revised to read as follows:

§ 430.27 Petitions for waiver and applications for interim waiver.

(a)(1) Any interested person may submit a petition to waive for a particular basic model any requirements of § 430.22, or of any appendix to this subpart, upon the grounds that the basic model contains one or more design characteristics which either prevent testing of the basic model according to the prescribed test procedures, or the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data.

(2) Any interested person who has submitted a petition for waiver as provided in this subpart may also file an application for interim waiver of the applicable test procedure requirements.

(b)(1) A Petition for Waiver shall be submitted, in triplicate, to the Assistant Secretary for Conservation and Renewable Energy, United States Department of Energy. Each Petition for Waiver shall: (i) Identify the particular basic model(s) for which a waiver is requested, the design characteristic(s) constituting the grounds for the petition, and the specific requirements sought to be waived and shall discuss in detail the need for the requested waiver; (ii) indentify manufacturers of all other basic models marketed in the United States and known to the petitioner to incorporate similar design characteristic(s); (iii) include any alternate test procedures known to the petitioner to evaluate in a manner representative of the energy consumption characteristics of the basic model; and (iv) be signed by the petitioner or by an authorized representative. In accordance with the provisions set forth in 10 CFR 1004.11, any request for confidential treatment of any information contained in a Petition for Waiver or in supporting documentation must be accompanied by a copy of the petition, application or supporting documentation from which the information claimed to be confidential has been deleted. DOE shall publish in the **Federal Register** the petition and supporting documents from which confidential information, as determined by DOE, has been deleted in accordance with 10 CFR 1004.11 and shall solicit comments, data and information with respect to the determination of the petition. Upon receipt of any comments, DOE shall send a copy of such comments to the petitioner.

(2) An Application for Interim Waiver shall be submitted in triplicate, with the required three copies of the Petition for Waiver, to the Assistant Secretary for Conservation and Renewable Energy, U.S. Department of Energy. Each Application for Interim Waiver shall reference the Petition for Waiver by identifying the particular basic model(s) for which a waiver and temporary exception are being sought. Each Application for Interim Waiver shall demonstrate likely success of the Petition for Waiver and shall address what economic hardship and/or competitive disadvantage is likely to result absent a favorable determination on the Application for Interim Waiver. Each Application for Interim Waiver shall be signed by the applicant or by an authorized representative.

(c)(1) Each petitioner, after filing a Petition for Waiver with DOE, shall notify in writing all known manufacturers of domestically marketed units of the same product type (as listed in section 322(a) of the Act) of the petition to waive a test procedure and shall include in the notice a statement that DOE has published in the **Federal Register** on a certain date the Petition for Waiver and supporting documents from which confidential information, if any, as determined by DOE, has been deleted in accordance with 10 CFR 1004.11. Each petitioner, in complying with the requirements of this paragraph, shall file with DOE a statement certifying the names and addresses of each person to whom a notice of the Petition for Waiver has been sent.

(2) Each applicant for Interim Waiver, prior to filing both the Petition for Waiver and Application for Interim Waiver with DOE, shall notify in writing all known manufacturers of domestically marketed units of the same product type (as listed in section 322(a) of the Act) of the Application for Interim Waiver and shall include in the notice a copy of the Petition for Waiver and a copy of the Application for Interim Waiver. In complying with this section, each applicant shall in the written notification include a statement that the Assistant Secretary for Conservation and Renewable Energy will receive and consider timely written comments on the Application for Interim Waiver. Each applicant, upon filing an Application for Interim Waiver, shall in complying with the requirements of this paragraph certify to DOE that a copy of these documents have been sent to all known manufacturers of domestically marked units of the same product type (as listed in section 322(a) of the Act). Such certification shall include the names and addresses of such persons.

(d) Any person submitting written comments to DOE with respect to an Application for Interim Waiver shall also send a copy of the comments to the applicant.

(e) If administratively feasible, an applicant shall be notified in writing of the disposition of the Application for Interim Waiver within 15 business days of receipt of the application. Notice of DOE's determination on the Application for Interim Waiver shall be published in the **Federal Register** concurrent with **Federal Register** publication of the Petition for Waiver.

(f) The filing of an Application for Interim Waiver shall not constitute grounds for noncompliance with any requirements of this subpart, until an Interim Waiver has been granted.

(g) An Interim Waiver from test procedure requirements will be granted by the Assistant Secretary for Conservation and Renewable Energy if it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied; if it appears likely that the Petition for Waiver will be granted; and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver.

(h) An interim waiver will terminate 90 days after issuance or upon the determination on the Petition for Waiver, whichever occurs first. An interim waiver may be extended for 180 days. Notice of such extension and/or any modification of the terms or duration of the interim waiver shall be published in the **Federal Register** with publication of the Petition for Waiver, and shall be based on relevant information contained in the record and any comments received subsequent to issuance of the interim waiver.

(i) Following publication of the Petition for Waiver in the **Federal Register**, a petitioner may, within 10 working days of receipt of a copy of any comments submitted in accordance with paragraph (b)(1) of this section, submit a rebuttal statement to the Assistant Secretary for Conservation and Renewable Energy. A petitioner may rebut more than one response in a single rebuttal statement.

(j) The petitioner shall be notified in writing as soon as practicable of the disposition of each Petition for Waiver. The Assistant Secretary for Conservation and Renewable Energy shall issue a decision on the petition as soon as is practicable following receipt

and review of the Petition for Waiver and other applicable documents, including, but not limited to, coments and rebuttal statements.

(k) The filing of a Petition for Waiver shall not constitute grounds for noncompliance with any requirements of this subpart, until a waiver or interim waiver has been granted.

(l) Waivers will be granted by the Assistant Secretary for Conservation and Renewable Energy if it is determined that the basic model for which the waiver was requested contains a design characteristic which either prevents testing of the basic model according to the prescribed test procedures, or the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. Waivers may be granted subject to conditions, which may include adherence to alternate test procedures specified by the Assistant Secretary for Conservation and Renewable Energy. The Assistant Secretary shall consult with the Federal Trade Commission prior to granting any waiver, and shall promptly publish in the **Federal Register** notice of each waiver granted, and any limiting conditions of each waiver.

(m) Within one year of the granting of any waiver, the Department of Energy will publish in the **Federal Register** a notice of proposed rulemaking to amend its regulations so as to eliminate any need for the continuation of such waiver. As soon thereafter as practicable, the Department of Energy will publish in the **Federal Register** a final rule. Such waiver will terminate on the effective date of such final rule.

(n) Any person aggrieved by an action under this section may file an appeal with the DOE's Office of Hearings and Appeals as provided in 10 CFR Part 205, Subpart H.

[FR Doc. 86-8318 Filed 4-15-86; 8:45 am]
BILLING CODE 6450-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Reg. Y; Docket No. R-0567]

Bank Holding Companies and Change in Bank Control; Capital Maintenance; Supplemental Adjusted Capital Measure

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Extension of Time To Comment on Proposed Rulemaking.

SUMMARY: On January 24, 1986, the Board announced a proposed modification of its Guidelines for minimum and appropriate levels of capital for bank holding companies and state chartered banks that are members of the Federal Reserve System. [51 FR 3976 (January 31, 1986)] This proposed amendment to the Board's Guidelines, contained in Appendix A to the Board's Regulation Y, 12 CFR Part 225, was designed to make the Board's capital policies more systematically and explicitly sensitive to the risk exposure of individual banking organizations by providing for an additional supplemental adjusted capital measure to be considered by the Board in conjunction with existing primary and total capital-to-total assets ratios already contained in the Guidelines. The Board indicated that it would consider comments on this proposal received by April 25, 1986.

Since publication of the Board's supplemental adjusted capital proposal, the Federal Deposit Insurance Corporation and the Office of the Comptroller of the Currency have published for comment proposals for similar capital measures to be applied to state chartered banks that are not members of the Federal Reserve System and to national banks, respectively. Because of the significance of these proposals for the banking system and the important issues they raise, the Board is extending the comment period for its supplemental adjusted capital proposal (Docket R-0567) until May 23, 1986. The Board believes such an extension of the comment period will allow it to receive additional and more complete responses to its proposal.

DATE: All comments should be received by May 23, 1986.

ADDRESS: All comments, which should refer to Docket No. R-0567, should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and Constitution Ave., NW., Washington, DC 20551, or should be delivered to the courtyard entrance, Eccles Building, 20th Street, NW., between "C" Street and Constitution Avenue, NW., between the hours of 8:45 a.m. and 5:15 p.m. weekdays. Comments may be inspected in Room 1122, Eccles Building, between 8:45 a.m. and 5:15 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: Richard Spillenkothen, Deputy Associate Director (202/452-2594), Anthony G. Cornyn, Assistant Director (202/452-3354), or Catherine Piché, Financial Analyst (202/728-5871), Division of Banking Supervision and Regulation or James E. Scott, Senior Counsel, Legal Division (202/452-3513) of the Board's staff; or Andrew Spindler, Vice President, Federal Reserve Bank of New York (212/791-5846).

Board of Governors of the Federal Reserve System, April 10, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-8431 Filed 4-15-86; 8:45 am]
BILLING CODE 6210-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 535

[86-363]

Consumer Protections; Unfair or Deceptive Credit Practices; Request for Exemption by State of Wisconsin

Dated: April 11, 1986.

AGENCY: Federal Home Loan Bank Board.

ACTION: Request for exemption from consumer credit regulation by the State of Wisconsin.

SUMMARY: The Federal Home Loan Bank Board ("Board") hereby publishes for comment a request from the State of Wisconsin for an exemption from the Board's consumer credit regulation on Prohibited Consumer Credit Practices, 12 CFR Part 535 (1985) ("Credit Practices Rule").

DATE: Comments must be received on or before May 16, 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. Comments should be captioned: "Wisconsin Petition for Exemption from the Credit Practices Rule." Comments will be available for public inspection at the above address.

Copies of the Wisconsin Petition for Exemption can be obtained from the Office of Community Investment, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552, (202) 377-6969. In addition, the Petition may be obtained from the Office of the Commissioner of Savings and Loan, Suite 502, 131 West Wilson Street, Madison, Wisconsin 53702, (608) 266-1821.

FOR FURTHER INFORMATION CONTACT: Daniel G. Lonergan, Attorney/Advisor, Office of Community Investment, (202) 377-6830, Federal Home Loan Bank

Board, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: The Credit Practices Rule ("Rule") provides that with respect to the extension of credit to consumers after January 1, 1986, it is an unfair act or practice for an institution subject to the Rule to include in a consumer credit contract any of the following clauses: A confession of judgment, a waiver or limitation of exemption from attachment or execution, an assignment of wages (with specified exceptions), or a clause granting a nonpossessory security interest in household goods other than a purchase money security interest.[1] The Rule also prohibits a lender from engaging in any practice which results in the pyramiding of late charges in connection with the collection of consumer credit debt. Lastly, the Rule prohibits lenders from directly or indirectly misrepresenting the nature or extent of a cosigner's liability, and requires that a cosigner by provided a written cosigner disclosure statement which outlines the cosigner's potential liability.

The Credit Practices Rule provides that if a state applies on behalf of insured institutions in that state for an exemption from a provision of the Rule, such exemption will be granted if it is determined by the Office of Community Investment, in conjunction with the Office of General Counsel, that: (1) There is in effect a state requirement or prohibition that applies to any transaction to which a provision of the Rule applies; and (2) the state requirement or prohibition affords a level of protection to consumers that is substantially equivalent to, or greater than, the protection afforded by the Rule's provision. If such an exemption is granted, the exempted provision of the Rule is not in effect in that State, and the exemption will continue as long as the state effectively administers and enforces its law.

In its petition for exemption, the State of Wisconsin asserts that the Wisconsin Consumer Act ("Act") and the State's enforcement procedure for the Act afford a level of protection to consumers that is substantially equivalent to, or greater than, the protection afforded by the Rule. Therefore, the State requests that its state-chartered savings and loan associations be exempt from the operation of the Rule, and that the Board consider that this exemption be applied to federally-chartered associations located in Wisconsin as well.

The Board deems it necessary to publish this exemption request for public comment for 30 days in order to enable the Board to receive views and information from the public on the question of whether the Wisconsin law meets the Rule's regulatory criteria for exemption. *See* 50 FR 19325, 19329 (1985) (to be codified at 12 CFR 535.5).

Call for comment: Interested persons are invited to comment on the State of Wisconsin's request for exemption, which is summarized below. The Board is particularly interested in receiving comments on specific issues that have been indentified below. However, comments are invited on *any* aspect of the Wisconsin petition. At the end of the 30-day comment period, the Director of the Office of Community Investment, in consultation with the General Counsel, will review the comments received and, under authority delegated by the Board, render a decision whether the requested exemption should be granted. *See* 50 FR 19325, 19329 (1985) (to be codified at 12 CFR 535.5(c)). The staff will publish its decision to grant or deny the exemption in the **Federal Register**. In light of the fact that two similar exemption requests by the state of Wisconsin have been published for comment by the Federal Trade Commission and the Federal Reserve Board, and in light of the early filing of the present request, the Board deems a comment period of 30 days to be sufficient to receive comments from interested parties.

The requirement set forth at 12 CFR 535.5 that a comparable state requirement be "substantially equivalent" to the Board's rule does not require that a state's rule mirror the Rule's provisions exactly. Any differences that exist, however, should be so minor as to ensure that consumers are afforded a level of protection equal to that guaranteed by the Rule without significantly complicating compliance by interstate creditors.

Contents of the Wisconsin Submission

Wisconsin has provided a copy of the relevant state statutes and a narrative statement comparing state law with the corresponding provisions of the Rule. The statement also explains how state law and the Rule would apply to the same transaction. The Annual Reports of the Commissioner of Banking for each of the past three years are also provided. They contain summaries of cases brought under the Act and show what the Commissioner of Banking has done to enforce the Act during the last three years. The petition is signed by the Commissioner of Savings and Loan. Although the Administrator of the Act is the Commissioner of Banking, the Administrator is required by Wisconsin statute to consult and assist any state official having supervisory authority over a supervised financial organization in maintaining compliance with the Act. The State of Wisconsin has also submitted additional information regarding the number and types of complaints received by the Commissioner of Savings and Loan for the last three years which are relevant to practices covered by the Rule. This latter submission also includes background information on the state's procedures for handling consumer complaints.

A. General

1. *Coverage.* Section 421.301(10) of the Act provides that the extentions of consumer credit to which the Act applies include any consumer credit sale, lease, or loan where the debt is payable in installments or a finance charge is imposed. The Act applies to persons who seek or acquire real or personal property, services, money, or credit for personal, family, household, or agricultural purposes. The Act does not apply to consumer credit transactions in which the amount financed exceeds $25,000, or to other consumer transactions in which the cash price of the property, services, etc., exceeds $25,000.

The Rule applies to a natural person who seeks or acquires goods, services, or money for personal, family, or household purposes. The Board's definition of consumer credit includes loans secured by liens on real estate, chattel liens secured by mobile homes, and leases of personal property to consumers that may be considered the functional equivalent of loans on personal security, *provided*, the association relies substantially upon other factors as the primary security for the loan, such as the general credit standing of the borrower, guarantees, or other security. Among the types of credit included within this definition are consumer loans, educational loans, unsecured loans for real property alteration, repair, or improvement, loans in the nature of overdraft protection, and credit extended in connection with credit cards. There is no dollar limit on

[1] The Credit Practices Rule promulgated by the Federal Home Loan Bank Board applies to member institutions, which by definition are those engaged in the business of providing credit to consumers and which are members of a Federal Home Loan Bank (including service corporations specified in the Rule). This rule became effective January 1, 1986. The Federal Reserve Board and the Federal Trade Commission have adopted substantially similar rules which apply to banks, lenders, and retail installment sellers within their respective jurisdictions. *See* 50 FR 11695 (1985) (to be codified at 12 CFR Part 227); 16 CFR Part 444 (1985), 49 FR 7740 (March 1, 1984).

the credit transactions to which the Rule applies.

Public comment is sought on the degree to which the difference in coverage between the Act and the Rule affects the level of protection afforded by Wisconsin law. *See* § 421.301(10), Wis. Stats.; 50 FR 19325, 19329 (1985) (to be codified at 12 CFR 535.1(b)).

2. *Enforcement.* The Act is administered by the Commissioner of Banking, who is required by statute to consult and assist any state official or agency having supervisory authority over a supervised financial organization in maintaining compliance with the Act. The Commissioner of Banking authorized to receive and act on complaints, adopt administrative rules, review and approve credit forms, and commence actions through the Department of Justice. The Commissioner of Banking may jointly pursue investigations, prosecute suits, and take other official action with any aforementioned state official or agency.

As part of the petition he filed for Wisconsin, the Commissioner of Savings and Loan Submitted the Commissioner of Banking's annual reports for each of the three report years beginning March 1, 1982, as well as the latter commissioner's petition for exemption filed under the Federal Trade Commission's Credit Practices Rule. The Commissioner of Savings and Loan has also submittted summaries of the numbers and types of complaints received by his office in calendar years 1983, 1984, and 1985. Both submissions for each of the respective reporting period can be summarized.

In the report year beginning March 1, 1982, the Commissioner of Banking received a total of 367 complaints, one of which involved a confession of judgment, a clause prohibited by the Rule. The report also documents four complaints pertaining to "excessive delinquency charges," which could also involve a violation of the Rule if the excessive charges resulted from a pyramiding of late charges. During this reporting period, the Commissioner of Banking completed three enforcement proceedings (a fourth proceeding was pending), two of which involved contracting for deliquency charges in excess of that permitted by law. The report indicates that, of the 367 complaints received, 87 concerned practices not encompassed by the Act, and thus appear not to be covered by the Rule. The Commissioner of Savings and Loan reports that the Commissioner of Banking receiving only one complaint during this reporting period that involved a savings and loan, and this complaint did not pertain to the Act, nor involve any practice or contractual provision addressed by the Rule.

The complaint summary submitted by the Commissioner of Savings and Loan indicates that this office received 149 complaints during calendar year 1983. The greatest number of complaints concerned mortgage loan handling, savings accounts and certificates of deposit, mortgage loan applications, and advertising. The Commissioner reports that none of the complaints received in 1983 invovled a practice or provision addressed by the Rule.

The Commissioner of Banking's annual report for the report year beginning March 1, 1983 indicates that his office received 434 complaints, one of which involved a failure to provide an individual with a written explanation of a cosigner's obligation. The Rule requires that a cosigner receive such a document. The Commissioner of Banking also received seven complaints of excessive delinquency charges, which could involve a practice violative of the Rule if pyramiding of late charges occurred. Enforcement proceedings brought during this period inclded two completed cases, neither of which appears to have concerned practices or contractual provisions covered by the Rule (although two of the four pending cases involved excessive deliquency charges). Of the 434 complaints received, 149 did not pertain to the Act. The violation summary for this latter group fails to indicate that these complaints are covered by the Rule. The Commissioner of Savings and Loan reports that the Commissioner of Banking received no complaints involving a savings and loan during this reporting year.

The Commissioner of Savings and Loan received 113 complaints during calendar year 1984. The majority of these complaints concerned mortgage loan handling, savings accounts and certificates of deposit, mortgage loan applications, and checking services. The Commissioner reports that none of these complaints concerned practices or contractual clauses precluded by the Rule.

The Commissioner of Banking's annual report for the year beginning March 1, 1984 documents the receipt of 564 complaints. Four of these complaints involved excessive delinquency charges, which could have involved practices violative of the Rule if they pertained to the pyramiding of late charges. The report also documents two compliants regarding the failure to provide an explanation of a cosigner's obligation. The Rule requires that a creditor provide a cosigner with a clear and conspicuous notice which outlines the cosigner's potential liability. Enforcement proceedings brought during this reporting period included five completed cases, two of which involved contracting for excessive deliquency charges. (None of the three pending actions appear to involve practices governed by the Rule.) A review of the violation summary fails to indicate that any of the 181 non-Act complaints involve practices encompassed by the Rule. The Commissioner of Savings and Loan reports that the Commissioner of Banking received one complaint regarding a savings and loan during this reporting period, and that this complaint did not concern practices addressed by the Rule.

The Commissioner of Savings and Loan received 139 complaints in calendar year 1985. As in the two previous years, the majority of complaints involved mortgage loan handling, mortgage loan applications, savings accounts and certificates of deposit, checking services, and advertising. Also as in previous years, the Commissioner of Savings and Loan referred a significant number of complaints to the Board (15 in 1985, 13 in 1984, and 14 in 1983). None of these 139 complaints involved practices or contractual clauses precluded by the Rule.

When a complaint is received by the Commissioner of Savings and Loan, the Commissioner's staff gathers additional information from both the complainant and the association in an effort to resolve any dispute. This information is subsequently placed with other complaint materials regarding the association involved, and made available for review by an examiner preparing to examine such association. By statute, every state-chartered savings and loan association must be examined at least once within every 18-month period. The Commissioner of Savings and Loan reports in his submission that during such an examination, the examiners routinely inspect a sampling of notes and security agreements to assure compliance with Wisconsin's consumer laws, which the examiners have been trained to understand. If a technical violation is identified, the examiner will seek remedial action by the association. If an association is reluctant to revise its actions and procedures at that time, a description of such violations is incorporated into the supervisory report. Corrections are then formally requested and the revised activities are routinely reviewed during a subsequent examination.

The state also conducts "limited scope" examinations for problem associations, or to review a matter

which arises between regular examinations. During 1985, one such examination was necessary; it resulted from a series of consumer complaints regarding an association's credit card solicitation practices. Approximately one-sixth of total examiner hours each year are devoted to special examinations.

In the Commissioner of Banking's petition for exemption filed with the Federal Trade Commission, which the Commissioner of Savings and Loan incorporates into the present exemption request, it is stated that the two commissioners work closely to resolve consumer credit issues which arise during their examination of their respective industries. The Commissioner of Banking reports that, in addition to there being two examiners in the Madison office to handle complaints received by the Commissioner against savings and loan associations and others, the office also receives for review and approval hundreds of contract forms submitted by creditors (including savings and loan associations). The State maintains that this contract approval and examination procedure results in a higher level of compliance with the Act than could be achieved by reliance on a simple complaint-and-litigation enforcement scheme. Where compliance cannot be obtained, however, the Commissioner of Banking has authority to bring suit to enforce the Act, with the assistance of the Department of Justice. *See* §§ 426–104(1)(a), 426.301, Wis. Stats.

Public Comment is sought on whether Wisconsin has demonstrated that it administers and enforces the Act so as to afford a level of protection substantially equivalent to that afforded by the Rule.

3. *Remedies.* The specific remedies available to a consumer for violations of the Act vary depending upon the specific provisions of the Act which is violated. As discussed in the provision-by-provision analysis *infra,* awards to consumers for individual violations of the Act may include one or more of the following: Actual damages (including incidental and consequential damages); an award of $100; twice the amount of the finance charge (but between $100 and $1,000); any sums paid to the merchant; the right to retain the goods, services, or money received; and reasonable attorney fees. Moreover, the Act provides that certain nonconforming obligations are void or unenforceable.

In addition to the private right of action permitted under the Act, the state may recover civil penalties of $100 to $1,000 for each negligent violation of the Act, and penalties of $1,000 to $10,000 for each knowing and willful violation. The State or any consumer may bring a civil action for temporary or permanent injunction to restrain a person from violating this Act. Furthermore, either the State or any consumer affected by a violation of the Act may bring a class on behalf of all persons similarly situated for actual damages, punitive damages not to exceed $100,000, reasonable attorney fees, and other relief to which consumers are entitled under specific provisions of the Act.

The specific remedies available to the Board for violations of the Rule are set forth in section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464 (1982)), with respect to federal savings and loan associations, section 407 of the National Housing Act (12 U.S.C. 1730 (1982)), with respect to insured institutions, and sections 6(i) and 17 of the Federal Home Loan Bank Act (12 U.S.C. 1426(i), 1437 (1982)), with respect to savings and loan associations that are members of a Federal Home Loan Bank. The remedies provided by these statutory provisions include the authority and procedures for issuing cease and desist orders, as well as procedures for terminating an association's insured status. These provisions provide for civil penalties of as much as $1,000 per day, for each violation of any such order which has become final. However, the Rules does not make a nonconforming obligation void or unenforceable by the creditor, nor does it contain a private right of action provision.

Public comment is sought on the degree to which these differences in penalties for violations of the Act and the Rule affect the level of protection afforded by Wisconsin law.

B. Confession of Judgment

Section 422.405 of the Act provides that a creditor may not take or accept from a consumer any authorization that would enable the creditor, or one acting on his behalf, to confess judgment on behalf of the consumer. If a contract contains such a prohibited provision, such provision is unenforceable, and the consumer shall be entitled to receive any sums paid to the creditor pursuant to the transaction. In addition, the consumer may be entitled to retain the goods, services, or money received under the transaction without further obligation to pay any amount, unless the person violating the Act shows by a preponderance of the evidence that the violation was not intentional and resulted from a *bona fide* error. The Rule prohibits a creditor from using a confession of judgment in a consumer credit contract or any other waiver of the right to notice and opportunity to be heard in the event of suit or legal process based on the contract. Public comment is sought on the degree to which the difference is available remedies under the Act and the Rule affects the level of protection afforded a consumer under Wisconsin law.

C. Waiver of Exemptions

Wisconsin law exempts from execution by judgment creditors certain real and personal property of the debtor as well as portion of a debtor's wages. *See* §§ 421.106, 425.106, and 425.107(3)(e), Wis. Stats. Wisconsin law also provides that it is an unconscionable practice to include in a contract a provision that requires the consumer to waive legal rights. The State contends that it would be unconscionable for a creditor to include in its contract a waiver of exemptions clause, although waivers of exemptions are not expressly prohibited under Wisconsin law as they are under the Rule. An unconscionable contract provision is not enforceable in Wisconsin, and a creditor who includes such a provision in a contract is liable to the consumer in an amount equal to the actual damages sustained by reason of the violation. Furthermore, the person violating such provision shall be liable to the customer in the amount of $100, unless the former demonstrates by a preponderance of the evidence that the violation was not intentional and resulted from a *bona fide* error. Public comment is sought on the degree to which differences in coverage and remedies affect the level of protection afforded by Wisconsin law.

D. Wage Assignments

Section 422.404 of the Act prohibits wage assignments unless such assignments are revocable at will by the customer, and provides that such assignments can be automatically renewed, provided the customer receives specified notices. The Rule prohibits wage assignments unless revocable, unless such assignments apply to wages already earned at the time of assignment, or unless they constitute a payroll deduction plan or preauthorized payment plan commencing at the time of transaction. While Wisconsin law does not expressly address payroll deductions, the state indicates in its submission that such a payment mechanism would be permissible only if the consumer could revoke it at any time. The Rule permits certain specified payroll deductions regardless of their revocability. The State of Wisconsin thus contends in its submission that its provision on wage

assignments is broader and offers greater protection than does the Rule.

A creditor who violates the Wisconsin wage assignment provision is liable to the customer in an amount equal to the greater of the actual damages sustained by the customer or twice the amount of the finance charge imposed (but not greater than $1,000). The latter remedy is available unless the violator establishes that the violation was not intentional and resulted from a *bona fide* error. Public comment is sought on the degree to which differences in coverage and remedies affect the level of protection afforded to consumers by the Wisconsin law.

E. Household Goods Security Interests

Section 422.417 of the Act provides that, in general, a seller may take only a purchase money security interest. With respect to a consumer credit sale, if the obligation secured is in the amount of $500 or more, a seller may take a security interest in goods as defined in § 409.105 (to include movables and fixtures) upon which the property sold (goods, services, an interest in land) is installed or to which it is annexed. The creditor may also take a security interest in goods upon which any services that are the subject of the sale are performed. with respect to consumer loans, a lender that is not a seller may take a non-purchase money security interest, expect in certain household goods.

The Rule prohibits a creditor from obtaining from a consumer a non-possessory security interest in certain household goods other than a purchase money security interest. The list of "household" items that may not be offered as security in Wisconsin is somewhat different from the Rule's definition of household goods. Unlike the Rule, the Wisconsin provision does not exclude from the items that may be taken as security the following: A television, china, appliances generally (other than a refrigerator, heating stove, and cooking stove), or furniture generally (other than a dining table with chairs, beds, and couch with chairs). Moreover, Wisconsin does not exclude "personal effects," as does the Rule.

If a prohibited security interest is taken in Wisconsin, the consumer's remedies are the same as those previously outlined for violations of the Act's wage assignment provision. Public comment is sought on the degree to which differences in the list of household items protected by the Wisconsin Act and the Rule, as well as other differences in coverage or in remedies, affect the level of protection afforded by Wisconsin law.

F. Cosigner Provisions

The Rule provides that it is a deceptive act or practice for a creditor to misrepresent the nature and extent of a cosigner's liability to any person. The Rule also provides that it is an unfair act or practice for a creditor to obligate a consigner unless the cosigner is informed, prior to becoming obligated, or the nature of his or her liability. Therefore, the Rule imposes an affirmative duty upon the creditor to provide a cosigner with a clear and conspicuous "Notice to Cosigner," which outlines the consigner's liability.

The Act does not expressly provide that it is a deceptive act or practice for a creditor to misrepresent the nature and extent of a cosigner's liability. The Act does provide that a creditor may not advertise, print, display, or publish any statement with respect to a consumer credit transaction which is false, misleading, or deceptive. In its petition for examption, the State maintains that directly or indirectly misrepresenting the nature or extent of a cosigner's liability would violate this provision of the Act. The remedies available to a consumer for a violation of this advertising provision of the Act are those previously outlined for the use of a prohibited confession of judgment clause.

Although the Rule provides that the cosigner notice is necessary in all consumer credit transactions in which a cosigner is required, the Wisconsin statute does not. The Wisconsin provision states that no person is obligated to assume personal liability for payment of a consumer credit obligation unless that person, in addition to signing the writing evidencing the credit transaction, also *either* receives a copy of each agreement signed by the customer, *or* receives at the time of signing a separate cosigner notice labeled "Explanation of Personal Obligation."

The cosigner notice required by the Rule, and the notice set forth in the Act, are similar but not identical. The notice required by the Rule states that: (1) The creditor can collect from the cosigner without first trying to collect from the borrower; (2) the notice is not the contract that makes the cosigner liable; (3) the same collection remedies may be used against the cosigner as against the borrower; (4) if the debt goes into default, that fact could become a part of the cosigner's credit history; and (5) the cosigner should think carefully before becoming obligated.

Section 422.305 of the Wisconsin law provides that a cosigner may receive a notice labeled "An Explanation of Personal Obligation" and a copy of all revelant documents. The Explanation describes: (1) The cosigner's obligation to pay even through the cosigner may not be entitled to any of the goods, services, or loan provided to the borrower; (2) that the cosigner may be sued even though the borrower may be able to pay; (3) that the notice is not the agreement that makes the cosigner liable; and (4) that the cosigner is entitled to a free copy of any document the cosigner signs endorsing the transaction. The Rule does not provide that the consigner be provided with documents evidencing the obligation as does the Wisconsin law.

Under the Act, a cosigner who does not receive the required documentation may sue the creditor and recover twice the amount of the finance charge or actual damages, whichever is greater. Public comment is sought on the degree to which these differences in the required notice and other relevant provisions affect the level of protection afforded by Wisconsin law.

G. Late Charges

The Rule provides that, in connection with the collection of a debt arising from an extension of credit, it is an unfair practice to levy a delinquency charge on a payment which is otherwise a full payment for the applicable billing period and is paid on or before its due date or an applicable grace period, and where the only delinquency is attributable to a late charge assessed on an earlier installment. The practice that the Rule addresses, therefore, is one in which late charges from a previous period are subtracted from later installment payments, so that the latter are insufficient and the borrower is assessed new late charges each month.

The Wisconsin law prohibits the pyramiding of late charges as does the Rule. Wisconsin law provides that an outstanding, unpaid late charge may not be included in an outstanding balance for purposes of calculating any finance charge or minimum payment due during any subsequent billing cycle. A creditor who violates the state's prohibition is liable to the consumer in an amount equal to that set forth for a violation of the wage assignment provisions. Public comment is sought on the degree to which the difference in available remedies affects the level of protection afforded by Wisconsin law.

By the Federal Home Loan Bank Board.

Nadine Y. Penn,

Acting Secretary.

[FR Doc. 86-8443 Filed 4-15-86; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-NM-34-AD]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require the inspection for corrosion, repair if necessary, and optional modification of the aft pressure bulkhead web and lower chord on certain Boeing Model 747 airplanes. This action is prompted by reports of corrosion in the aft pressure bulkhead web and lower chord which, if not corrected, could result in loss of cabin pressure.

DATE: Comments must be received on or before June 9, 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-34-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. Owen 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:

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-34-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion: There have been numerous reports of corrosion at the bottom of the aft pressure bulkhead on Boeing Model 747 airplanes. The corrosion is attributed to standing water between the upper legs of the aft pressure bulkhead chord that resulted from a plugged drain hole. Corrosion in the aft pressure bulkhead could result in loss of cabin pressure.

Boeing has issued Service Bulletin 747-53-2220, Revision 1, dated October 10, 1983, that details a corrosion inspection procedure and repair. The service bulletin also describes a modification for the enlargement of an existing drain hole, the installation of leveling compound and corrosion preventive coating in the aft pressure bulkhead, and the trimming of adjacent insulation blankets.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed that would require repetitive inspections for corrosion of the aft pressure bulkhead and repair, if necessary, in accordance with Service Bulletin 747-53-2220, Revision 1, dated October 10, 1983. An optional modification of the aft pressure bulkhead and trimming of adjacent insulation blankets would allow the operator to extend the repetitive inspection intervals.

It is estimated that 142 airplanes would be affected by this AD, that it would take approximately 500 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 $2,840,000 for the initial inspection cycle.

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 747 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.

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

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

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

2. By adding the following new airworthiness directive:

Boeing: Applies to Model 747 series airplanes listed in Boeing Service Bulletin 747-53-2220, Revision 1, dated October 10, 1983, certificated in any category.

To detect corrosion in the aft pressure bulkhead web and lower chord accomplish the following, unless already accomplished.

A. Perform an inspection for corrosion of the aft pressure bulkhead and lower chord in accordance with Boeing Service Bulletin 747-53-2220, Revision 1, dated October 10, 1983, or later FAA-approved revisions, in accordance with the following schedule after the effective date of this AD:

1. Within 6 months for airplanes that have accumulated over 40,000 flight hours on the effective date of this AD;

2. Within 12 months for airplanes that have accumulated 20,000 to 40,000 flight hours on the effective date of this AD; and

3. Within 24 months or upon the accumulation of 20,000 flight hours, whichever occurs later.

B. For airplanes on which the aft pressure bulkhead and lower chord have not been modified with the reworked drain hole, application of leveling compound, trimming of insulation blanket, and an application of corrosion preventive compound in accordance with Boeing Service Bulletin 747-53-2220, Revision 1, dated October 10, 1983, or later FAA-approved revisions, repeat the inspections required by paragraph A., above, at intervals not to exceed 10,000 flight hours or three and one-half years, whichever occurs first.

C. For airplanes on which the aft pressure bulkhead and lower chord have been modified with the reworked drain hole,

application of leveling compound, trimming of insulation blanket, and an application of corrosion preventive compound in accordance with Boeing Service Bulletin 747–53–2220, Revision 1, dated October 10, 1983, or later FAA-approved revisions, repeat the inspections required by paragraph A., above, at intervals not to exceed 20,000 flight hours or seven years, whichever occurs first.

D. If any corrosion is found in the aft pressure bulkhead web and lower chord, repair before further flight in accordance with Boeing Service Bulletin 747–53–2220, Revision 1, dated October 10, 1983, or later FAA-approved revisions.

E. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

F. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes unpressurized 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 document from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124–2207. 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.

Issued in Seattle, Washington, on April 8, 1986.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 86–8390 Filed 4–15–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 75

[Airspace Docket No. 86–AWP–1]

Proposed Realignment of Jet Route J–92

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign Jet Route J–92 from Tucson, AZ, to the U.S./Mexican Border. This realignment is proposed to provide for the more efficient use of airspace by providing a direct route between the Tucson, AZ, United States and Hermosillo, Mexico, very high frequency omni-directional radio range and tactical air navigational aid (VORTAC) facilities.

DATE: Comments must be received on or before May 29, 1986.

ADDRESS: Send comments on the proposal in triplicate to: Director, FAA, Western-Pacific Region, Attention: Manager, Air Traffic Division, Docket No. 86–AWP–1, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, CA 90009.

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, D.C.

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

FOR FURTHER INFORMATION CONTACT: Gene Falsetti, 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) 426–8783.

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–AWP–1." 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, D.C. 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 75 of the Federal Aviation Regulations (14 CFR Part 75) to realign J–92 between the Tucson, AZ, United States, and Hermosillo, Mexico VORTACs. Realignment would result in a direct route between the facilities which would also allow for the more efficient use of airspace through the availability of a lower minimum enroute altitude. Recently, J–92 was altered as part of a package of airspace actions associated with relocation of the Tucson VORTAC (Airspace Docket No. 84–AWP–3, 50 FR 38973), effective November 21, 1985. The establishment of a direct route at that time was not effected with Mexico because of the interruption in communications experienced after the earthquakes. Coordination with Mexico has now been effected to eliminate the slight bend in J–92 and any reception problems caused by it. Section 75.100 of Part 75 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 Flexibity Act.

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

The Proposed Amendment

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

1. The authority citation for Part 75 continues to read as follows:

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

§ 75.100 [Amended]

2. § 75.100 is amended as follows:

J-92 [Amended]

By removing "179°" and substituting "182°T(170°M)"

Issued in Washington, D.C., on April 7, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-8392 Filed 4-15-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

Labor Certification Process for the Temporary Employment of Aliens in Agriculture; Adverse Effect Wage Rate Methodology

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rule.

SUMMARY: The Employment and Training Administration (ETA) of the Department of Labor (DOL) is proposing to amend its regulations for the certification of nonimmigrant aliens for temporary employment in agriculture in the United States. The proposed rule would amend the methodology for setting agricultural adverse effect wage rates (AEWRs) for 1986 and years thereafter. AEWRs are minimum, wage rates which DOL has determined must be offered and paid by employers proposing to employ nonimmigrant alien agricultural workers temporarily in the United States. The proposed rule would base annual adjustment to the AEWR on movements in the U.S. Department of Agriculture (USDA) annual hourly farm wage rates for field and livestock workers. The hourly rates are derived from the USDA Quarterly Wage Survey. Similar rates were used to adjust AEWRs between 1968 and 1981.

DATE: Written comments on the proposed rule must be received on or before May 16, 1986.

ADDRESS: Send written comments to: Assistant Secretary of Labor, Employment and Training Administration, Room 8100, Patrick Henry Building, 601 D Street, NW., Washington, DC 20213. Attention: Mr. Richard C. Gilliland, Director, U.S. Employment Service.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas M. Bruening. Telephone: (202) 376-6228.

SUPPLEMENTARY INFORMATION:

I. Temporary Alien Labor Certification Process and Adverse Effect Wage Rates

A. Background

Whether to grant or deny an employer's petition to import a nonimmigrant alien to the United States for the purpose of temporary employment is solely the decision of the Attorney General and his designee, the Commissioner of the Immigration and Naturalization Service (INS). 8 U.S.C. 1101(a)(15)(H)(ii) and 1184(c); 8 CFR 2.1. Pursuant to the requirement in 8 U.S.C. 1184(c) that the Attorney General consult with appropriate agencies of the government concerning the importation of nonimmigrant (so-called "H-2") workers, INS has determined that prior to granting or denying such a petition, it first will request the Department of Labor (DOL) to advise INS of availability of qualified U.S. workers for the jobs offered to the H-2 aliens, and whether the wages and working conditions attached to such a job offer will adversely affect similarly employed U.S. workers.

Pursuant to the INS regulations, the Employment and Training Administration (ETA) has published regulations at 20 CFR Part 655, Subpart C, for the certification of temporary employment of nonimmigrant aliens in agriculture and logging in the United States. DOL has determined that similarly employed United States workers have been adversely affected by the importation and employment of nonimmigrant aliens in agricultural employment. It has been determined further that employment of those aliens in a number of States at wages below specially computed adverse wage rates (AEWRs) would adversely affect the wages of similarly employed United States workers. 20 CFR 655.202(b)(9) and 655.207.

Between 1968 and 1981 these special AEWRs had been computed by adjusting the previous year's AEWR for a State by the same percentage change as the annual average wage rates for field and livestock workers, as surveyed by the U.S. Department of Agriculture (USDA). See 41 FR 25018 (June 22, 1976). However, in 1981, USDA substantially reduced its number of surveys and ceased compiling annual average wage rates. Consequently, the methodology established in 1968 for computing AEWRs was no longer adequate. AEWRs for 1981 were published under the then-existing methodology, but, due to the diminished USDA data, for 1982 DOL determined that it was necessary to extend the 1981 AEWRs for another year. See 47 FR 37980 (August 27, 1982).

Farmworkers in three States objected to the extension of 1981 AEWRs into 1982, and brought suit in the U.S. District Court for the District of Columbia. The Order in *Bragg* v. *Donovan*, Civil Action No. 82-2361 (D.D.C. August 25, 1982), required DOL to establish a methodolgy and set 1982 AEWRs for those States. After a full notice and comment period, DOL established by regulation new AEWRs for those three States (Florida sugar cane, Vermont, and Maine), and for West Virginia, the State whose farmworkers were the original plaintiffs in *NAACP, Jefferson County Branch* v. *Donovan*, 554 F. Supp. 715 (D.D.C. 1983). See 20 CFR 655.207(b) (1983); 48 FR 235 (January 4, 1983). The methodology used to set 1982 AEWRs for these States involved a comparison of the historic relationship between the more limited post-1980 USDA and the data which USDA collected before 1981.

B. Use of ES-202 Data

The current methodology for setting AEWRs is set forth at 20 CFR 655.207(a) and (b); 48 FR 40168 (September 2, 1983). Under this methodology, adjustments to the AEWR are made according to movements in average weekly wages for similarly employed workers covered by Unemployment Insurance (UI) in the State as determined under the ES-202 program.

A final rule establishing the use of ES-202 data for indexing AEWRs was published on September 2, 1983, to provide the new data base needed to determine and establish 1983 AEWRs. 48 FR 40175. Subsequent to the publishing of the rule, agricultural employers of H-2 aliens filed lawsuits in U.S. District Courts in Virginia, Florida, and Vermont seeking to overturn the use of ES-202 data in determining AEWRs. Various rulings by the District Courts were appealed, and, during 1985, three U.S. Courts of Appeals issued rulings upholding DOL's use of ES-202 data. *Virginia Agriculture Growers Association* v. *Donovan*, 774 F. 2d 89 (4th Cir. 1985); *Florida Fruit and*

Vegetable Association v. *Donovan* 771 F. 2d 1455 (11th Cir. 1985); *Shoreham Cooperative Apple Producers Association* v. *Donovan*, 764 F. 2d 135 (2d Cir. 1985).

II. Discretion in Setting AEWRs

The purpose of an AEWR, as described by the U.S. Court of Appeals for the Fifth Circuit, is "to neutralize any 'adverse effect' resultant from the influx of temporary foreign workers." It is a "method of avoiding wage deflation." *Williams* v. *Usery*, 531 F. 2d 305, 306 (5th Cir. 1976), *cert. denied*, 429 U.S. 1000 (1979); see *Florida Sugar Cane League, Inc.* v. *Usery*, 531 F. 2d 299 (5th Cir. 1976); see also *Limoneira Co.* v. *Wirtz*, 225 F. Supp. 961 (S.D. Cal. 1963) *aff'd* 327 F. 2d 499 (9th Cir. 1964); and 20 CFR 655.0

DOL has "broad discretion" to set AEWRs in accordance with "any of a number of reasonable formulas" *Florida Sugar Cane League* v. *Usery, supra*, 531 F. 2d at 303–304; *Florida Fruit & Vegetable Association* v. *Donovan*, 583 F. Supp. 268 (S.D. Fla. 1984), *aff'd* 771 F. 2d 1455 (11th Cir. 1985); *accord, Rowland* v. *Marshall*, 650 F. 2d 28 (4th Cir., 1981) *(per curiam); Williams* v. *Usery, supra; Dona Ana County Farm and Livestock Bureau, Inc.*, v. *Goldberg*, 200 F. Supp. 210 (D.D.C. 1961).

In *Flecha* v. *Quiros*, 567 F. 2d 1154, 1156 (1st Cir. 1977), the U.S. Court or Appeals for the First Circuit recognized two competing statutory purposes, quoting from a Third Circuit decision:

> The common purposes are to assure (employers) an adequate labor force on the one hand and to protect the jobs of citizens on the other. Any statutory scheme with these two purposes must inevitably strike a balance between the two goals. Clearly, citizen-workers would best be protected and assured high wages if no aliens were allowed to enter. Conversely, elimination of all restrictions upon entry would most effectively provide employers with an ample labor force. *Rogers* v. *Larson*, 3 Cir. 1977, 563 F. 2d 617, 626.

The First Circuit then capsulized the purpose of the statute and regulations as "to provide a manageable a scheme that is fair to both sides." 567 F. 2d 1156. Thus, the AEWR computation methodology must recognize the need to balance the goals of supplying an adequate labor force and protecting the jobs of citizens.

Employers applying for temporary labor certifications also must agree to comply with all employment-related laws. 20 CFR 655.203(b); see also 8 CFR 214.1(h)(3)(i). If the employment is covered by a higher wage standard applicable under any Federal, State, or local minimum wage law, the employer must comply with that law. See, *e.g.*, 29 U.S.C. 206(a). If the prevailing wage for the occupation in the labor market is higher, the employer must offer and pay that wage. Thus, a worker in employment under the temporary alien certification program must be compensated at the highest of the applicable wage rates, whether that highest rate is the AEWR, the prevailing wage, or the Federal, State, or local statutory minimum wage. *Limoneira Co.* v. *Wirtz*, 327 F. 2d 499 (9th Cir. 1964), *aff'd* 225 F. Supp. 961 (S.D. Cal. 1963); see also *Elton Orchards, Inc.* v. *Brennan*, 508 F. 2d 493 (1st Cir. 1974); and *Flecha* v. *Quiros, supra*. These decisions acknowledge DOL's discretion in the area of AEWRs and form the basis for construction of DOL's temporary alien labor certification regulations. See 20 CFR 655.0(e).

III. Consideration of Alternative Methodologies

An Advance Notice of Proposed Rulemaking was published by DOL on July 27, 1984 (49 FR 30208) requesting comments and suggestions on methodologies for computing AEWRs in years after 1984. Forty-five comments were received, most of them from agricultural employers and their representatives.

The following is a summary of the comments and DOL's reaction to them:

- Use prevailing wages and AEWRs (17 commenters)—considered to be inappropriate as AEWRs are designed to offset depression of prevailing wages brought about by influx of alien workers. See 20 CFR 655.207(a).
- Use USDA data to adjust AEWRs (13 commenters)—substantive suggestions warranting further examination.
- Abolish AEWRs (5 commenters)—not within the scope of proposed rulemaking.
- Establish work group to review options (5 commenters)—procedural recommendation which was later adopted.
- Continue use of ES–202 data (1 commenter)—adopted for 1985 AEWRs.
- Use average weekly wages in manufacturing (1 commenter)—"workers similarly employed" are not included.
- Use Federal or State minimum (2 commenters)—does not address issue of adjustments needed to compensate for adverse effect.

In commenting on the advance notice, USDA suggested that DOL give careful consideration to renewed utilization of its quarterly farm wage survey data which had been relied upon for years by DOL for AEWR purposes before the survey activity had been severely curtailed in 1981. This suggestion was adopted by DOL. USDA further stated that it was planning to resume the quarterly wage surveys in 1985. However, ample data would not be available for the purpose of adjusting AEWRs in 1985.

In October of 1984, USDA did reinstitute its quarterly wage surveys, and, on August 10, 1985, DOL stated its intention (50 FR 33122) to start a process which could result in the return to the use of USDA data for determining 1986 AEWRs. In the same published notice, DOL stated that the process would involve "informal rulemaking procedures" and the publishing of a proposed rule "with appropriate opportunity for comment by all interested parties." Subsequently, an interagency task force representing a number of USDA and EOL offices was convened to examine the comparative merits of the ES–202 and USDA data series.

IV. The U.S. Department of Agriculture (USDA) Farm Wage Data Series

The U.S. Department of Agriculture (USDA) publishes annual average hourly wage rates covering field and livestock workers based on its Quarterly Wage Survey. The estimated rates are derived from data collected from a probability survey of farm establishments that are actively involved in the production of crops or livestock. The population of interest consists of all farms and ranches that market or have the potential to market $1,000 of farm products during the calendar year. The probability survey is of multiple frame design where a stratified random sample of farm establishments from a list of potential employers of agricultural workers is supplemented by an area sample to cover establishments that are not on the list frame. The sample, which covers a seven-day period including the twelth of the month, consists of more than 14,500 establishments in April, July, and October and 4,000 in January. The April, July, and October surveys are conducted in the 48 contiguous States and Hawaii. The January survey is conducted in seven States (California, Florida, Hawaii, Texas, Oklahoma, Arizona, and New Mexico). The data are collected by personal interview, most often by telephone.

A. Strengths of USDA Data

The following is a summary of USDA data factors DOL believes would lend support to its use as a basis for indexing AEWRs:

—Yields actual *hourly* rates; relates well to AEWR which is also an hourly rate.
—Yields data specifically on hired farmworkers, which are "similarly employed" with respect to H–2 workers. (Does not include other farm employees such as supervisors).
—Samples *all* sizes and Standard Industrial Classification (SIC) categories of employers of farm labor.
—Would permit publication of AEWRs early in calendar years.
—Peak labor usage months are represented by the survey.

B. Weaknesses of USDA Data

The following is a summary of USDA data factors DOL believes might factor against the use of USDA data to index AEWRs:

—May include H–2 and undocumented aliens' earnings, which are not U.S. workers similarly employed.
—Wage rates are for workers hired directly by farm and ranch operators. The wage rates for workers hired by crew leaders and agricultural service workers are currently not part of the system, except for California and Florida.
—Data not available for all months of the year.

V. The ES–202 Data Series

The ES–202 program is a cooperative activity of DOL's Bureau of Labor Statistics (BLS) and State Employment Security Agencies. Since 1978, agricultural labor has been covered broadly under all the States' Unemployment Insurance (UI) laws. See 26 U.S.C. 3306(a)(2) and (c)(1); and sections 111 and 114 of Pub. L. 94–566. At minimum, employees of agricultural firms employing at least 10 workers in 20 weeks or having a $20,000 quarterly payroll are covered by UI. Some State UI laws have broader coverage of agricultural labor.

As part of their UI programs, the State Employment Security Agencies receive from each UI-covered employer quarterly reports showing the number of workers on the payroll, total wages, taxable wages, and UI contributions (State UI taxes). The State agencies, in turn, report this information to BLS showing the number of UI-covered establishments, employment during the mid-week of each month, and total wages paid during the quarter. Wages are reported by Standard Industrial Classification (SIC) code, including various categories of agricultural crop producers. Using the ES–202 data, AEWRs for 14 States have been adjusted in 1983, 1984, and 1985 by the annual percentage change in total weekly wages in agricultural jobs in a single State or groups of States.

A. Strengths of ES–202 Data

The following is a summary of ES–202 data factors DOL believes would lend support to its continued use as a basis for indexing AEWRs:

—Includes employment in a pay period in each month and aggregate wages for the entire year, thus covering peak seasons in all crop activities.
—Does not include employment and wages of H–2 workers; thus, tends to cover *U.S.* workers similarly employed. However, may include undocumented aliens.
—Mandated by law, and is thus a stable data base, less subject to administrative and budget vagaries.
—Under direct control of DOL, which has responsibility for establishing AEWRs.
—Yields "reasonable" outcomes for most States (using USDA data as reference); quality control improvements in recent years have reduced fluctuations appearing in earlier years.

B. Weaknesses of ES–202 Data

The following is a summary of ES–202 data factors DOL believes might factor against the use of ES–202 data to index AEWRs:

—Does not yield *hourly* rates, only *aggregate* quarterly wages and monthly employment (a farm payroll period that includes the 12th of the month). Could cause statistical distortions when applied to the AEWR (which is an hourly rate), due to fluctuating nature of agricultural employment.
—Includes employment and wage data for employees other than farm laborers (e.g., supervisory and technical workers); such employees are not "similarly employed" U.S. workers, in relation to H–2 workers.
—Processing time does not permit publication or AEWRs before August or September. Ideally, AEWRs should be published early in the calendar year, to cover most crops currently using H–2s and to permit the new rate to be included on clearance orders, so as to facilitate the recruitment of U.S. workers.
—While date are collected for all SIC codes, selection of SIC codes for AEWR adjustment purposes has proved problematical. Present selection omits a significant category where foreign workers are employed.

VI. Proposed Methodology for 1986 and Future Years

The development of this proposed rule follows careful examination of the USDA farm wage data series and the ES–202 farm wage date series by a DOL/USDA interagency task force. After an exhaustive review of the technical and programmatic aspects of the two data series and consideration of a transitional approach for 1986, DOL has concluded that the USDA series is the most appropriate for adjusting AEWRs for 1986 and beyond, primarily because it deals with actual hourly rates, is timely, and represents all sizes and SIC categories of employers of farm labor. DOL has been delegated the responsibility to protect the wages of U.S. farmworkers from being adversely affected by the importation of nonimmigrant foreign workers. Therefore, the data series proposed for determining 1986 AEWRs must be technically sound and consistent with this responsibility.

Building on recommendations presented by the interagency Task Force, DOL considered options for utilizing the USDA data series in devising an AEWR methodology for 1986 and beyond. Descriptions of these options and a comparative summary follow:

Option 1

Index the 1985 AEWRs derived from the ES–202 data by the precent change in USDA annual hourly wage rates for field and livestock workers between 1984–1985 and 1985–1986 (the last two quarters of the earlier year and the first two quarters of the later year) to determine 1986 AEWRs. For subsequent years, use year-to-year changes in USDA calendar year average hourly wage rates.

Factor Summary

• Gives strong support and recognition to legitimately derived 1983–1985 ADWRs established by DOL as wage standards for protecting U.S. workers by using them as base for calculating 1986 AEWRs.
• At the same time, uses the appropriate quarterly USDA data to calculate year-to-year changes in the AEWRs, starting in 1986.
• Would avoid sharp discontinuities in AEWRs for selected States (e.g., increases in Arizona and Texas and a reduction in Florida).
• Fails to utilize the more technically sound method for determining the 1986 AEWRs by using the ES–202 derived rates for 1985 as a base; ES–202 data measure changes in aggregate annual

earnings between 1980 and 1984, as opposed to changes in hourly wage rates.

• Perpetuates any statistical distortions which might have been introduced by the ES–202 methodology in the intervening years.

• Creates possible problems in establishing AEWRs for new States coming into the H–2 program in that no ES–202 derived AEWRs were officially established for 1983–1985 for those States. If such AEWRs were calculated retrospectively, it is questionable whether DOL could establish them retroactively as a base for determining the 1986 AEWRs. If DOL applied an alternate methodology to new States, this would result in additional inconsistency and complexity.

• Data would not be as timely for 1986 as Option 2 (May-June 1986 vs. November-December 1985).

Option 2

Apply the percent increase in USDA average hourly wage rates between 1980 and 1985 to the 1981 AEWRs, which were the last AEWRs derived from USDA quarterly data, to determine 1986 AEWRs. For subsequent years, use year-to-year changes in USDA calendar year average hourly wage rates.

Factor Summary

• Utilizes the more technically sound method for determining 1986 AEWRs for all States, old and new.

• Would eliminate any statistical distortions which may have been introduced by the ES–202 data.

• Clear application of this approach to new States; would not need to calculate ES–202 AEWRs for new States for the intervening years.

• Would be very timely; could publish 1986 AEWRs early in the year.

• Would result in AEWR decreases between 1985 and 1986 in three States (Maryland, Colorado, and Florida).

• Would result in sharp increases for Arizona and Texas.

For 1986 and years beyond, DOL proposes to use Option 2 to adjust AEWRs. DOL would apply the percent increase in USDA average hourly wage rates between 1980 and 1985 to the 1981 AEWRs, which were the last AEWRs derived from USDA quarterly data, to determine 1986 AEWRs. The base (1981) rates under Option 2, the 1985 rates under the existing ES–202 methodology, and the anticipated 1986 AEWRs under Option 2 are set forth in Table 1, below. For subsequent years, DOL would use year-to-year changes in USDA calendar year average hourly wage rates based on the USDA Quarterly Survey. DOL also considered whether, in choosing Option 2, AEWRs in States currently listed in 20 CFR 655.207(b)(2) should not be reduced below 1985 levels. As shown in Table 1, below, under the proposed rule, declining AEWRs are expected to occur in only a few States. Option 2 represents, essentially, a return to the pre-1982 AEWR methodology, and the AEWRs computed under Option 2 represent those which would have existed has the ES–202 methodology not been used in the intervening years. Therefore, the proposed rule does not provide for differing treatment between employment in the current "H–2 user States" versus future H–2 user States. In the proposed rule below, AEWRs for 1986 and future years will be allowed to rise or fall to the levels set pursuant to Option 2.

TABLE I.—ANTICIPATED EFFECTS OF OPTION 2

State	1981 AEWR (base rate)	1980–1985 USDA data (percent change)	1986 AEWR (anticipated)	1985 AEWR (ES–202 based)	1985 to 1986 (percent change)
Arizona	$3.87	+37	$5.30	$4.20	+26.2
Colorado	3.93	+24	4.87	4.91	−0.8
Connecticut	3.35	+31	4.39	4.16	+5.5
Florida (Sugarcane only)	4.69	+13	5.30	6.06	−12.5
Florida (Except Sugarcane)	[1]3.80	+13	4.29	4.91	−12.6
Maine	3.44	+31	4.51	4.26	+5.9
Maryland	3.80	+21	4.60	4.63	−0.6
Massachusetts	3.35	+31	4.39	4.16	+5.5
New Hampshire	3.59	+31	4.70	4.47	+5.1
New York	3.48	+31	4.56	4.32	+5.6
Rhode Island	3.35	+31	4.39	4.16	+5.5
Texas	3.97	+27	5.04	4.20	+20.0
Vermont	3.54	+31	4.64	4.40	+5.5
Virginia	3.81	+24	4.72	4.64	+1.7
West Virginia	3.62	+24	4.49	4.49	0

[1] Computed, but not published.

VII. Additions to List of States

DOL publishes AEWRs for only those States listed in 20 CFR 655.207(b)(2). For all other States and for logging and sheepherding work the AEWR is the prevailing wage in the area of intended employment. 20 CFR 655.207(a). However, DOL historically had *computed* USDA-based rates for 1981 and earlier years for the 48 contiguous States, according to the methodology then in place. See 20 CFR 655.207 (1981 ed.); and 43 FR 10317 (March 10, 1978). The 48-State list was published, at one time, in the regulation in force prior to the promulgation of 20 CFR 655.207. See 20 CFR 602.10b(a)(1) (1971), 35 FR 12394 (August 4, 1970).

Under the proposed rule, the USDA-based "computed" rates for 1981 (set forth in Table I above) will be used to compute 1986 AEWRs for the States listed in § 655.207(b)(2) and for Florida sugar cane work. The computed rate is the AEWR which would have been or was published for a State in 1981 under the methodology then published at 20 CFR 655.207(b)(1), 43 FR 10317 (March 10, 1978). As a State may be added to the list in paragraph (b)(2), the "computed" 1981 USDA-based rate would be expected to be the base against which the 1980–85 change in USDA wage data and subsequent annual changes in USDA wage data would be applied to compute the applicable AEWR.

VIII. 1982–83 AEWRs

The transitional provisions currently in § 655.207(b)(3) relate to AEWRs in various States for 1982 and 1983, and would be removed since they were temporary. Those AEWRs already have been applied and this rulemaking, if adopted, in no way removes the responsibility of any employer for the payment of applicable wages for covered employment according to the AEWRs set by regulation for 1982 and 1983.

Regulatory Impact

The proposed rule would affect only those relatively few employers in the agricultural sector using nonimmigrant alien workers ("H–2 visa holders") in temporary agricultural jobs in the United States. It would not have the financial or other impact to make it a major rule, and, therefore, the preparation of a regulatory impact analysis is not necessary. See Executive Order 12291 (February 17, 1981).

The Department of Labor has notified the Chief Counsel for Advocacy, Small Business Administration, and made the certification pursuant to 5 U.S.C. 605(b), that the proposed rule will not have a significant economic impact on a substantial number of small entities. It applies only to the small number of employers (and their workers) who employ nonimmigrant alien H–2 visa

holders in agriculture in the United States.

Catalogue of Federal Domestic Assistance Number

This program is listed in the *Catalogue of Federal Domestic Assistance* as Number 17.202, "Certification of Foreign Workers for Agricultural and Logging Employment."

List of Subjects in 20 CFR Part 655

Administrative practice and procedure, Agriculture, Aliens, Employment, Employment and Training Administration, Forests and forest products, Guam, Labor migrant, Labor, Wages.

Proposed Rule

Accordingly, it is proposed that Part 655 of Chapter V of Title 20, Code of Federal Regulations, be amended as follows:

PART 655—LABOR CERTIFICATION PROCESS FOR THE TEMPORARY EMPLOYMENT OF ALIENS IN THE UNITED STATES

1. It is proposed to revise the authority citation for Part 655 to read as follows and to remove the separate authority citations following all the sections in Part 655:

Authority: 8 U.S.C. 1101(a)(15)(H)(ii) and 1184(c); 29 U.S.C. 49 *et seq.*; 8 CFR 214.2(h)(3)(i).

2. It is proposed to amend § 655.207 by revising paragraphs (b)(1) and (b)(3) to read as follows:

§ 655.207 Adverse effect rates.

* * * * *

(b)(1) For agricultural employment (except sheepherding) in the States listed in paragraph (b)(2) of this section, and for Florida sugar cane work, the adverse effect rate for each year shall be computed by adjusting the prior year's adverse effect rate by the percentage change (from the second year previous to the prior year) in the U.S. Department of Agriculture's (USDA's) average hourly wage rates for field and livestock workers (combined) based on the USDA Quarterly Wage Survey. The Administrator shall publish, at least once in each calendar year, on a date or dates he shall determine, adverse effect rates calculated pursuant to this paragraph (b) as a notice or notices in the **Federal Register.**

* * * * *

(3) *Transition.* Notwithstanding paragraphs (b) (1) and (2) of this section, the 1986 adverse effect rate for agricultural employment (except sheepherding) in the following States, and for Florida sugar cane work, shall be computed by adjusting the 1981 adverse effect rate (computed pursuant to 20 CFR 655.207(b)(1), 43 FR 10317, March 10, 1978) by the percentage change between 1980 and 1985 in the U.S. Department of Agriculture annual average hourly wage rates for field and livestock workers (combined) based on the USDA Quarterly Survey.

* * * * *

Signed at Washington, D.C., this 7th day of April 1986.

William E. Brock,

Secretary of Labor.

[FR Doc. 86-8376 Filed 4-15-86; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 591; Re: T.D. ATF-187/204]

Revision and Realignment of the Boundaries of Alexander Valley and Northern Sonoma Viticultural Areas

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: ATF proposes to amend the boundaries of both the Alexander Valley and Northern Sonoma viticultural areas in Sonomo County, California, (1) to include vineyard land (in the northeasternmost corner) which ATF had inadvertently omitted from the Alexander Valley viticultural area with the issuance of T.D. ATF-187 [49 FR 42719] but which had been included in the Northern Sonoma viticultural area pursuant to T.D. ATF-204 [50 FR 20560]; (2) to extend the boundary at the northeasternmost corner of each viticultural area to include land on which new vineyards were planted in 1985; (3) to realign the northeastern and northwestern portions of the boundary of the Northern Sonoma viticultural area in order to conform to the descriptions of the eastern and western portions of the approved boundary of the Alexander Valley viticultural area; (4) to make a minor conforming change in the description of the western portion of the boundary of the Alexander Valley viticultural area; and, (5) to revise the southern portion of the boundary of the Alexander Valley viticultural area to include the Digger Bend area which is east of Healdsburg thereby incorporating this area which is within the Russian River Valley viticultural area to be included within the Alexander Valley viticultural area as well.

DATE: Written comments must be received by June 16, 1986.

ADDRESS: Send written comments to:

Chief, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385 (Ref: Notice No. 591), Washington, DC 20044-0385.

Copies of this proposal, the petitions, the appropriate maps, and the written comments will be available for public inspection during normal business hours at:

ATF Reading Room, Ariel Rios Federal Building, Room 4406, 1200 Pennsylvania Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Michael J. Breen, Coordinator, FAA, Wine and Beer Branch, Room 6237, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, Telephone: (202) 566-7626.

SUPPLEMENTARY INFORMATION:

Background

With the issuance of T.D. AFT-187 on October 24, 1984, and T.D. ATF-204 on May 17, 1985, ATF formalized, respectively, the establishment of the Alexander Valley and the Northern Sonoma viticultural areas in Sonoma County, California.

Alexander Valley Viticultural Area (North)

The final rule establishing the boundary of the Alexander Valley viticultural area resulted from a review of petitions which ATF had received from two groups identified in the preamble to T.D. ATF-187 as Group A and Group B. Each group had proposed a different description of the boundary. Following a review of the petitions, the public comments received, and the total oral presentations made in a public hearing, ATF established a boundary which generally followed the description petitioned by Group B.

In finalizing the boundary, ATF compressed the eastern and western legs of the boundary description presented in the Group B petition. ATF's purpose was to exclude mountainous areas which were too steep for viticulture and on which no vineyards existed. AFT had no intention of excluding areas on which vineyards had been established. However, in the course of compressing the eastern and western portions of the petitioned "Group B';' boundary, ATF utilized the "Asti Quadrangle" (1959) map which did not indicate the site of a vineyard established in 1974 on the Harold Smith

Ranch. ATF had no intention of excluding this vineyard which is sited on land within section 33, Township 12 N., Range 10 W.

On January 25, 1985, ATF received the petition filed by Harold L. Smith of the Five S Bar Ranch and Vineyard, Inc., known locally as the Harold Smith Ranch, for revision of the northeastern portion of the boundary of the Alexander Valley viticultural area to include sections 33 and 34, Township 12 N., range 10 W. In the spring of 1985, the petitioner completed the planting of four new vineyards which are sited on land within section 34. Both sections are in Sonoma County and adjoin the Sonoma County-Mendocino County line.

The area for which the petitioner filed for extension of the boundary is situated directly east of the northeastern corner of the established Alexander Valley viticultural area. The petitioned area consists of uplands at elevations between 1,600 feet and 2,400 feet above sea level on Pine Mountain. The petitioner states that the land in this area shares similar geological history, topographical features, soils, and climatic conditions as the land area in the northernmost portion of the established viticultural area.

If approved as proposed, the northeastern portion of the boundary of the Alexander Valley viticultural area would be extended to encompass approximately 2.4 square miles or 1,536 acres. The petitioner states that within the area there are 57.5 acres of vineyards consisting of one established vineyard (1974) of 13 acres and four newly planted vineyards (1985) of 3, 8, 11, and 22.5 acres, respectively.

Northern Sonoma Viticultural Area

ATF's proposal to revise the boundary for the Alexander Valley viticultural area impacts T.D. ATF–204 by which ATF established the Northern Sonoma viticultural area.

During the time period in which ATF was simultaneously processing viticultural area petitions for Alexander Valley, Knights Valley, Chalk Hill, Sonoma County, Green Valley, Russian River Valley and Dry Creek in northern Sonoma County, California, ATF also received a petition for establishment of a Northen Sonoma viticultural area.

In the preamble to Notice No. 472 for the Northern Sonoma viticultural area, ATF stated its intention to have the proposed boundary coincide with the outer boundaries of the Alexander Valley, Dry Creek Valley, Russian River Valley and Knights Valley viticultural areas with the exception of an area southwest of the Dry Creek Valley viticultural area and west of the Russian River Valley viticultural area. In the preamble to T.D. ATF–204, ATF repeated this statement.

In reviewing the petition to revise the Alexander Valley boundary to include the Harold Smith Ranch, however, ATF discovered that the statement in the preceding paragraph, while conforming to ATF's intention expressed in the preamble of the notice and the Treasury decision, does not reflect the results of rulemaking via the issuance of T.D. ATF–204. ATF attributes this discrepancy to the fact that in T.D. ATF–187 ATF compressed the eastern and western legs of the boundary of the Alexander Valley viticultural area but failed to make conforming changes in T.D. ATF–204 which established the Northern Sonoma viticultural area.

The Northern Sonoma boundary includes the site of the vineyard established in 1974 on the Harold Smith Ranch.

In addition to proposing a revision of the northeasternmost portion of the boundary of the Alexander Valley viticultural area, ATF proposes conforming changes to realign the northeastern and northwestern legs of the boundary of the Northern Sonoma viticultural area.

These revisions would extend the northeastern portion of the boundary of the Northern Sonoma viticultural area to include 1.5 square miles (960 acres) on which are sited the new vineyards totaling 44.5 acres but would compress the northern and northwestern portions of the boundary effectively excluding approximately 32.5 square miles of rugged mountainous terrain on which ATF had found no evidence of viticulture via the rulemaking process for the Alexander Valley viticultural area.

Alexander Valley Viticultural Area (South)

As stated previously, the final rule establishing the boundary of the Alexander Valley viticultural area resulted from a review of petitions which ATF had received from two groups identified in the preamble to T.D. ATF–187 as Group B. The two groups differed as to how far north the Alexander Valley extended. However, each group proposed a ridge of low-lying hills to the north of the Digger Bend area as the southern portion of the boundary for the Alexander Valley viticultural area.

During the public hearing held on January 24, 1983, ATF representatives heard oral testimony for a shift of the southern portion of the Alexander Valley viticultural area boundary to incorporate land in the Digger Bend area lying north of Fitch Mountain into the viticultural area. During the remainder of the hearing, ATF representatives directed specific questions to participants regarding the merits of extending the boundary farther south to include the Digger Bend area. On February 25, 1983, the last day of the comment period, ATF received a post hearing comment, No. 43, in which the proprietors of two vineyards in the Digger Bend area, submitted a proposal, "BA#2," and supporting data for a more southern extension of the boundary.

Following a review of all petitions, the public comments received including proposals identified as "BA#1" and "BA#2", and the transcript of the public hearing, ATF established a boundary which generally followed the description petitioned by Group B and based its dismissal of the "BA#2" proposal on the finding at that time that "the evidence does not in our view substantiate these findings with respect to the area proposed in BA#2."

By a petition dated January 16, 1986, Kenneth J. Toth and Tricia Toth, of Black Mountain Vineyard (100+ acres), Fredrick J. Passalacqua (140-acre vineyard), and Charles A. Friend (20-acre vineyard), submitted additional data to support the "BA#2" proposal.

Based upon a review of the data submitted with this petition, ATF concludes that there is sufficient reason to include a proposal to allow for overlapping of the southern portion of the boundary of the Alexander Valley viticultural area and the northern portion of the boundary of the Russian River Valley viticultural area to include the Digger Bend area. Accordingly, ATF is proposing a revision of the description of the southern portion of the boundary of the Alexander Valley viticultural area to include the Digger Bend area. If approved as proposed, the southern portion of the boundary of the Alexander Valley viticultural area would be extended to encompass approximately 8 square miles or 5,120 acres. The petitioner states that within the area there are approximately 275 acres of vineyards.

Proposed Amendments to Boundaries

The Smith petition states that the description of the boundary of the established Alexander Valley viticultural area as found in 27 CFR 9.53(c) should be amended to provide for inclusion of sections 33 and 34, Township 12 N., Range 10 W., and portions of section 3 and 4, Township 11 N., Range 10 W., (U.S.G.S. "Asti" Quadrangle 7.5 minute series map). ATF concurs with the petitioner.

In addition, ATF proposes to revise the boundary of the Northern Sonoma viticultural area (1) to include part of section 3, Township 11 N., Range 10 W., and the entirety of section 34, Township 12 N., Range 10 W., (U.S.G.S. "Sonoma County, CA" map dated 1970, scale 1:100,000), (2) to align the northeastern and northwestern legs of the Northern Sonoma viticultural area with the eastern and western portions of the boundary for the Alexander Valley viticultural area, and to make a minor conforming change in the western portion of the boundary for the Alexander Valley viticultural area.

The Digger Bend petition states that the boundary common to the Alexander Valley and Russian River Valley viticultural areas should be shifted so as to extend the boundary of the Alexander Valley viticultural area from the southeastern corner of "BA#1" (Simi Winery boundary addition) east and south to Fitch Mountain and Black Peak. This would result in a curtailment of the previously approved Russian River viticultural area.

ATF, based upon a review of the data submitted with the petition, favors overlapping fo the boundaries of the Alexander Valley and Russian River Valley viticultural areas and, accordingly, has proposed that the Digger Bend area be retained within the Russian River Valley viticultural area and the southern portion of the boundary of Alexander Valley viticultural area be extended to include the Digger Bend area.

Public Participation

ATF requests comments from all interested parties. Comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

ATF will not recognize any comment as confidential. Comments may be disclosed to the public. Any material which a commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure.

The Director reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. The proposal will not impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities.

Compliance With Executive Order 12291

In compliance with Executive Order 12291 issued February 17, 1981, ATF has determined that this proposed regulation is not a "major rule" since it will not result in:

(a) Annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and,

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

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this notice because no requirement to collect information is imposed.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, and Wine.

Drafting Information

The principal author of this document is Michael J. Breen, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority and Issuance

Title 27, Code of Federal Regulations, Part 9, American Viticultural Areas, is amended as follows:

PART 9—[AMENDED]

Paragraph 1. The authority citation for 27 CFR Part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. ATF proposes to amend § 9.53 of Subpart C of Title 27, Code of Federal Regulations, Part 9, by revising paragraphs (c)(3) through (c)(5) and (c)(21) through (c)(24), removing former paragraphs (c)(25) and (c)(26), revising and redesignating paragraph (c)(27) as (c)(25), redesignating paragraph (c)(28) through (c)(39) as paragraphs (c)(26) through (c)(37), removing former paragraph (c)(40), and adding new paragraphs (c)(38) through (c)(40) to read as follows:

§ 9.53 Alexander Valley.

* * * * *

(c) *Boundary.* * * *

(3) Then east southeasterly in a straight line to the southeast corner of section 2, T. 11 N., R. 11 W.;

(4) Then south southeasterly in a straight line to the southeast corner of section 24, T. 11 N., R. 11 W.;

(5) Then southeasterly in a straight line across sections 30, 31 and 32, T. 11 N., R. 10 W., to the point at 38°45' N. latitude and 123°00' E. longitude in section 5, T. 10 N., R. 10 W.;

* * * * *

(21) Then Southeasterly in a straight line approximately 11,000 feet to the 991-foot peak of Fitch Mountain;

(22) Then east southeasterly approximately 7,000 feet in a straight line to a peak identified as having an elevation of 857 feet;

(23) Then east southeasterly approximately 1,750 feet to the peak identified as Black Peak;

(24) Then southeasterly approximately 7,333 feet to a peak identified as having an elevation of 672 feet;

(25) Then northeasterly approximately 5,000 feet in a straight line to the point of confluence of Brooks Creek with the Russian River in T. 9 N., R. 8 W., on the Healdsburg Quadrangle map;

(26) Then east-southeasterly 2,400 feet in a straight line to the top of a peak identified as Chalk Hill;

(27) Then east-northeasterly 7,600 feet in a straight line to the point lying at 38 degrees 36 minutes 20 seconds/122 degrees 45 minutes, approximately the midpoint on the south line of section 21, T. 9 N., R. 8 W., near the peak identified as Bell Mountain;

(28) Then easterly along the south line of section 21 to the southeast corner thereof, on the Mark West Springs Quadrangle map;

(29) Then northerly along the east line of sections 21, 16 and 9, T. 9 N., R. 8 W., to the northeast corner of Section 9, on the Mount St. Helena Quadrangle map;

(30) Then westerly along the north line of Section 9 to the northwest corner

thereof, on the Jimtown Quadrangle map;

(31) Then northwesterly 15,500 feet in a straight line to the northeast corner of section 36, T. 10 N., R. 9 W.;

(32) Then north northwesterly 11,800 feet in a straight line to the southeast corner of section 14, T. 10 N., R. 9 W.;

(33) Then north-northwesterly 15,350 feet in a straight line to the most eastern point on the northeastern line of the Tzabaco land grant;

(34) The west-northwesterly along the northeastern line of the Tzabaco land grant to the most northerly point thereon, on the Geyserville Quadrangle map;

(35) Then west-northwesterly 7,250 feet in a straight line to the point on a peak identified as having an elevation of 830 feet, on the Asti Quadrangle map;

(36) Then northwesterly 13,350 feet in a straight line to the point on a peak identified as having an elevation of 1,070 feet;

(37) Then north-northwesterly 14,750 feet in a straight line to the point on a peak identified as having an elevation of 1,301 feet;

(38) Then east-northeasterly approximately 10,000 feet in a straight line to the southeast corner of section 34, T. 12 N., R. 10 W.;

(39) Then north along the east boundary of section 34, T. 12 N., R. 10 W.;

(40) Then west along the north boundaries of sections 34 and 33, T. 12 N., R. 10 W., to the point of beginning.

* * * * *

Par. 3. ATF proposes to amend § 9.70 of Subpart C of Title 27, Code of Federal Regulations, Part 9, by revising paragraphs (b), (c) (introductory text), (c)(1) and (c)(11) through (c)(14), adding new paragraphs (c)(15) through (c)(18), redesignating paragraph (c)(15) as (c)(19), adding new paragraphs (c)(20) through (c)(22), and redesignation paragraphs (c)(18) through (c)(23) as paragraphs (c)(23) through (c)(28) to read as follows:

§ 9.70 Northern Sonoma.

* * * * *

(b) *Approved map.* The approved maps for determining the boundary of the Northern Sonoma viticultural area are the U.S.G.S. Topographical Map of Sonoma County, California, scale 1:100,000, dated 1970, and the Asti Quadrangle, California, 7.5 minute series (Topographic) Map, dated 1959, photorevised 1978.

(c) *Boundary.* The Northern Sonoma Viticultural area is located in Sonoma County, California. The boundary description in paragraphs (c)(1)–(c)(28) of this section includes (in parentheses) the local names of roads which are not identified by name on the map.

(1) On the U.S.G.S. Topographical Map of Sonoma Country, California, the beginning point is the point, in the town of Monte Rio, at which a secondary highway (Bohemian Highway) crosses the Russian River.

* * * * *

(11) The boundary proceeds north northwesterly in a straight line to the southeast corner of Section 14, Township 10 North, Range 9 West.

(12) The boundary proceeds north northwesterly in a straight line to the most eastern point of the northeastern line of the Tzabaco land grant.

(13) The boundary proceeds west-northwesterly along the northeastern line of the Tzabaco land grant.

(14) On the Asti Quadrangle 7.5 minute series map, the boundary proceeds west-northwesterly in a straight line to the point on a peak identified as having an elevation of 830 feet.

(15) The boundary proceeds northwesterly 13,350 feet in a straight line to the point identified as having an elevation of 1,070 feet.

(16) The boundary proceeds northwesterly in a straight line to the point on a peak identified as having an elevation of 1,301 feet.

(17) The boundary proceeds east-northwesterly approximately 10,000 feet in a straight line to the southeast corner of Section 34, Township 12 North, Range 10 West.

(18) On the U.S.G.S. Topographical Map of Sonoma Country, California, the boundary proceeds north along the east boundary of section 34, Township 12 North, Range 10 West, to the Sonoma County-Mendocino County line.

(19) The boundary follows the Sonoma County-Mendocino County line west then south to the southwest corner of section 34, Township 12 North, Range 11 West.

(20) The boundary proceeds in a straight line east southeasterly to the southeast corner of section 2, Township 11 North, Range 11 West.

(21) The boundary proceeds in a straight line south southeasterly to the southeast corner of section 24, Township 11 North, Range 11 West.

(22) The boundary proceeds in a straight line southeasterly across sections 30, 31 and 32 in Township 11 North, Range 10 West, to the point at 38°45′ North latitude parallel and 123°00′ East longitude in Section 5, T. 10 N., R. 10 W.

(23) The boundary follows this latitude parallel west to the west line of section 5, Township 10 North, Range 11 West.

(24) The boundary follows the section line south to the southeast corner of section 18, Township 9 North, Range 11 West.

(25) The boundary proceeds in a straight line southwesterly approximately 5 miles to the peak of Big Oat Mountain, elevation 1404 feet.

(26) The boundary proceeds in a straight line southerly approximately 2¾ miles to the peak of Pole Mountain, elevation 2204 feet.

(27) The boundary proceeds in a straight line southeasterly approximately 4¾ miles to the confluence of Austin Creek and the Russian River.

(28) The boundary follows the Russian River northeasterly, then southeasterly to the beginning point.

Signed: April 7, 1986.

Stephen E. Higgins,

Director.

[FR Doc. 86-8429 Filed 4-15-86; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 773 and 778

Requirements for Surface Coal Mining and Reclamation Permit Approval; Ownership and Control

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

ACTION: Notice of reopening of public comment period.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) of the United States Department of the Interior (DOI) published a proposed rule amending its regulations dealing with the permit approval provisions of section 510(c) of the Surface Mining Control and Reclamation Act of 1977. The proposed rule would define the terms "ownership" and "control," and would expand the scope of the findings which regulatory authorities are required to make prior to permit approval. The comment period on the proposed rule closed June 28, 1985. OSMRE is now reopening and extending the comment period.

DATES: The comment period on the proposed rule is extended until June 16, 1986.

FOR FURTHER INFORMATION CONTACT: Andrew F. DeVito, Office of Surface Mining Reclamation and Enforcement,

U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; Telephone: 202–343–5950 (Commercial or FTS).

SUPPLEMENTARY INFORMATION: OSMRE published a proposed rule which would amend its regulations dealing with the permit approval process by (1) adding definitions for the terms "ownership" and "control" as those concepts are used in the Surface Mining Control and Reclamation Act of 1977 (the Act), 30 U.S.C. 1201 *et seq.*; (2) expanding the scope of the compliance findings which regulatory authorities are required to make prior to permit approval; and (3) conforming information collection requirements in 30 CFR Part 778, for which comments were solicited in the proposed rule. The proposed rule was published in the **Federal Register** on April 5, 1985 (50 FR 13724). On June 7, 1985, a notice was published extending the comment period to June 28, 1985 (50 FR 24122). OSMRE is reopening the comment period until June 16, 1986. Public interest in the proposed rule has continued at a high level and OSMRE wishes to solicit further comment on a specific option being considered.

As a result of the comments received on the proposed rule, OSMRE is considering a final rule which would contain the following features:

(1) The rule would contain a definition for "ownership" which would track through various levels of a corporate family tree. Ownership would be defined as holding the proprietary interest in a sole proprietorship, being a general partner in a partnership, or having a 10% or greater interest in an entity either directly or *indirectly* through one or more intermediary companies. Under this definition, a 10 percent or greater interest in an entity would consititute ownership regardless of the number of levels "up" or "down" through the corporate structure between the parent and the subsidiary.

(2) The rule would contain a definition for control which would include any relationship which gives one person authority to determine the manner in which an applicant, or an operator if other than an applicant, conducts surface coal mining operations. Being an operator would constitute control. Being a chief executive officer or chief operating officer of a corporation would constitute control of that corporation. Being a director or any other officer of a corporation would create a rebuttable presumption of control of that corporation. Being a director or officer of a corporation would also create a rebuttable presumption of control over other entities owned by that corporation. The rebuttable presumption of control could be overcome by clear and convincing evidence that such director or officer has no authority to determine the manner in which the surface coal mining operation is conducted.

(3) The rule would contain conforming changes to the regulation at 30 CFR 778.13 and 778.14 which govern the information that must be submitted with a permit application. In essence, where a permit applicant is a corporation, the applicant would have to provide the names of the corporations comprising the entire corporate tree, together with the names of the officers and directors of the entities owning the applicant. Specifically, such information would include (a) the submission of the names, addresses, and percentage of ownership of all persons who own 10% or more of a permit applicant either directly or indirectly, through one or more intermediaries, (b) the names and addresses of subsidiaries in which the applicant owns directly or indirectly a 10 percent or greater interest, (c) the names and addresses of all officers and directors of the applicant, (d) the names and addresses of all officers and directors of any entity owning a 10 percent or greater interest in the applicant, (e) the names, including those of subsidiaries, under which the applicant or anyone who owns the applicant has conducted a surface coal mining operation within the past 5 years, and (f) a schedule of all cessation orders and other environmental violations, received during the past three years at a surface coal mining operation by (i) the applicant, (ii) anyone who owns or controls the applicant, and (iii) anyone who is owned or controlled by the applicant.

(4) The rule would expand the finding in § 773.15(b) to entities owning or controlling the applicant. This provision also would include a statement in § 773.15(b) that in the absence of a failure-to-abate cessation order, a notice of violation (NOV), except for an NOV issued for non-payment of AML fees or civil penalties, would be presumed to be in the process of being corrected to the satisfaction of the agency that has jurisdiction over the violation. In connection with such a presumption, OSMRE would propose a provision whereby when a permit is issued based upon this presumption and a cessation order is later issued based upon the unabated NOV, the permit would have to be revoked.

It is important to note, that the final rule will serve as a basis by which searches and proposed permit blocking actions in OSMRE's Applicant-Violator System (AVS) will be made. Therefore, there is a direct linkage between this rule and the AVS.

The Appendix to this notice contains a hypothetical corporate tree (Figure No. 1) and an applicant-violator matrix (Table No. 1), based on Figure No. 1, demonstrating how permit blocking under the regulatory scheme wouild work.

In addition to receiving comments on the definitions and the rule described above, we are also interested in obtaining information on the following questions and issues from interested persons:

(1) What the data gathering implications would be of applying the 10 percent rule to all companies now holding valid permanent program permits and to all future applicants in terms of (a) the availability of data, (b) the currency of the data, and (c) the time and effort necessary to obtain this data for the various entities and individuals for which this data would be required.

(2) The implication for updating and keeping the data current on an ongoing basis. In developing the data collection plan for the AVS, OSMRE has learned that ownership and control data maintained in permit application files is frequently out of date and contains many missing data elements. Therefore, if this information is to be utilized in a real time system, it is necessary that the data be updated and maintained as current as possible. OSMRE is interested in learning (a) alternative methods of updating data, (b) suggested time frames for updating the data, (c) possible vehicles for updating the data, and (d) if there are other reports, public or private, which presently contain some or all of the information required which could be relied upon to maintain this data and keep it current.

The comment period is being reopened in order to afford interested parties an opportunity to comment on the regulatory scheme described above, on the questions concerning data, or on any other matter pending under the proposal. OSMRE would be pleased to hold meetings with interested persons upon request.

Dated: April 11, 1986.

Jed D. Christensen,

Director, Office of Surface Mining Reclamation and Enforcement.

BILLING CODE 4310-05-M

APPENDIX

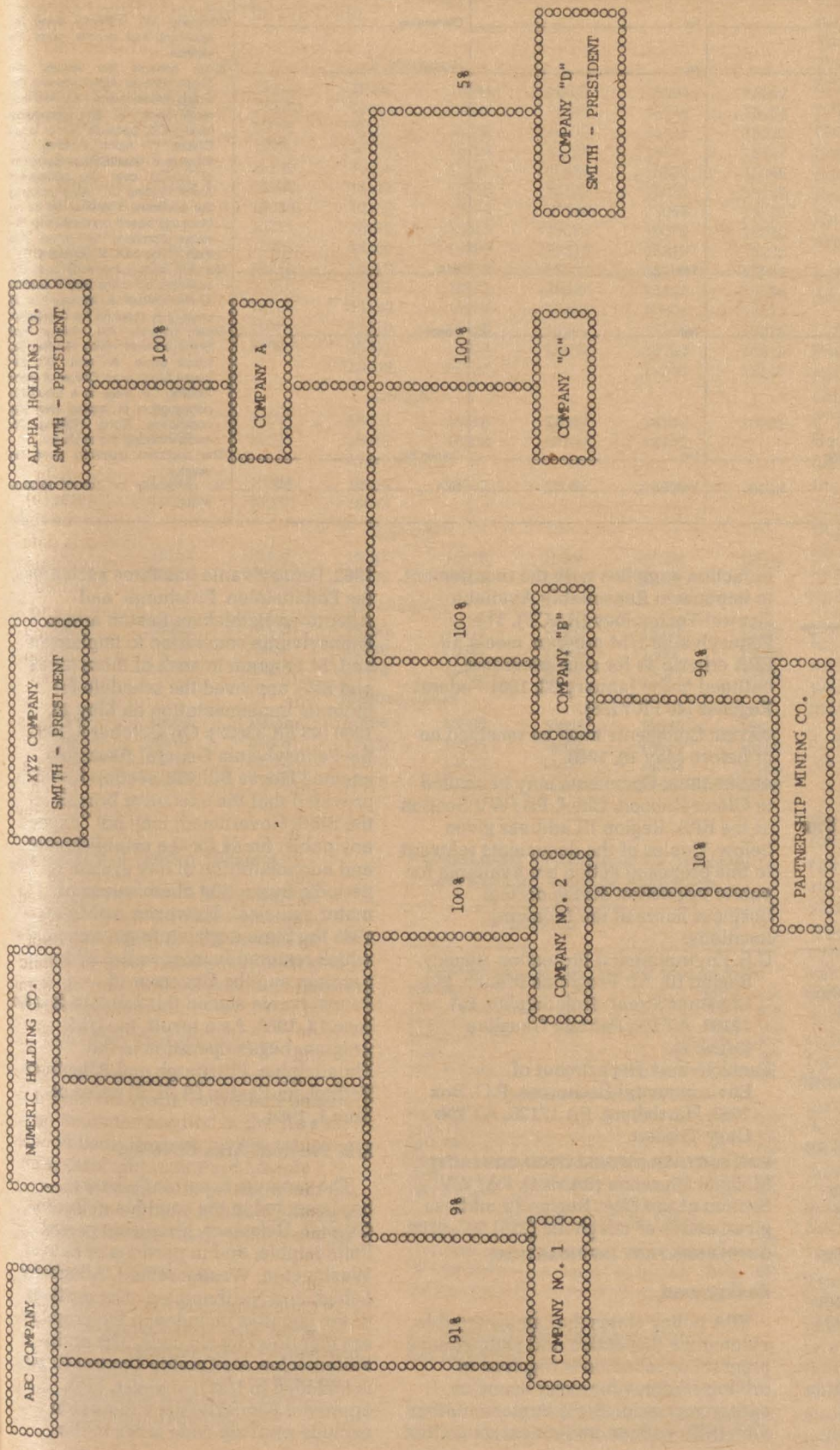

FIGURE NO. 1

BILLING CODE 4310-05-C

TABLE NO. 1

Applicant	Violator	Permit issued	Blocked by	Reason
Partnership mining	Company "C"	No	Ownership	Company "A" indirectly owns the applicant and directly owns the violator.
Do	Company "D"	No	Control	Smith controls the violator and Smith controls Alpha Holding Co. which directly owns "A", and indirectly owns "B" and Partnership Mining Co. because Smith is an Officer of Alpha Holding Co., there is a rebuttable presumption of control over the companies Alpha Holding Co. owns including the applicant. There would be no blockage based on ownership because Company "A" owns less than 10 percent of Company "D".
Do	Company No. 1	Yes	N/A	Numeric holding indirectly owns the applicant but owns only 9 percent of the violator. A minimum of 10 percent is required for ownership.
Company "B"	XYZ Company	No	Control	Smith controls the violator and Smith controls Alpha Holding Co. which owns "A" and "B". Because Smith is an Officer of Alpha Holding Co. there is a rebuttable persumption of control over the companies Alpha Holding Co. owns including the applicant.
Numeric Holding	Partnership Mining	No	Ownership	The applicant indirectly owns the violator.
Company No. 2	Company "B"	Yes	N/A	No ownership or control relationship.

[FR Doc. 86-8529 Filed 4-15-86; 8:45 am]
BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-3-FRL-3002-7]

Approval and Promulgation of Implementation Plans: Approval of the Pennsylvania I/M Program

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Notice proposes approval of the Pennsylvania Inspection and Maintenance (I/M) Program. All major urban areas which needed an extension beyond 1982 to attain the standard for Ozone or Carbon Monoxide were required to implement an I/M program by December 31, 1982. Pensylvania committed to implement an I/M program in the Philadephia, Pittsburgh, and Allentown-Bethlehem-Easton, areas in its 1979 Ozone State Implementation Plan (SIP). EPA approved this plan on May 20, 1980 (45 FR 33607). However, because of legislative difficulties the I/M program was not implemented until June 1, 1984. EPA performed a Mobil 3 modeling analysis, which projects that the Pennsylvania I/M program will result in a 25% or greater reduction in VOC emissions in the affected areas. This reduction complies with the requirement to implement Reasonably Available Control Technology (RACT). The Pennsylvania I/M program meets all EPA criteria as for such programs outlined in the January 22, 1981 **Federal Register** (46 FR 7186).

DATES: Comments must be received on or before May 16, 1986.

ADDRESSES: Comments may be mailed to Glenn Hanson, Chief, PA/WV Section at the EPA, Region III address given below. Copies of the documents relevant to this proposed action are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air Programs Branch, 841 Chestnut Street, Philadelphia, PA 19107, ATTN: Patricia Gaughan (3AM11).

Pennsylvania Department of Environmental Resources, P.O. Box 2063, Harrisburg, PA 17120, ATTN: Gary Triplett.

FOR FURTHER INFORMATION CONTACT: Michael Giuranna (3AM11), PA/WV Section at the EPA, Region III address given above or telephone (215) 597-9189.

SUPPLEMENTARY INFORMATION:

Background

EPA policy states that an acceptable automobile inspection and maintenance program or schedule is required in urbanized areas for every ozone or carbon monoxide State Implementation Plan (SIP) with an attainment date after 1982. Pennsylvania has three such areas, the Philadelphia, Pittsburgh, and Allentown-Bethlehem-Easton areas. Pennsylvania committed to implement an I/M program in each of these areas and EPA approved the schedule for program implementation on May 20, 1980 (45 FR 33607). On October 5, 1981, the Pennsylvania General Assembly enacted House Bill 456, section 2, which provided that the executive branch of the State Government may not "expend any public funds for the establishment and administration of any system for the periodic inspection of emissions of motor vehicles." However, on May 4, 1983 the State Legislature passed a bill which restored funding to the I/M program and the Governor of Pennsylvania signed this bill into law on June 13, 1983. As a result, the I/M program began operation in the Philadelphia, Pittsburgh and Allentown-Bethlehem-Easton (A/B/E) areas on June 1, 1984.

I/M Program Area Coverage

The program is currently being implemented in the counties of Bucks, Chester, Delaware, Montgomery and Philadelphia, and in portions of Beaver, Washington, Westmoreland, Allegheny, Lehigh and Northampton. The portions of the counties included in the program are identified by zip code. The entire Philadelphia Air Quality Control Region is included in I/M. However, EPA approved Pennsylvania's request to exclude rural zip code areas in the

Pittsburgh and A/B/E areas on December 6, 1982 (47 FR 54808).

Approximately 3.1 million vehicles will be tested annually. The Zip Code areas in the Pittsburgh and A/B/E areas which will be subject to I/M are listed below:

			Allegheny				
15076	15086	15015	15090	15044	15077	15006	15032
15075	15084	15065	15014	15030	15049	15144	15024
15209	15051	15091	15101	15238	15215	15116	15223
15143	15212	15068	15214	15202	15229	15237	15127
15668	15056	15140	15139	15147	15239	15235	15146
15063	15085	15130	15148	15145	15122	15035	15135
15224	15131	15028	15132	15134	15133	15045	15037
15231	15047	15221	15018	15013	15083	15079	15020
15034	15104	15222	15206	15208	15218	15217	15232
15205	15201	15244	15210	15213	15203	15207	15046
15243	15108	15110	15225	15071	15082	15141	15136
15332	15220	15106	15120	15227	15233	15204	15211
	15142	15064	15216	15226	15241	15234	15228
	15088	15025	15031	15017	15230	15102	15219
			15236	15137		15240	15112
			Lehigh				
18037	18103	18034	18052	18018	18067	18104	18001
18015	18102	18101	18049	18032	18106	18105	
			Northampton				
18042	18018	18083	18055	18017	18085	18015	18016
18103	18032	18067	18043				
			Beaver				
16141	16157	16136	16117	15010	15066	15074	15009
15042	15061	15027	15005	15003	15081	15001	
			Washington				
15321	15055	15339	15350	15317	15363	15342	15347
15301	15367	15336	15038	15332	15029	15067	15063
15033	15477	15483	15412	15432	15366	15022	15423
15434							
			Westmoreland				
15068	15668	15632	15626	15085	15633	15635	15662
15619	15601	15623	15636	15634	15675	15611	15692
15647	15615	15691	15678	15625	15617	15663	15642
15644	15697	15616	15672	15639	15062	15665	15083

Adequacy of Control Strategy

The Pennsylvania I/M program contains the 10 critical elements required by EPA (46 FR 7186). Our review of these elements found them to be consistent with EPA policy. They are discussed below:

1. Inspection Test Procedures

Procedures exist assuring that standard emission testing meets the requirements specified in the June 12, 1985 **Federal Register** (49 FR 24325), and allow 1981 and later Ford Motor Company vehicles to be tested via the restart idle test. The test procedures are detailed in 67 Pa. Code Section 177.39.

2. Emission Standards

The vehicle exhaust emission standards listed below have been projected to result in a 21% failure rate. EPA has found them to be consistent with reasonably available control technology requirements.

PENNSYLVANIA DEPARTMENT OF TRANSPORTATION EXHAUST EMISSION STANDARDS

Model year	CO (Pct.)	HC (ppm)
Passenger Cars and Trucks less than 6,000 lbs. GVWR		
Pre-1968	10.0	1600
1968-1969	8.0	800
1970-1974	6.0	600
1975-1979	4.0	400
1980	3.0	300
1981 and later	1.2	220
Trucks 6,000-8,500 lbs. GVWR		
Pre-1970	7.0	1500
1970-1973	6.5	800
1974-1978	6.0	650
1979	4.0	400
1980	3.0	300
1981 and later	1.2	220
Trucks 8,501-11,000 lbs. GVWR		
Pre-1970	7.0	1500
1970-1973	6.5	800
1974 and later	6.0	650

3. Inspection Station Licensing Requirements

A station official who wishes to operate a certified emissions inspection station must complete an application for each place of business and have a bond of proof of insurance. For the application to be approved, the station official must demonstrate to a Pennsylvania Department of Transportation field inspector the following: that proper space requirements, tools and equipment exist; that proper hours are maintained; that at least one fulltime certified emission mechanic is available; and that all other licensing requirements under 67 PA Code sections 177.21, 177.31 and 177.32 are met.

4. Emission Analyzer Specification and Maintenance/Calibration Requirements

Approved emission analyzers for Pennsylvania must meet BAR-80 specifications including specific data collection requirements as specified in 67 PA Code Section 177.35—Tools and Equipment. Seventeen approved analyzer models are officially listed in the Pennsylvania Department of Transportation's official "Emission Bulletin." These bulletins are mailed to all emission inspection facilities and are available for mailing to other facilities upon request.

Analyzer manufacturers are required to conduct, on at least a quarterly basis, audits which include analyzer calibration, tape data pick-up and maintenance, if needed.

5. Recordkeeping and Record Submittal Requirements

Data is collected from the stations by the analyzer manufacturers. The following data is to be collected as specified in 67 PA Code 177.35: data; station number; mechanic number; vehicle ID number (title or VIN); test type (initial and retest); vehicle year; cylinder code; air pump indicator; vehicle type; RPM reading; hydrocarbon reading; carbon monoxide reading; carbon dioxide reading; valid or invalid indicator; pass or fail reading; inspection fee; adjustment or repair indicator; waiver information; sticker number and manufacturer's ID. A summation of this data is to be provided on a quarterly basis to the EPA. EPA approved this data collection plan.

6. Quality Control, Audit and Surveillance Procedures

Pennsylvania Department of Transportation field investigators conduct unannounced emission station inspections to determine compliance with program requirements. Included in these inspections are a check of analyzer calibration requirements; a gas audit; a check of required certificates and signs; a check on the condition of

inspection areas and space requirements; checking analyzer condition and an on-board gas check; assuring that forms, stickers and proper hours for testing are being maintained; an emission inspection mechanic credentials check; and a review of regulations and procedures with facility staff. As of September 1, 1984 gas audits are performed on a monthly basis with a random check. Violations of regulations requirements are reviewed through hearings and penalties, and suspensions may be levied for failure to comply with appropriate provisions of the Vehicle Code or regulations. A schedule of penalties and suspensions by type of violation and duration of the suspension is provided for in 67 PA Code section 177.61. Permanent suspensions may be given for serious offenses.

7. Procedures To Assure That Noncomplying Vehicles Are Not Operated On the Public Roads

Anyone operating a vehicle, which is registered in one of the affected areas, without a current emission inspection sticker is in violation of 75 PA Consolidated Statutes, section 4703(a) and can be fined up to twenty-five dollars under 75 PA. C.S. 4703(h).

8. Other Official Program Rules, Regulations and Procedures

Vehicles in the areas subject to the program now have the terms "Emission Inspection Required" and "I/M" printed on their motor vehicle registration cards. Law enforcement officials will be able to determine compliance with the program by the presence of: (1) A dated safety inspection sticker that indicates the vehicle is registered in an I/M area and (2) a dated I/M sticker which is issued after the vehicle passes the emissions test. Vehicles not registered in an I/M area are issued different safety inspection stickers.

9. A Public Awareness Plan

Television and radio public service announcements and community service spots were made available in the affected areas. Additionally, Pennsylvania mailed brochures to all registered drivers and issued news releases to all newspapers in the I/M areas.

10. A Mechanics Training Program

Pennsylvania is claiming additional emission reduction credit for mechanics training in assessing the estimated impact of its I/M program. Therefore, formal training schools, approved by the Pennsylvania Department of Education, have been set up for training emission inspection mechanics. To be certified as an emission mechanic, an individual must pass an entrance exam, take 18 hours of classroom instruction, pass a final exam and pass a hands on emission test using the analyzer. A 70% or higher score is required to pass either test.

Program Compliance with RACT

The July 17, 1978, I/M Policy Memorandum from David Hawkins, Assistant Administrator for Air and Waste Management, required that I/M programs:

(1) Produce at least a 25% reduction in hydrocarbon and carbon monoxide emissions from light duty vehicles (less than 8,500 pounds) by December 31, 1987.

(2) Are designed to achieve at least a 20% failure rate.

(3) Are implemented in all parts of major urban areas needing an extension beyond 1982 for attainment of the ozone or carbon monoxide National Ambient Air Quality Standards (NAAQS).

The I/M program for the Philadelphia AQCR exceeds all the above requirements. The I/M program in the A–B–E and Pittsburgh regions exceeds the first two requirements. However, the geographical area is smaller than EPA's policy would ordinarily require. EPA approved this boundary change in a **Federal Register** Notice published on December 6, 1982 (47 FR 54808).

Also, Pennsylvania requires that all vehicles in the affected areas weighing up to 11,000 pounds be inspected. This is more stringent that EPA's requirement that all vehicles weighing less than 8,500 pounds be inspected.

Proposed Action

EPA proposes to approve all portions of the Pennsylvania I/M plan as a revision of the Pennsylvania State Implementation Plan (SIP) for Ozone.

Miscellaneous

Under 5 U.S.C. section 605[b] I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities (See 46 FR 8709).

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

List of Subjects in 40 CFR Part 52

Air Pollution Control, Ozone, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7642.

Dated: December 13, 1985.

Stanley L. Luskowski,

Acting Regional Administrator.

[FR Doc. 86–8506 Filed 4–15–86; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-5-FRL-3002-8]

Approval and Promulgation of Implementation Plans; Wisconsin

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: USEPA is proposing to approve a revision to the Wisconsin State Implementation Plan (SIP) that was enacted in Wisconsin by means of Natural Resources Board Order Number A–33–84, and that took effect May 1, 1985. The revision creates a new section of the Wisconsin Administrative Code, Section NR 154.015, entitled "Department Review Times." This revision also establishes time limits for review and action by the Wisconsin Department of Natural Resources on three types of air permit applications. A public hearing was held on Board Order A–33–84 on August 31, 1984. USEPA's action is based on a SIP revision request that was submitted by the State of Wisconsin on June 14, 1985.

DATE: Comments on this revision and on USEPA's proposed action must be received by May 16, 1986.

ADDRESSES: Copies of the SIP revision and materials related to this rulemaking are available for review at the following addresses: (It is recommended that you telephone Colleen W. Comerford, at (312) 886–6034, before visiting the Region V office.)

Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Wisconsin Department of Natural Resources, Bureau of Air Management, 101 South Webster, Madison, Wisconsin 53707.

Comments on this proposed rule should be addressed to: (Please submit an original and five copies, if possible.) Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR–26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Colleen W. Comerford, (312) 886-6034.

SUPPLEMENTARY INFORMATION: On June 14, 1985, the State of Wisconsin submitted a SIP revision request to USEPA. The SIP revision was identified as Natural Resources Board Order Number A-33-84, which creates a new section of the Wisconsin Administrative Code, Section NR 154.015, entitled "Department Review Times". The revision establishes time limits for review and action by the Wisconsin Department of Natural Resources (WDNR) on three types of air permit applications, as specified below:

(1) Alternate fuel variances under section NR 154.02(4)—10 business days;

(2) temporary excess emissions plans under section NR 154.09(1)(b)—65 business days; and

(3) use of emergency or reserve equipment under section NR 154.09(1)(c)—65 business days.

Unless another time period is specified by law, the WDNR is required to complete its review and make a determination on the permit applications specified above within the number of business days indicated, based on the date of receipt of the application. If the WDNR does not meet the specified deadlines, then the Department has to file a report with the Wisconsin Department of Development stating why the deadline was missed, and what future action will take place concerning the permit in question. The WDNR is required to do this under the provisions of 227.0105, Statutes, as created by 1983 Wisconsin Act 91.

Conclusion

USEPA is proposing to approve this revision to the Wisconsin SIP. The revision states that the air permits specified above have time limits for review and action by the WDNR, unless another time limit is specified by law.

Under 5 U.S.C. 605(b), the Administrator has certified that this SIP approval would not have a signficant economic impact on a substantial number of small entities. (See 46 FR 8709).

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

Authority: 42 U.S.C. 7401-7642.

Dated: December 30, 1985.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 86-8525 Filed 4-15-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 3E2861/5E3225/P390; FRL-3001-4]

Pesticide Tolerances for Permethrin

AGENCY: Environmetal Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This docuement proposes that tolerances be established for the combined residues of the insecticide permethrin and the sum total of its metabolites in or on the raw agricultural commodities cantaloupes and pumpkins. The proposed regulation to establish a maximum permissible level for residues of the insecticide in or on the commodities was requested in petitions submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments, identified by the document control number [PP 3E2861, 5E3225/P390], must be received on or before May 16, 1986.

ADDRESS: By mail, submit written comments to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Rm 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by making any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without notice. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Jack Housenger, Emergency Response and Minor Use Section (TS-767C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-1806).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted the following pesticide petitions (PP) to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project and the named Agricultural Experiment Stations. The petitions requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for the combined residues of the insecticide permethrin [(3-phenoxyphenyl)—methyl 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropane carboxylate] and its metabolites 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropane carboxylic acid (DCVA) and (3-phenoxyphenyl)methanol (3-PBA) calculated as parent, in or on the given commodities:

1. *PP 3E2861.* On behalf of the Agricultural Stations of Illinois and Puerto Rico in or on pumpkins at 2.0 parts per million (ppm).

2. *PP 5E3225.* On behalf of the Agricultural Stations of California, Florida, Indiana, New York, Oklanhoma, and Texas and the U.S. Department of Agriculture in or on cantaloupes at 2.0 ppm. The petition was later amended to propose 3.0 ppm.

The data submitted in the petitions and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerances are sought. The toxicological data considered in support of the proposed tolerances were discussed in a final rule document [PP 8F2099/R422], published in the **Federal Register** of October 13, 1982 (47 FR 45008). The incremental dietary risk associated with a tolerance of 3.0 ppm for residues of permethrin on cantaloupes is calculated to be 8.595×10^{-6} or 10^{-5}. The risk associated with a tolerance of 2.0 ppm for residues of permethrin on pumpkins is calculated to be 1.21×10^{-6} or 10^{-6}. Tolerances for residues of the insecticide on various raw agricultural commodities have been previously established ranging from 0.05 to 60.0 ppm.

The acceptable daily intake (ADI), based on the 2-year rat chronic feeding/oncogenicity study no-observed-effect level (NOEL) of 5.0 mg/kg/day or 100 ppm/day and using a 100-fold safety factor, is calculated to be 0.05 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 3.0 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 1.58428 mg/day; the current action will increase the TMRC by 0.02683 mg/day (1.69 percent).

Published and proposed tolerances utilize 52.81 percent of the ADI; the current action will utilize an additional 0.89 percent.

The nature of the residues is adequately understood and an adequate analytical method, gas-liquid chromatography with an electron capture detector, is available for enforcement purposes. No secondary residues in meat, milk, poultry or eggs are anticipated from use of permethrin on pumpkins or cataloupes since these plant commodites are not considered livestock feed commodities. There are presently no actions pending against the continued registration of permethrin.

Based on the information and data considered, the Agency concludes that the tolerances would protect the public health. Therefore, it is proposed that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 3E2861/5E3225/P390]. All written comments filed in response to this petition will be available in the Information Services Section, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: March 31, 1986.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.378(b) is amended by adding, and alphabetically inserting the following commodities to read as follows:

§ 180.378 Permethrin; tolerances for residues.

* * * * *

(b) * * *

Commodities	Parts per million
* * * * *	
Cantaloupes	3.0
* * * * *	
Pumpkins	2.0
* * * * *	

[FR Doc. 86-8141 Filed 4-15-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 5E3199/P388; FRL-3002-4]

Pesticide Tolerance for 3,5-Dichloro-N-(1,1-Dimethyl-2-Propynyl)Benzamide

AGENCY: Environmental Protection Agency (EPA)

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for the combined residues of the herbicide 3,5-dichloro-*N*-(1,1-dimethyl/2-propynyl)benzamide (referred to in the preamble of this document as "pronamide") and its metabolites, in or on the raw agricultural commodity rhubarb. The proposed regulation to establish a maximum permissible level for residues of pronamide in or on rhubarb was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments, identified by the document control number [PP 5E3199/P388], must be received on or before May 16, 1986.

ADDRESS:

By mail, submit written comments to: Information Service Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Rm 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in RM. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Jack Housenger, Emergency Response and Minor Use Section (TS-767C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703-557-1806).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 5E3199 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project and the Agricultural Experiment Station of Oregon.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues of the herbicide pronamide and its metabolites (calculated as 3,5-dichloro-*N*-(1,1-dimethyl-2-propynyl)-benzamide) in or on the raw agricultural commodity rhubarb at 0.05 part per million (ppm). The petition was later amended to propose a tolerance for rhubarb at 0.1 ppm. The petitioner proposed that use of pronamide on rhubarb be limited to Oregon and Washington based on the geographical representation of the residue submitted. Additional residue data will be required to expand the area of usage. Persons seeking geographically broader registration should contract the Agency's Registration Division at the address provided above.

EPA issued a notice of Rebuttable Presumption Against Registration (RPAR) on the herbicide pronamide published in the **Federal Register** of May 20, 1977 (42 FR 25906) on the basis that pronamide had been shown to be oncogenic in male (not female) mice at dosages of 150 milligrams (mg)/kilogram (kg) and 300 mg/kg in the diet. After analyzing the comments and information received in response to the RPAR notice, the Agency evaluated the risks and benefits of use of pronamide and determined that certain modifications must be made to the terms and conditions of registration to achieve a reduction in the risk level. With these label changes, the Agency concluded that the benefits of use of pronamide exceeded the risks of use. (See 44 FR 3083, January 15, 1979—Determination of the Availability of Position Document-Pronamide, reiterated in the Final Notice of Determination published in the **Federal Register** of October 26, 1979 (44 FR 61640)).

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance include a 90-day rat feeding study with a no-observed-effect level (NOEL) of 1,350 ppm (67.5 milligrams (mg)/kilogram (kg)); a 90-day dog feeding study with a NOEL of 1,350 ppm (33.75 mg/kg); a 2-year dog feeding study with a NOEL of 300 ppm (7.5 mg/kg); a 2-year rat feeding/oncogenic study with a NOEL of 300 ppm (15 mg/kg) and no oncogenic effects observed at feeding levels of 30, 100, and 300 ppm (Core supplementary); an 18-month mouse oncogenic study with oncogenic effect in males at dosages of 1,000 ppm (150 mg/kg) and 2,000 ppm (300 mg/kg); and a 3-generation rat reproduction study with a NOEL of greater than 300 ppm (highest level tested) for systemic and reproductive effects (Core supplementary). Data considered desirable but lacking include: teratogenicity study in one species (rat); a chronic feeding study in the rat; a multigeneration reproduction study; and mutagenicity studies.

Pronamide is a tentative Class C carcinogen based on the effects observed in the mouse studies, but additional information must be considered for a final classification. Pronamide has a potency of $Q^*_1 = 1.63 \times 10^{-2}$ which results in the potential oncogenic risk of 10^{-5} from a lifetime ingestion of 0.0409 mg/kg/day (theoretical maximum residue contribution (TMRC) due to published tolerances). The oncogenic risk associated with the proposed tolerance on rhubarb would be 2.28×10^{-7}, and the applicator risk is not likely to exceed risks associated with existing uses of pronamide.

The provisional acceptable daily intake (PADI), based on the dog feeding study (NOEL of 7.5 mg/kg/day and using a 100-fold safety factor, is calculated to be 0.075 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 4.5 mg/day. The theoretical maximum residue contribution (TMRC) from published tolerances for a 1.5-kg daily diet is calculated to be 0.0409 mg/day; the current action will increase the TMRC by 0.00008 mg/day (0.19 percent). Published tolerances utilize 0.91 percent of the PADI; the current action will not utilize any additional percent of the PADI.

The nature of the residues is adequately understood and an adequate analytical method, electron-capture gas liquid chromatography, is available for enforcement purposes. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency and the fact that there are no animal feed items involved, there will be no secondary residues in meat, milk, poultry or eggs. The Agency concludes that the proposed tolerance will protect the public health. Therefore, it is proposed that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insectidice, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 5E3199/P388]. All written comments filed in response to this petition will be available in the Information Services Section, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: April 7, 1986.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR 180 be amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.317 is amended by designating the existing paragraph as paragraph (a) and adding paragraph (b) to read as follows:

§ 180.317 3,5-dichloro-N-(1,1-dimethyl-2-propynyl) benzamide; tolerances for residues.

(a) * * *

(b) Tolerances with regional registration are established for the combined residues of the herbicide 3,5-dichloro-*N*-(1,1-dimethyl-2-propynyl) benzamide and its metabolites (calculated as 3,5-dichloro-*N*-(1,1-dimethyl-2-propynl)benzamide) in or on the following raw agricultural commodities:

Commodities	Parts per million
Rhubarb	0.1

[FR Doc. 86-8510 Filed 4-15-86; 8:45]
BILLING CODE 6560-50-M

40 CFR Part 180

[OPP-300145; (FRL-3003-3)]

Pesticides; Technical Amendments to Definition and Interpretation of Certain Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that 40 CFR 180.34(f)(9)(vi)(A) on legume vegetables (succulent or dried) group, be amended by expanding the raw agricultural commodities listing to include lupines and amending by expanding the definition of the general category of the raw agricultural commodity "beans" in 40 CFR 180.1(h) to also include the *Lupinus* spp. These proposed amendments, which will clarify and update the current definition of beans, were submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments identified by the document control number [OPP-300145] must be received on or before May 16, 1986.

ADDRESS: By mail, submit written comments to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M ST., SW., Washington, DC 20460. In person, bring comments to: Rm 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Jack Housenger, Emergency Response and Minor Use Section (TS-767C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 716B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1806).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experimental Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 0893, has submitted this request to EPA on behalf of Dr. Robert H. Kupelian, National Director and the IR-4 Technical Committee.

IR-4 requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose that 40 CFR 180.3(f)(9))(vi)(A) be amended by expanding the raw agricultural commodities listing to include lupines in the legume vegetables (succulent or dried) group. Specifically, to alphabetically add, "beans (*Lupinus* spp.) (includes sweet lupine, white sweet lupine, white lupine, and grain lupine)." Additionally, it is proposed that the definition of the general category of the raw agricultural commodity "beans" in 40 CFR 180.1(h), column A, be expanded by amending the corresponding specific raw agricultural commodities list in column B to also include, "*Lupinus* spp. (sweet lupine, white sweet lupine, white lupine, and grain lupine)".

The IR-4 requested these amendments in order to clarify and update the relationship between the general catagory definition of "beans" and the specific raw agricultural commodities definition and by adding to the identities in the legume vegetable group.

The IR-4 supports this request by pointing out that lupines, being a legume, are quite similar to other beans in their cultural practices. In order to speed up the development of an alternate high protein crop and for lupines to gain acceptance, there must be available pesticides to control insects, weeds, and fungi. The availability of appropriate pesticides for lupines could best be accomplished by having lupines in a bean commodity grouping. The Administrator concurs with IR-4 on the proposed revisions of 40 CFR 180.34(f)(9)(vi)(A) and 40 CFR 180.1(h) to add to the "crop group" listing and the definition of "beans". This revision will expand the tolerances and exemptions established for residues of pecticide chemicals in or on the general category "beans" to include lupines. Based on the information considered, the Agency concludes that the proposed amendments to the regulation will protect the public health. Therefore, it is proposed that 40 CFR 180.34(f)(9)(vi)(A) and 180.1(h) be amended as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [OPP-300145]. All written comments filed in response to this petition will be available in the Information Services Section, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: April 19, 1986.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.1(h) is amended by revising the list of specific raw agricultural commodities under column B for the general category "Beans" in column A to read as follows:

§ 180.1 Definitions and interpretations.

* * * * *

(h) * * *

A	B
* * * * *	
Beans	*Cicer arietinum* (chick peas, garbanzo beans); *Lupinus* spp. (including sweet lupine, white sweet lupine, white lupine, and grain lupine); Phaseolus spp. (including kidney beans, lima beans, mung beans, navy beans, pinto beans, snap beans, and wax beans); *Vicia faba* (broad beans, fava beans); *Vigna* spp. (including asparagus beans, blackeyed peas and cowpeas);
* * * * *	

3. Section 180.34 is amended by revising subparagraph (A) in paragraph (f)(9)(vi) to read as follows:

§ 180.34 Tests on the amount of residue remaining.

* * * * *

(f) * * *

(9) * * *

(vi) * * *

(A) *Commodities.* Beans (*Phaseolus* spp.) (includes adzuki beans, field beans, kidney beans, lima beans, moth beans, mung beans, navy beans, pinto beans, rice beans, runner beans, snap beans, tepary beans, urd beans, wax beans); beans (*Lupinus* spp.) (includes sweet lupine, white sweet lupine, white lupine, and grain lupine); beans (*Vigna* spp.) (includes asparagus beans, black-eyed peas, catjang, Chinese longbean, cowpeas, Crowder peas, southern peas, yardlong beans); broad beans (Fava beans) (*Vicia faba*); chick peas (garbanzo beans) (*Cicer arietinum*); guar (*Cyamopsis tetragonoloba*); jackbean (sword bean) (*Canavalia ensiformis*); lablab beans (hyacinth bean) (*Dolichos lablab*); lentils (*Lens esculenta*); peas (*Pisum* spp.) (includes garden peas, field peas, sugar peas); pigeon peas (*Cajanus cajan*); soybeans (*Glycine max*);

* * * * *

[FR Doc. 86-8504 Filed 4-15-86; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[OPP-300144; FRL 3002-3]

Pesticide Tolerance for Daminozide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to reduce, on an interim basis, the existing tolerance for the herbicide daminozide (butanedioic acid mono (2,2-dimethylhydrazide)) in or on the raw agricultural commodity apples. This proposal to establish a reduced interim maximum permissible level for residues of daminozide in or on the commodity apples is a result of a special review that the Agency began in 1984. It is proposed that the reduced tolerance will remain in effect until July 31, 1987.

DATE: Comments, identified by the document control number [OPP-300144], must be received on or before May 16, 1986.

ADDRESS: By mail, submit written comments to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 245, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1800).

SUPPLEMENTARY INFORMATION: EPA initiated a special review of daminozide on 1984 based on the potential oncogenic risks of daminozide and UDMH (unsymmetrical dimethylhydrazine, a breakdown product of daminozide). Because of these potential risks to the public health associated with exposure to daminozide in food products, EPA proposed to cancel all food uses of the pesticide in August 1985.

As required by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA referred the proposal to the FIFRA Scientific Advisory Panel for peer review. After a public meeting in September, the panel concluded that the cancer studies were inadequate for predicting cancer risks from exposure to daminozide and UDMH in food products. The U.S. Department of Agriculture (USDA) was also asked to comment on the proposal. USDA argued that EPA had underestimated the benefits of continued use and urged EPA to reevaluate the need for cancellation.

After careful consideration of the recommendations of the Scientific Advisory Panel and the USDA, EPA determined that the data base was inadequate to support evaluation of the carcinogenicity of daminozide and UDMH and that dietary exposure was less than that estimated in the proposal to cancel all food uses. Based on this determination, EPA imposed interim regulatory measures that are a condition for the continued use of daminozide. These measures include the generation of data to provide EPA with the additional information needed to assess the risk, and actions to reduce dietary exposure to daminozide and UDMH, as discussed below.

To characterize the level of risk associated with dietary exposure to daminozide and UDMH, the Agency is requiring the following toxicology studies: oncogenicity studies in the rat and the mouse for both daminozide and UDMH, a full complement of mutagenicity studies on UDHM, and study in miniature pigs to determine conversion of daminozide to UDMH in mammalian species. Additional studies regarding the residues of daminozide and UDHM are also being required. These studies include a market basket survey, metabolism studies, analytical methodology, daminozide degradation to UDMH studies, livestock feeding studies, and residue field trials.

Measures to reduce dietary exposure to daminozide and UDMH include a reduction in application rates for apples and an interim reduction in the tolerance on apples.

The reduction in application rates, which was effective in January 1986 when EPA accepted the revised labeling, will decrease exposure to daminozide and UDMH from apples. With the reduced rates and using the current data, EPA has determined that the tolerance on apples can be reduced to 20 ppm. This document proposes to reduce the tolerance on apples from 30 ppm to 20 ppm, until July 31, 1987. When EPA receives the results of the residue field trials, due in May 1987, it will reassess the tolerance for apples and establish a new permanent tolerance by July 31, 1987, if appropriate. An adequate analytical method, spectrophotometry, is available for enforcement of a 20-parts-per-million (ppm) tolerance for daminozide.

Based on the data and information considered, the Agency concludes that the proposed tolerance would protect the public health. Further, the Agency has determined that, based on these data and information, the interim regulatory measures involving label changes will reduce the public's exposure to daminozide and UDMH until new and more acceptable data are available.

The Agency now proposes to amend the existing tolerance in 40 CFR 180.246 for the residues of daminozide in or on apples by reducing the tolerance from 30 ppm to 20 ppm, on an interim basis. This tolerance will expire on July 31, 1987.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains daminozide, may request within 30 days after publication of this notice in the **Federal Register** that this proposed rule be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number [OPP-300144]. All written comments filed in response to this document will be available in the Information Services Section, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

Executive Order 12291

Under Executive Order 12291, the Agency must determine whether a proposed regulatory action is "major" and therefore subject to the requirements of a Regulatory Impact Analysis. The Agency has determined that this proposed regulatory action is not a major regulatory action, i.e., it will not have an annual effect on the economy of at least $100 million, will not cause a major increase in prices, and will not have a significant adverse effect on competition or the ability of U.S. enterprises to compete with foreign enterprises.

This proposed rule has been reviewed by the Office of Management and Budget as required by E.O. 12291.

Regulatory Flexibility Act

This proposed rule has been reviewed under the Regulatory Flexibility Act of 1980 (Pub. L 96-354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.*), and it has been determined that it will not have a significant economic impact on a substantial number of small businesses, small governments, or small organizations.

The measures to reduce dietary exposure to daminozide and UDMH are expected to be in place by the coming growing season. With the reduction in application rate, residues of daminozide in legally treated apples are not expected to exceed the level of the proposed reduced interim tolerance of 20 ppm.

Therefore, pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Agency has determined that this regulation will not have a significant economic impact on a substantial number of small entities.

Accordingly, it is certified that this regulatory action does not require a separate regulatory flexibility analysis under the Regulatory Flexibility Act.

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: April 7, 1986.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. It is proposed that 40 CFR 180.246 be amended by removing "apples" from the tolerance listing for 30 ppm and inserting "apples" in the tolerance listing for 20 ppm, to read as follows:

§ 180.246 Daminozide; tolerances for residues.

* * * * *

30 parts per million in or on nectarines, peaches, peanuts, and sweet cherries.

20 parts per million in or on apples, brussels sprouts, peanut hay, and pears.

* * * * *

[FR Doc. 86-8509 Filed 4-15-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6706]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed modified base (100-year) flood elevations listed below for selected locations in the nation. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program.

DATES: The period for comment will be ninety (90) days following the second publication of the proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Matticks, Acting Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed modified base (100-year) flood elevation determinations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 USC 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal

standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The authority citation for Part 67 continues to read as follows:

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

The proposed modified base flood elevations for selected locations are:

PROPOSED MODIFIED BASE FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
California	Red Bluff (city), Tehama County	Sacramento River	Intersection of Willow Street and Riverside Way	*269	*268
		East Sand Slough Boulevard	200 feet downstream from center of Antelope	*270	*269
		Paynes Creek Slough Boulevard	At center of Antelope	*272	*272
		Samson Slough Boulevard	50 feet downstream from center of Antelope	*271	*272
Maps are available for review at the City Planning Office, 555 Washington Street, Red Bluff, California 96080.					
Send comments to The Honorable Forrest Flynn, Mayor, City of Red Bluff, 555 Washington Street, P.O. Box 400, Red Bluff, California 96080.					
California	Tehama (city) Tehama County	Sacramento River	At the intersection of Second and G Streets	*216	*215
Maps are available for review at the City Clerk's Office, City Hall, Tehama, California.					
Send comments to the Honorable Edward Byrum, Mayor, City of Tehama, P.O. Box 31, Tehama, California 96090.					
California	Tehama County (unincorporated areas).	Sacramento River	Intersection of Gyle Road and Hall Road	*215	*213
			Intersection of Sunrise Drive and Center Avenue	*271	*270
			50 feet upstream from center of Bend Bridge	*324	*317
			Intersection of North Marina Drive and Banner Way	*360	*357
		East Sand Slough	50 feet west of intersection of Gilmore Ranch Road and Sale Lane.	*268	*267
		Paynes Creek Slough	Intersection of Philbrook Avenue and Sykes Avenue	*269	*268
		Samson Slough	Intersection of Williams Avenue and Kazel Avenue	*269	*267
Maps available for review at the Building Department, Courthouse Annex, 633 Washington Street, Red Bluff, California.					
Send comments to Mr. George Pettinger, Chairman, Tehama County Board of Supervisors, P.O. Box 250, Red Bluff, California 96080.					
Colorado	Montrose (city)	Cedar Creek	75 feet upstream of center of Main Street	None	*5,806
		Montrose Arroyo	50 feet downstream of center of North 8th Street	None	*5,764
Maps available for inspection at the Planning Department, City Hall, Montrose, Colorado.					
Send comments to the Honorable Sue Merrett, P.O. Box 790, Montrose, Colorado 84401.					
Florida	Unincorporated areas of Monroe County.	Gulf of Mexico	Intersection of Key Deer Boulevard and Miami Avenue	None	*9
			North half of Summerland Key	None	*9
			About 250 feet west of intersection of Bittersweet Avenue and Geranium Drive.	None	*10
			Intersection of Cactus Street and Kyle Boulevard	None	*10
			Intersection of Sunset Road and Cardinal Lane	None	*10
			Center of Budd Keys	None	*10
			Center of Rattlesnake Lumps	None	*10
			Intersection of Watson Road and Matthews Road	None	*11
			About 250 feet east of intersection of Central Avenue and Geraldine Street.	None	*11
			Intersection of Donna Road and Kyle Boulevard	None	*11
			North and east shoreline of Annette Key	None	*11
			East shoreline of Summerland Key	None	*11
			About 500 feet north of intersection of Minorca Drive and Coral Way.	None	*12
			Tarpon Belly Keys	None	*12
			North shoreline of Budd Keys	None	*12
			Little Swash Keys	None	*12
			Northern shoreline of Cudjoe Key	None	*12
			Rattlesnake Lumps entire shoreline	None	*12
			North and east shoreline of Knockemdown Key	None	*12
			North shoreline of Toptree Hammock Key	None	*12
		Atlantic Ocean	About 500 feet east of west coastline of Cudjoe Key south of U.S. Route 1.	*11	*8
			Center of Little Knockemdown Key	None	*9
			Southern shoreline and center of Toptree Hammock Key.	None	*9
			Southern portions of Middle Torch Key	None	*10
			Southern and western portions of Big Torch Key	None	*10
			Center of Annette Key	None	*10
			Southwest shoreline of Little Knockemdown Key	None	*11
			Southwest shoreline of Knockedown Key	None	*11
			South and west shoreline of Annette Key	None	*11
			Southern shoreline of Budd Keys	None	*11
			Entire shoreline of Cudjoe Key, south of U.S. Route 1	*12	*12
			Southern tip of Porpoise Key	None	*12
Maps available for inspection at the Civil Defense Department, 310 Fleming Street, Key West, Florida.					
Send comments to the Honorable Kermit Lewin, County Administrator, Monroe County, P.O. Box 93, Key West, Florida 33040.					
Florida	Unincorporated areas of Seminole County.	Lake Irish	Entire shoreline	*48	*46
		Lake 8	Entire shoreline	*48	*50

PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
		Lake Marietta	Entire shoreline	*46	*46
		Banana Lake	Entire shoreline	None	*50
		Golf Course Lake	Entire shoreline	*47	*48
		Lake 9	Entire shoreline	None	*47
		Lake 7	Entire shoreline	*47	*45
Maps available for inspection at the Planning Department, 1101 East First Street, Sanford, Florida.					
Send comments to the Honorable Ken Hooper, County Administrator, Seminole County, 1101 East First Street, Sanford, Florida 32771.					
Illinois	Village of Addison, DuPage County	South fork of Westwood Creek	At mouth	None	*685
			Just downstream of Fullerton Avenue	None	*693
Maps available for inspection at the at the Collectors Office, 131 West Lake Street, Addison, Illinois.					
Send comments to the Honorable Anthony Russotto, Major, Village of Addison, 131 West Lake Street, Addison, Illinois 60101.					
Kansas	Unincorporated areas of Harvey County.	Mud Creek	Just downstream of U.S. Route 50	*1,420	*1,420
			About 100 feet upstream of U.S. Route 50	*1,420	*1,421
			About 650 feet downstream of West First Street	*1,428	*1,428
Maps available for inspection at the at the Harvey County Courthouse, Newton, Kansas.					
Send comments to the Honorable Charles Benjamin, Chairman, Harvey County Commissioners, Harvey County Courthouse, Newton, Kansas 67114.					
Louisiana	Alexandria City, Rapides Parish	Horeshoe Drainage Canal	Downstream side of Twin Bridges Road	None	*80
			Approximately 700 feet upstram of Twin Bridge Road	None	*81
Maps available for inspection at the City Hall, 915 Third Street, Alexandria, Louisiana.					
Send comments to the Honorable John K. Snyder, Major of the City of Alexandria, Rapides Parish, P.O. Box 171, Alexandria, Louisiana 71301.					
Maryland	Howard County	Patapsco River	At confluence of Deep Run	None	*26
			Upstream side of U.S. Route 1	None	*46
			Approximately 1.5 miles upstream of sulphur Spring Road.	None	*54
			Approximately 0.4 mile downstream of confluence of Bonnie Branch.	None	*67
			Upstream side of Chessie System	None	*100
			Downstream side of State Route 144	None	*134
			At U.S. Route 40	None	*192
			Approximately 1.7 miles upstream of Old Frederick Road.	None	*232
			At State Route 126	None	*265
			At confluence of South Branch Patapsco River	None	*276
		South branch Patapsco River	At confluence with Patapsco River	None	*275
			Downstream side of Marriotsville Road	None	*300
			Approximately 1.3 miles upstream of Henryton Road	None	*323
			Approximately 0.6 mile downstream of Sykesville Road	None	*352
			At downstream side of Sykesville Road	None	*372
			At downstream side of Gather Road	None	*429
			At downstream side of Morgan Station Road	None	*469
			At Newport Road	None	*504
			Approximately 1.1 miles upstream of Newport Road	None	*530
			Downstream side of Waterville Road	None	*568
			Approximately 0.6 mile upstream of Waterville Road	None	*586
			Approximately 0.5 mile downstream of Interstate Route 70.	None	*630
			Downstream side of Interstate Route 70	None	*656
			Approximately 600 feet upstream of Interstate Route 70.	None	*670
		Deep Run	At confluence with Patapsco	None	*26
			At Hanover Road	None	*44
			Upstream side of Railroad Road	None	*68
			At Dorsey Road	None	*106
			Approximately 1.0 mile downstream of U.S. Route 1	None	*140
			At U.S. Route 1	None	*182
			At Interstate Route 95	None	*204
			At Mayfield Avenue	None	*244
			Upstream side of Old Montgomery Road	None	*344
			Approximately 0.4 mile upstream of Old Montgomery Road.	None	*364
			Approximately 0.8 mile upstream of Old Montgomery Road.	None	*382
			Approximately 1.2 mile upstream of Old Montgomery Road.	None	*420
			Approximately 1.4 miles upstreafm of Old Montgomery Road.	None	*444
		Stream DR-1	At confluence with Deep Run	None	*50
			At Haul Road	None	*68
			Upstream side of Chessie System	None	*94
			Downstream side of Baltimore Washington Boulevard	None	*110
			Upstream side of Baltimore Washington Boulevard	None	*130
			Approximately 0.4 mile upstream of Baltimore Washington Boulevard.	None	*150
			Approximately 0.6 mile upstream of Baltimore Washington Boulevard.	None	*160
			Downstream side of Interstate 95	None	*200
			Upstream sode of Marshalee Avenue	None	*220
			Approximately 0.6 mile upstream of Marshalee Avenue	None	*276
			Approximately 750 feet upstream of Bellance Drive	None	*308

PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
		Stream DR-2	At confluence with DR-1	None	*52
			Upstream side of Loundon Avenue	None	*82
			Upstream side of South Hanover Road	None	*108
			Upstream side of U.S. Route 1	None	*126
			Approximately 0.5 mile upstream of U.S. Route 1	None	*160
			Approximately 0.7 mile upstream of U.S. Route 1	None	*192
		Stream Dr-3	Confluence with DR-1	None	*107
			Upstreamn side of U.S. Route 1	None	*126
			Upstream side of Median Maryland Route 100	None	*148
			Approximately 0.4 mile downstream of Interstate Route 95.	None	*180
			Downstream side of Interstate Route 95	None	*218
			Approximately 0.3 mile upstream of Interstate Route 95.	None	*247
		Stream DR-4	At confluence with DR-3	None	*130
			Approximately 0.5 mile downstream side of Interstate 95.	None	*160
			Approximately 0.3 mile downstream side of Interstate 95.	None	*180
			100 feet downstream of Interstate 95	None	*199
			Upstream of Interstate 95	None	*214
			1,500 feet upstream of Interstate 95	None	*240
			Approximately 0.6 mile upstream of Interstate 95	None	*270
			Approximately 0.9 mile upstream of Interstate 95	None	*316
		Stream DR-5	Upstream of Chessie System	None	*146
			Approximately 0.5 mile upstream of Chessie System	None	*150
			Approximately 0.2 mile upstream of Montevideo Road	None	*178
		Bonnie Branch	Confluence with Patapsco River	None	*93
			Approximately 110 feet downstream of Stone Dam	None	*105
			Upstream side of Stone Dam	None	*134
			Approximately 540 feet upstream of Stone Dam	None	*155
			Downstream side of (first) concrete dam	None	*189
			Upstream side of (first) concrete dam	None	*203
			Upstream side of Bonnie Branch Road	None	*217
			Downstream side of (second) concrete dam	None	*238
			Upstream side of (second) concrete dam	None	*239
			Upstream side of College Avenue	None	*265
			Approximately 840 feet upstream of College Avenue	None	*280
			Approximately 1,520 feet upstream of College Avenue	None	*300
			Approximately 0.5 mile upstream of College Avenue	None	*340
			At confluence of tributary to Bonnie Branch	None	*359
			Approximately 1,290 feet upstream of confluence of tributary to Bonnie Branch.	None	*376
			Approximately 0.4 mile upstream of confluence of tributary to Bonnie Branch.	None	*391
		Tributary to Bonnie Branch	Confluence with Bonnie Branch	None	*359
			Approximately 1,110 feet upstream of confluence with Bonnie Branch.	None	*382
			Upstream side of Round Hill Road	None	*399
			Approximately 1,000 feet upstream of Round Hill Road	None	*415
			Approximately 1,800 feet upstream of Round Hill Road	None	*433
		Patuxent River	At county boundary	None	*148
			Downstream side of Rocky Gorge Dam	None	*172
	Little Patuxent River	At county boundary	* 140	* 133	
		Approximately 1.0 mile upstream of U.S. Route 1.	* 184	* 186	
		At confluence of Middle Patuxent River	None	* 190	
		Upstream side of Interstate 95 southbound	None	* 252	
		At confluence of Lake Elkhorn Branch	None	* 281	
		Upstream side of U.S. Route 29	None	* 306	
		At confluence of Clark's Creek	None	* 325	
		At confluence of Stream LPR-6	None	* 342	
		Upstream side of Bethany Lane	None	* 355	
		Upstream side of Turf Valley Road	None	* 409	
		Approximately 1.48 miles upstream of Turf Valley Road.	None	* 439	
	Beaver Run Branch	At confluence with Little Patuxent River	None	* 281	
		Upstream side of Seneca Drive	None	* 308	
		Upstream side of U.S. Route 29	None	* 335	
		Upstream side of Owen Brown Road	None	* 370	
		Approximately 300 feet upstream of Bright Plume Road.	None	* 400	
	Tributary to Beaver Run Branch	At confluence with Beaver Run Branch	None	* 317	
		Approximately 200 feet upstream of footbridge.	None	* 356	
	Lake Elkhorn Branch	At confluence with Little Patuxent River	None	* 282	
		Upstream side of Lake Ekihorn Dam	None	* 299	
		Upstream side of Oakland Mills Road	None	* 310	
		Upstream side of Old Montgomery Road	None	* 340	
		Approximately 0.47 mile upstream of Old Montgomery Road.	None	* 357	
	Stream LPR-1	At confluence with Little Patuxent River	None	* 307	
		Approximately 0.38 mile upstream of Old Columbia Road.	None	* 321	
		Approximately 0.76 mile upstream of Old Columbia Road.	None	* 339	
		Approximately 1.0 mile upstream of Old Columbia Road.	None	* 356	

PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
		Wilde Lake Branch	At confluence with Little Patuxent River	*308	
			Upstream side of Wilde Lake Dam	*338	
			Approximately 250 feet upstream of Hesperus Drive.	*365	
		Stream LPR-2	At confluence with Little Patuxent River	*314	
			Approximately 100 feet upstream of U.S. Route 29.	*332	
			Approximately 100 feet upstream of Lightning View Road.	*349	
		Stream LPR-3	At confluence with Little Patuxent River	*318	
			Approximately 100 feet upstream of U.S. Route 29.	*341	
			Approximately 75 feet upstream of Old Annapolis Road.	*370	
		Stream LPR-4	At confluence with Little Patuxent River	*319	
			Approximately 1,700 feet upstream of Ten Mills Road.	*335	
		Clark's Creek	At confluence with Little Patuxent River	*325	
			Upstream side of Centennial Lane	*350	
			Approximately 1.1 miles upstream of Centennial Lane.	*376	
		Stream LPR-5	At confluence with Little Patuxent River	None	*326
			Approximately 1,150 feet upstream of Old Annapolis Road.	None	*340
			Approximately 0.5 mile upstream of Old Annapolis Road.	None	*360
		Plumtree Branch	At confluence with Red Hill Branch	*329	*328
			Downstream side of Frederick Road	*356	*359
			Approximately 0.4 mile upstream of Hearthstone Road	None	*385
			Approximately 0.7 mile upstream of Hearthstone Road	None	*395
		Red Hill Branch	At confluence with Little Patuxent River	*329	*326
			Downstream side of U.S. Route 29	*339	*339
			Approximately 1.0 mile upstream of U.S. Route 29	None	*367
			Approximately 2.0 miles upstream of U.S. Route 29	None	*412
		Benson Branch	At confluence with Middle Patuxent River	None	*360
			Upstream of Folly Quarter Road	None	*473
			Approximately 1.0 mile upstream of Folly Quarter Road	None	*555
		Vista Road tributary	Confluence with Middle Patuxent River	None	*265
			Upstream of Vista Road	None	*313
			Approximately 1.1 miles upstream of Newberry Drive	None	*361
		Sanner Road tributary	Confluence with Middle Patuxent River	None	*264
			Approximately 800 feet upstream of Sanner Road	None	*294
		Middle Patuxent River	At confluence with Little Patuxent River	None	*190
			Upstream of Murray Hill Road	None	*229
			Upstream of State Route 29 (southbound)	None	*256
			Upstream side of State Route 108 (Clarksville Pike)	None	*314
			Upstream of Triadelphia Road	None	*386
			Upstream of McKendree Road	None	*512
			Approximately 700 feet upstream of State Route 97	None	*581
		Stream HB-1	Confluence with Hammond Branch	None	*148
			Approximately 20 feet upstream of U.S. Route 1	None	*177
		Stream HB-2	At confluence with Hammond Branch	None	*169
			Approximately 0.53 mile upstream of confluence	None	*233
		Stream HB-3	At confluence with Hammond Branch	None	*231
			Approximately 1,250 feet upstream of confluence	None	*264
		Stream HB-4	At confluence with Hammond Branch	None	*261
			Approximately 0.37 mile upstream of confluence	None	*293
		Stream HB-5	At confluence with Hammond Branch	None	*286
			Approximately 0.42 mile upstream of confluence	None	*316
		Stream HB-6	At confluence with Hammond Branch	None	*289
			Approximately 0.41 mile upstream of confluence	None	*318
		Stream HB-7	At confluence with Hammond Branch	None	*306
			Approximately 750 feet upstream of Helpeg Road	None	*334
		Stream HB-8	At confluence with Hammond Branch	None	*320
			Approximately 0.42 mile of confluence	None	*359
		Stream HB-9	At confluence with Hammond Branch	None	*349
			Approximately 1,000 feet upstream of private drive	None	*392
		Stream HB-10	At confluence with Hammond Branch	None	*384
			Approximately 0.49 mile upstream of confluence	None	*423
		Stream HB-11	At confluence with Hammond Branch	None	*402
			Approximately 200 feet upstram of Cherrytree Drive	None	*448
		Stream HB-12	At confluence with Hammond Branch	None	*432
			Approximately 0.47 mile upstream of confluence	None	*460
		Hammond Branch	At confluence with Little Patuxent River	None	*143
			Approximately 0.57 mile upstream of U.S. Route 1	None	*181
			Upstream side of Interstate Route 95	None	*285
			At confluence of Stream HB-8	None	*320
			At confluence of Stream HB-11	None	*402
			Approximately 0.45 mile upstream of confluence of Stream HB-12.	None	*458
		Guilford Branch	At Upstream side of U.S. Route 1	None	*174
			Upstream side of Mary Lane	None	*215
			Approximately 1,600 feet upstream of Mission Road	None	*295
		Stream LPR-6	At confluence with Little Patuxent River	None	*342
			Upstream side of Centennial Lane	None	*365
			Approximately 1.2 miles upstream of Centennial Lane	None	*405
		Clydes Branch	At confluence with Middle Patuxent River	None	*317
			Upstream side of Shepherd Lane	None	*349

PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
			At confluence of stream CB-11	None	*385
			At confluence of stream CB-16	None	*454
			Approximately 0.76 mile upstream of State Route 32	None	*526
		Stream CB-1	At confluence with Clydes Branch	None	*323
			Upstream side of Shepherd Lane	None	*359
			Approximately 800 feet upstream of State Route 32	None	*492
		Stream CB-2	At confluence with stream CB-1	None	*367
			Approximately 0.54 mile upstream of confluence with stream CB-1.	None	*459
		Stream CB-3	At confluence with stream CB-1	None	*376
			Approximately 0.45 mile upstream of confluence with stream CB-1.	None	*449
		Stream CB-4	At confluence with stream CB-1	None	*396
			Approximately 600 feet upstream of State Route 32	None	*416
		Stream CB-5	At confluence with Clydes Branch	None	*340
			Approximately 0.38 mile upstream of Folly Quarter Road.	None	*446
		Stream CB-6	At confluence with stream CB-5	None	*345
			Approximately 0.39 mile upstream of confluence of stream CB-9.	None	*447
		Stream CB-7	At confluence with stream CB-5	None	*374
			Approximately 0.57 mile upstream of confluence	None	*435
		Stream CB-8	At confluence with stream CB-5	None	*406
			Approximately 0.38 mile upstream of confluence	None	*466
		Stream CB-9	At confluence with stream CB-6	None	*403
			Approximately 0.65 mile upstream of confluence	None	*483
		Stream CB-10	At confluence with Clydes Branch	None	*358
			Approximately 1.6 miles upstream of confluence	None	*478
		Stream CB-11	At confluence with Clydes Branch	None	*386
			Approximately 0.71 mile upstream of confluence	None	*486
		Stream CB-12	At confluence with Clydes Branch	None	*410
			Approximately 1,100 feet upstream of confluence of stream CB-13.	None	*486
		Stream CB-13	At confluence with stream CB-12	None	*439
			Approximately 1,350 feet upstream of confluence	None	*494
		Stream CB-14	At confluence with Clydes Branch	None	*427
			Approximately 0.47 mile upstream of confluence with stream CB-15.	None	*528
		Stream CB-15	At confluence with stream CB-14	None	*457
			Approximately 1,500 feet upstream of confluence	None	*479
		Stream CB-16	At confluence with Clydes Branch	None	*454
			Approximately 1,150 feet upstream of Ten Oak Road	None	*566
		Stream CB-17	At confluence with stream CB-16	None	*538
			Approximately 1,050 feet upstream of Ten Oak Road	None	*581
		Stream CB-18	At confluence with stream CB-16	None	*483
			Approximately 0.40 mile upstream of State Route 32	None	*558
	Maps available for inspection at the Bureau of Engineering, Ellicott City, Maryland.				
	Send comments to the Honorable J. Hugh Nichols, Howard County Executive, George Howard Building, 3430 Courthouse Drive, Elliott City, Maryland 21043.				
Montana	Stillwater County (unincorporated areas).	Keyser Creek	Approximately 80 feet upstream of the Columbus Water Users Association ditch flume.	*None	*3,628
	Maps are available for review at the County Planning Office, Stillwater County Courthouse, Columbus, Montana.				
	Send comments to the Honorable Ezra G. Rickman, Chairman, Stillwater County Board of Commissioners, P.O. Box 147, Columbus, Montana 59019.				
Nebraska	City of Omaha, Douglas County	Thomas Creek	At mouth	*1,080	*1,080
			About 750 feet downstream of 90th Street	*1,083	*1,085
			About 500 feet downstream of Ida Street	*1,090	*1,090
		Big Papillion Creek	About 300 feet downstream of West Center Road	*1,024	*1,024
			About 0.25 mile upstream of West Center Road	*1,027	*1,028
			About 300 feet upstream of 105th Street	*1,034	*1,033
			About 0.50 mile upstream of Interstate 680	*1,028	*1,028
	Maps available for inspection at the Planning Department, Omaha/Douglas Civic Center, 1819 Farnam Street, Room 1110, Omaha, Nebraska.				
	Send comments to the Honorable Michael Boyle, Mayor, City of Omaha, Omaha/Douglas Civic Center, 1819 Farnam Street, Suite 804, Omaha, Nebraska 68183.				
New Jersey	East Brunswick Township, Middlesex County.	Raritan River	Entire shoreline within community	*12	*10
			Shoreline of South River at confluence with Raritan River.	*12	*10
			Downstream side of State Route 18	*12	*11
			Upstream side of State Route 18	*12	*11
			Shoreline of Lawrence Brook at confluence with Raritan River.	*12	*10
			Upstream side of New Jersey Turnpike	*12	*11
	Maps available for inspection at the Department of Planning and County Development, Municipal Building, East Brunswick, New Jersey.				
	Send comments to the Honorable William F. Fox, Mayor of the Township of East Brunswick, P.O. Box 218, East Brunswick, New Jersey 08816.				
New Jersey	Sayreville Borough, Middlesex County.	Raritan Bay	Entire shoreline within community	*12	*18
		Raritan River	Shoreline at Scott Avenue (extended)	*12	*12
			At Garden State Parkway crossing	*12	*10
			Shoreline of South River at Washington Road	*12	*10
			Shoreline of South River at William Street (extended)	*12	*10
			At Bordentown-Amboy Turnpike	*12	*10

PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Office of the Borough Clerk, 167 Main Street, Sayreville, New Jersey.					
Send comments to the Honorable John McCormack, Mayor of the Borough of Sayreville, 167 Main Street, Sayreville, New Jersey 08872.					
New Jersey	South Amboy City, Middlesex County	Raritan River	At Rosswell Street (extended)	*17	*15
			Upstream side of Conrail bridge	*16	*13
			Shoreline at Raritan Street (extended)	*16	*12
Maps available for inspection at the City Clerk's Office, City Hall, 319 George Street, South Amboy, New Jersey.					
Send comments to the Honorable J. Thomas Cross, Mayor of the City of South Amboy, 319 George Street, South Amboy, New Jersey 08879.					
New Jersey	South River, Borough Middlesex County.	Raritan River	Entire shoreline of South River within community	*12	*10
Maps available for inspection at the Office of Mr. William Reichenbach, Borough Clerk, 64–66 Main Street, South River, New Jersey.					
Send comments to the Honorable Regis S. Wyluda, Mayor of the Borough of South River, 20 New Street, South River, New Jersey 08882.					
Ohio	City of Columbus, Franklin and Fairfield Counties.	Blacklick Creek	At mouth	None	*728
			About 0.63 mile upstream of mouth	None	*729
			About 0.84 mile downstream of confluence of tributary I.	None	*757
			About 0.26 mile upstream of Refugee Road	None	*796
			About 450 feet downstream of confluence of tributary E.	None	*881
			About 0.69 mile upstream of State Route 16	None	*904
		Tributary I	At mouth	None	*765
			About 0.43 mile upstream of mouth	*770	*770
Maps available for inspection at the Development Regulation Division, City of Columbus, 140 Marconi Boulevard, Columbus, Ohio.					
Send comment to the Honorable Dana G. Rinehart, Mayor, City of Columbus, City Hall, 90 West Broad Street, Columbus, Ohio 43215–4184.					
Ohio	Unincorporated areas	Blacklick Creek	Just downstream of confluence of tributary J	None	*737
			About 1.74 miles upstream of Winchester Pike	None	*765
			About 0.55 mile downstream of Long Road	None	*776
			About 0.90 mile upstream of Long Road	None	*797
			Just upstream of Livingston Avenue	None	*850
			About 0.55 mile upstream of Livingston Avenue	None	*856
			Just upstream of State Route 16	None	*881
			Just downstream of Conrail located about 1.33 miles upstream of State Route 16.	None	*922
			Just upstream of Conrail located about 1.33 miles upstream of State Route 16.	None	*928
			About 400 feet upstream of Havens Road	None	*979
			Just downstream of Morse Road	None	*1,018
			Just downstream of of Dublin Granville Road	None	*1,060
			Just downstream of of Central College Road	None	*1,084
		Tributary A	At mouth	None	*1,073
			About 200 feet upstream of mouth	*1,074	*1,074
		Tributary B	At mouth	None	*1,053
			About 150 feet upstream of mouth	*1,054	*1,054
		Tributary B–1	At mouth	None	*988
			About 100 feet upstream of mouth	*989	*989
		Tributary C	At mouth	None	*940
			About 250 feet upstream of mouth	*942	*942
		Mason Rul	At mouth	739	*739
			About 0.37 mile upstream of Interstate 270	*742	*741
Maps available for inspection at the Mid Ohio Regional Planning Commission, 295 E. Main Street, Columbus, Ohio.					
Send comments to the Honorable Jack Foulk, President Commissioner, Franklin County, 410 South High Street, Columbus, Ohio 43215.					
Ohio	City of Whitehall, Franklin County	Mason Run	About 0.25 mile downstream of Main Street	*776	*775
			About 0.11 mile upstream of Broad Street	*793	795
Maps available for inspection at the Service Director's Office, 360 South Yearling Road, Whitehall, Ohio.					
Send comments to the Honorable John A. Bishop, Mayor, City of Whitehall, 360 South Yearling Road, Whitehall, Ohio 43213.					
Oklahoma	Muskogee City, Muskogee County	Sam Creek	Approximately 240' downstream of downstream corporate limits.	None	*554
			Approximately 160' upstream of downstream corporate limits.	None	*555
			Approximately 400' upstream of upstream corporate limits.	None	*559
Maps available for inspection at the City Engineering Department, Muskogee, Oklahoma.					
Send comments to the Honorable Virgil James, Mayor of the city of Muskogee, City Hall, P.O. Box 1927, Third and Okmulgee, Muskogee, Oklahoma 74402.					
Pennsylvania	Unity Township, Westmoreland County River.	Loyalhanna River	Approximately 1,900 feet downstream of Mission Road	*995	*996
			Downstream side of Mission Road	*998	*1,000
			Downstream side of State Route 982	*1,003	*1,004
		Sewickley Creek	Downstream corporate limits	None	*1,023
			Downstream side of State Route 130	*1,032	*1,033
			Upstream side of State Route 583	*1,044	*1,046
			Approximately 0.44 mile upstream of State Route 583	None	*1,071
		Township Line Run	Downstream corporate limits	None	*974
			Upstream side of Township Route 492	None	*980
			Upstream side of upstream Robert Shaw Acres Bridge	None	*995
			Approximately 0.46 mile downstream of L.R. 64174	None	*1,010
			Upstream side of L.R. 64174	None	*1,034

PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 0.72 mile upstream of L.R. 64174	None	*1,070
Maps available for inspection at the Township Building, Latrobe, Pennsylvania.					
Send comments to the Honorable Thomas B. Yazvec, Chairman of the Township of Unity Board of Supervisors, Westmoreland County, R.D. 3, Box 526 K, Latrobe, Pennsylvania 15650.					
Texas	Aransas County	Aransas Bay	Captains Cove	*10	*9
			Intersection of Sierra Sound and Windjammer	*12	*9
Maps available for inspection at the Office of Mr. Leonard Specht, Aransa County Flood Plain Administrator, Aransas County Courthouse, Room 110, Rockport, Texas.					
Send comments to the Honorable John D. Wendell, Aransas County Judge, 301 North Live Oak, Rockport, Texas 78382.					
Texas	Travis County	Williamson Creek	Approximately 30 feet downstream of Oak Hill Bee Caves Road.	*833	*834
			Approximately 330 feet upstream of Oak Hill Bee Caves Road.	*838	*837
			Approximately 360 feet downstream of confluence of tributary 5.	*847	*843
			Approximately 600 feet upstream of confluence of tributary 5.	*853	*851
			Approximately 1,840 feet upstream of confluence of tributary 5.	*861	*860
		Williamson Creek tributary No. 5	Approximately 640 feet upstream of confluence with Williamson Creek.	*848	*848
			Approximately 960 feet upstream of confluence with Williamson Creek.	*853	*851
Maps available for inspection at the Travis County Engineering Office, 314 W-11, Suite 200, Austin, Texas.					
Send comments to the Honorable John M. Renfro, Travis County Judge, P.O. Box 1748, Austin, Texas 78767.					
Washington	Cowlitz County (unincorporated areas).	Columbia River	At crossing of Ocean Beach Highway over Abernathy Creek.	*8	*13
		Lewis River	Intersection of Gun Club Road and Springfield Road	*38	*35
			Intersection of Lewis River Road and McCraken Road	*38	None
Maps are available for review at the Department of Community Development, Cowlitz County, 207 Fourth Avenue North, Kelso, Washington.					
Send comments to the Honorable Van Youngquist, Chairman, Cowlitz County Board of Commissioners, 207 Fourth Avenue North, Kelso, Washington 98626.					
Wisconsin	Unincorporated areas of Green County.	Sugar River	At the confluence of Story Creek	*838	*838
			About 2,000 feet downstream of County Highway D	*846	*845
			At the county boundary	*855	*854
Maps available for inspection at the Green County Courthouse, Monroe, Wisconsin.					
Send comments to the Honorable Robert M. Hoesly, County Board Chairman, Green County, Green County Courthouse, Monroe, Wisconsin 53566.					

Issued: March 28, 1986.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 86-8413 Filed 4-15-86; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[Gen. Docket No. 85-172; RM-3975; RM-4829]

Further sharing of the UHF Television Band

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This Order extends the time period in which to file comments and reply comments in response to the Notice of Proposed Rulemaking concerning further sharing of the UHF television band (General Docket No. 85-172; June 20, 1985, 50 FR 25587). It is necessary to extend the comment period in order to allow responses to a study in the docket.

DATES: Comments may now be filed on or before June 6, 1986. Reply comments may now be filed on or before June 23, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rodney Small, Spectrum Engineering Division, Office of Engineering and Technology, Federal Communications Commission, Washington, DC 20554, (202) 653-8116.

SUPPLEMENTARY INFORMATION:

Order Extending Time for Comments

In the Matter of Further sharing of the UHF Television Band by Private Land Mobile Radio Services; General Docket No. 85-172, RM-3975 and RM-4829.

Adopted: April 7, 1986.

Released: April 9, 1986.

By the Office of Engineering and Technology.

1. The Commission has recently extended time for completion of a report in this proceeding by the Land Mobile Radio/UHF Television Technical Advisory Committee. As extended, the date for completion of this report is May 7, 1986. Inasmuch as we wish to allow time for all interested parties to this proceeding to read the report before filing comments to the *Notice of Proposed Rulemaking*, we are extending the date for comments from April 11, 1986 to June 6, 1986. We are also extending the date for reply comments from May 16, 1986 to June 23, 1986. We are aware that these new dates impose a tight time frame relative to the new report date, but believe it is important to expedite the proceeding as much as possible.

2. This action is taken pursuant to authority found in sections 4(i), 302, and 303 of the Communications Act of 1934 as amended, 47 U.S.C. 154(i), 302, and 303, and pursuant to § 0.31 and 0.241 of the Commission's Rules.

Federal Communications Commission.

Thomas P. Stanley,

Acting Chief Engineer.

[FR Doc. 86-8438 Filed 4-15-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-114; RM-5078; RM-5218]

FM Broadcast Stations in Clarkesville, and Cleveland, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the allotment of Channel 275A to either Clarkesville or Cleveland, Georgia, in response to petitions filed by Radio Habersham, Inc., and Terry W. Barnhardt, respectively. The proposal could provide a first FM service at either community.

DATES: Comments must be filed on or before June 1, 1986, and reply comments on or before June 16, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082 as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Notice of Proposed Rule Making

In the Matter of Amendment of § 73.202.(b), Table of Allotments, FM Broadcast Stations. (Clarkesville, and Cleveland, Georgia) MM Docket No. 86-114; RM-5078; RM-5218.

Adopted: March 28, 1986.

Released: April 9, 1986.

By the Chief, Policy and Rules Division.

1. The Commission herein considers two separate petitions for rule making. The first was filed by Radio Habersham, Inc. proposing the allotment of Channel 275A to Clarkesville, Georgia. The second petition was filed by Terry W. Barnhardt, requesting that Channel 275C2 be allotted to Cleveland, Georgia. That proposal is unacceptable because our staff was unable to find a transmitter site which would eliminate the short spacing to Station WLKQ (FM), (Channel 272A) Buford, Georgia, and to Station WVEE (FM) (Channel 277), Atlanta, Georgia. Therefore, we have proposed that Channel 275A be allotted to Cleveland. Each petitioner stated its intention to apply for the channel, if allotted to their requested community.

2. A staff engineering study has determined that there is no other channel of any class available to either Clarkesville or Cleveland, Georgia. Therefore, in comments to the *Notice*, the petitioner for Channel 275C2 at Cleveland, is requested to indicate its willingness to accept Channel 275A. As is our policy, we shall provide each proponent with an opportunity to demonstrate in comments to the *Notice* why its community should receive the allotment. In this regard, the parties should be guided by the criteria set forth in *Revision of FM Assignment Policies and Procedures*, 90 F.C.C. 2d 88 (1982).

3. The proponent for Channel 275A at Clarkesville has requested a waiver of the buffer zone requirements to Station WVEE (FM) (Channel 277), Atlanta, Georgia. It claims that any move by MVEE (FM), in the direction of Clarkesville would result in a further short spacing to Station WVKS (FM) (Channel 276A), Etowah, Tennessee, and to Channel 277A recently allotted to Greer, South Carolina (Docket 84-231). However, we note that subsequently, an application was filed by WVEE (FM) (BPH-8507121b) to relocate its transmitter site, which eliminates the short spacing, thus rendering the request for waiver moot. In addition, it appears that the petitioner's engineering study did not consider the buffer zone protection for Station WHKY-FM (Channel 275), Hickory, North Carolina. Nevertheless, here too, an application has been filed to relocate the transmitter (BPH 840319CC), which make the proposed allotment consistent with the spacing requirements. Channel 275A can otherwise be allotted to either Clarkesville or Cleveland in compliance with the minimum distance separation requirements, contingent on the grant of the pending applications for Atlanta, Georgia, and Hickory, North Carolina, to relocate.

4. In view of the above, the Commission considers it appropriate to elicit comments on alternate revisions to the FM Table of Allotments, § 73.202(b) of the Rules, with respect to the communities listed below:

City	Channel No.	
	Present	Proposed
Option I		
Clarkesville, Georgia		275A
Option II		
Cleveland, Georgia		275A

5. IT IS ORDERED, That the Secretary of the Commission, shall send by Certified Mail, Return Receipt Requested, a copy of this *Notice* to the following:

Mr. C.B. Rogers, Vice President, DKM Broadcasting Corporation, Ralph McGill Boulevard (Suite 1000), Atlanta, Georgia 30365 (Station WVEE-FM)

Mr. Robert E. Cline, President, Catawaba Valley Broadcasting, Inc., 526 Main Avenue, S.E., Hickory, North Carolina 28601 (Station WHKY-FM)

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

7. Interested parties may file comments on or before June 1, 1986, and reply comments on or before June 16, 1986, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows:

Mark E. Fields, Miller and Fields, P.O. Box 33003, Washington DC 20033 (Counsel for Radio Habersham, Inc.)

Kirk Tollett, National Communications Consultants, First National Bank Bldg., Liberty Square, Sparta, Tennessee 38583 (Consultant for Terry W. Barnhardt)

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

9. For futher information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time of Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at

the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation shall not be considered in the proceeding.

Federal Communications Commission.

Ralph A. Maller,

Acting Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(e)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, It Is Proposed To Amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in attached. Proponent(s) will be expected to answer whatever questions are presented initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference it s former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of-filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice of this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing that comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comment shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, DC

[FR Doc. 86-8440 Filed 4-15-86; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-115; RM-4964]

FM Broadcast Station in Crawford, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to allot Channel 271A to Crawford, Georgia, as its first FM channel, in response to a petition filed by Georgia Family Broadcasting.

DATES: Comments must be filed on or before May 30, 1986, and reply comments on or before June 16, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Notice of Proposed Rule Making

In the Matter of Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Crawford, Georgia) MM Docket No. 86-115 RM-4964

Adopted: March 28, 1986.
Released: April 8, 1986.
By the Chief, Policy and Rules Division:

1. before the Commission is the petition for rule making filed by Georgia Family Broadcasting, which seeks the allotment of Channel 275A to Crawford, Georgia, as its first FM channel. Petitioner stated its intention to apply for the channel.

2. A channel 275A allotment to Crawford would conflict with pending rule making request for Channel 275A at both Clarkesville, Georgia (RM-5078) and Cleveland, Georgia (RM-5218). Additionally, the allotment of Channel 275A at Crawford would require a site restriction 8.25 miles east of the city, which is usually too far to provide the required city grade signal over Crawford, under the provision of § 73.315 of the Rules. A staff study indicates that, as an alternative, Channel 271A can be allotted to Crawford and meet the spacing requirements. The transmitter site would be restricted to 12.43 (7.7 miles) southest of the city to avoid short spacing to Station WMYU(FM), Sevierville, Tennesaee (Channel 271), and to Station WKHX(FM), Marietta, Georgia (Channel 268). Petitioner is directed to submit a showing that the required 70 dBu city grade signal can be provided to Crawford at such a restricted site.

3. In view of the above the Commission seeks comments on the proposal to amend the FM Table of Allotments, Section 73.202(b) of the Rules, with regard to the community listed below:

City	Channel No.	
	Present	Proposed.
Crawford, Georgia		271A

4. The Commission's authority to institute rule making proceedings,

showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

5. Interested parties may file comments on or before May 30, 1986, and reply comments on or before June 16, 1986, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Nancy L. Wolf, Dow, Lohnes and Albertson, 1255 Twenty-Third Street, NW., Washington, DC 20037 (Counsel for petitioner).

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Ralph A. Haller,

Acting Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in §§ 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the noncommercial educational FM Table of Allotments, § 73.504(a) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the data for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c)(The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, DC.

[FR Doc. 86-8441 Filed 4-15-86; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 1-18, Notice 28; No. 70-27, Notice 30]

Federal Motor Vehicle Safety Standards Hydraulic Brake Systems; Controls and Displays

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

ACTION: Notice of proposed rulemaking; Grant of petition for rulemaking.

SUMMARY: Federal Motor Vehicle Safety Standards No. 105, *Hydraulic Brake Systems*, and No. 101, *Controls and Displays*, require telltales whose single function is indicating failure in the antilock portion of a brake system to read "ANTILOCK." This notice proposes to amend those standards to permit "ABS," an abbreviation for "Antilock Brake System," as an alternative. This action results from a petition for rulemaking submitted by Mercedes-Benz.

DATES: Comments must be received on or before June 16, 1986. This proposal would become effective 30 days after publication of a final rule in the Federal Register.

ADDRESSES: Comments should refer to the docket and notice numbers set forth above and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, DC 20590. The docket is open on weekdays from 8 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Cavey, Office of Vehicle Safety Standards, National Highway

Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202–426–2153).

SUPPLEMENTARY INFORMATION: Federal Motor Vehicle Safety Standard No. 105, *Hydraulic Brake Systems*, requires an indicator lamp, i.e., a telltale on the dashboard, to be activated whenever there is a total functional electrical failure in an antilock brake system. The manufacturer may meet this requirement by using a common indicator displaying the word "BRAKE," which also warns the driver about other types of brake failure. Alternatively, the manufacturer may provide a separate indicator for antilock failure. If a separate indicator is used, Standard No. 105 and Standard No. 101, *Controls and Displays*, specify use of the word "ANTILOCK" or "ANTI-LOCK."

Mercedes-Benz has petitioned the agency to amend Standards No. 105 and 101 to permit the letters "ABS," which represents an abbreviation of "ANTILOCK Brake System," as an alternative telltale message. That company stated that the letters "ABS" have been used in automotive press articles and in manufacturers' print advertising, with few exceptions, for identifying brake systems with antilock capabilities. Copies of such publications are submitted with the petition. The petitioner contended that as antilock brake systems increase in availability the abbreviation will be increasingly used by the media, in technical publications, and in owners' manuals, and is expected to remain synonymous with this type of brake system.

Mercedes also argued that if a manufacturer offers a system or feature not required by regulation, but provides a corresponding telltale required by regulation, that telltale message should be permitted to correspond with the campaigns developed to promote such safety systems. That company compared the use of "ABS" in its marketing of antilock braking systems to the use of "SRS" in marketing its Supplementary Restraint System.

NHTSA believes that the primary issue it must consider in responding to Mercedes' petition is the recognizability and understanding of "ABS" as compared to "ANTILOCK," both by new car buyers and other drivers. For example, in deciding not to adopt the International Standards Organization (ISO) brake symbol as an alternative to the word "BRAKE" in common indicators, the agency noted a Society of Automotive Engineers (SAE) study indicating extremely low percentage recognition for the ISO brake symbol compared to the word "BRAKE," and the important for safety of drivers understanding the meaning of the brake indicator lamp. See 50 FR 23430 (June 4, 1985).

NHTSA is unaware of data concerning the recognizability and understanding of "ANTILOCK" or "ABS." Unlike some identifying words and abbreviations, the abbreviation ABS does appear to require learning by the driver in order to understand its meaning. Given the use of ABS by the media and in marketing campaigns, however, the agency agrees with the petitioner that such learning is likely to be taking place and to continue to do so. The agency also notes that the word "ANTILOCK" requires learning by the driver in order to understand its meaning, since antilock technology is relatively new and unfamiliar to most drivers.

Based on the foregoing discussion, NHTSA has tentatively determined that ABS should be permitted as an alternative to the word "ANTILOCK" in telltales. The agency therefore grants the Mercedes petition and is proposing to amend Standards No. 105 and No. 101 accordingly. The agency specifically requests comments and data on the issue of the recognizability and understanding of "ANTILOCK" and "ABS."

Since the proposed amendment would impose no new requirements but would instead increase manufacturer flexibility by relieving a restriction, the agency is proposing that the amendment become effective 30 days after publication of a final rule.

The agency has analyzed this proposal and determined that it is neither "major" within the meaning of Executive Order 12291 nor "significant" withing the meaning of the Department of Transportation regulatory policies and procedures. Since the proposed amendment would impose no new requirements but simply permit alternative identification of the telltale for antilock failure, any cost impacts would be in the nature of slight, nonquantifiable cost savings.

In accordance with the Regulatory Flexibility Act, NHTSA has evaluated the effects of this action on small entities. Based upon this evaluation, I certify that the proposed amendment would not have a significant economic impact on a substantial number of small entities. Small businesses, small organizations, and small governmental units would be affected by the proposed amendment only to the extent that they purchase motor vehicles. For the reasons discussed above, the amendments would not significantly affect vehicle price. Accordingly, no regulatory flexibility analysis has been prepared.

Finally, the agency has considered the environmental implications of this proposed rule in accordance with the National Environmental Policy Act of 1969 and determined that the proposed rule would not significantly affect the human environment.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR Part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 571—[AMENDED]

In consideration of the foregoing, it is proposed that 49 CFR 571 be amended as follows:

1. The authority citation for Part 571 would continue to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1407; delegation of authority at 49 CFR 1.50.

§ 571.10 [Amended]

2. In Table 2 of § 571.101, the identifying words or abbreviation for malfunction in anti-lock (row 9, column 3, above the dotted line) would be revised to read as follows:

Antilock, Anti-lock, or ABS. Also see FMVSS 105.

§ 571.105 [Amended]

3. S5.3.5(a) of § 571.105 would be revised to read as follows:

S5.3.5(a) Each indicator lamp shall display word, words or abbreviation, in accordance with the requirements of Standard No. 101 (49 CFR 571.101) and/or this section, which shall have letters not less than ⅛-inch high and be legible to the driver in daylight when lighted. Words in addition to those required by Standard No. 101 and/or this section and symbols may be provided for purposes of clarity.

4. S5.3.5(c)(1)(C) of § 571.105 would be revised to read as follows:

S5.3.5 * * *

* * * * *

(c)(1) * * *

(C) If a separate indicator lamp is provided for an anti-lock system, the single word "Antilock" or "Anti-lock", or the abbreviation "ABS", may be used for S5.3.1(c).

* * * * *

Issued on: April 10, 1986.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 86-8435 Filed 4-15-86; 8:45 am]

BILLING CODE 4910-59-M

Notices

Federal Register
Vol. 51, No. 73
Wednesday, April 16, 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.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

April 11, 1986.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from:

Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250, (202) 477–2118.

Comments on any of the items listed should be submitted directly to:

Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

New

• Food and Nutrition Service
Food Stamp Program Operations Study
One-time survey
State or local governments; 327 responses; 981 hours; not applicable under 3504(h)
• Boyd Kowal (703) 756–3115

Extension

Animal and Plant Health Inspection Service
Certificate for Poultry or Hatching Eggs for Export
VS 17–6
On occasion
Farms; Business or other for-profit; 16,000 responses; 8,000 hours; not applicable under 3504(h)
Najam Q. Faizi, (301) 436–8383

• Agricultural Stabilization and Conservation Service
Request for Long-Term Agreement (Forestry Incentives Program)
FIP–11
On occasion
Individuals or households; 111 responses; 37 hours; not applicable under 3504(h)
Charles W. Sims, (202) 447–7334

• Food and Nutrition Service
Receipt and Distribution of Donated Commodities
FNS–155
Monthly
State and local governments; 1,008 responses; 2,016 hours; not applicable under 3504(h)
Don McCreary, (703) 756–3660

Revision

• Farmers Home Administration
Emergency Loan Policies, Procedures and Authorizations
FmHA 1940–38, 1945–15, –22
On occasion
State or local governments; Farms; Businesses or other for-profit; Small businesses or organizations; 146,705 responses; 78,435 hours; not applicable under 3504(h)
Jim Crysler, (202) 382–1657

Jane A. Benoit,
Departmental Clearance Officer.

[FR Doc. 86–8493 Filed 4–15–86; 8:45 am]
BILLING CODE 3410–01–M

ARCTIC RESEARCH COMMISSION

Meeting

Notice is hereby given that the Arctic Research Commission will meet in Kodiak and Anchorage, Alaska on 27–28–29 April 1986. On 27 April the meeting will be held from 6:00–8:00 p.m. in the Sheffield House Kodiak, Alaska. Agenda items include: (1) Approval of Report of Meeting, Juneau, Alaska 31 January 1986 (2) Comments from Interagency Arctic Research Committee (3) Alaska Research Policy Act (4) Comments from Congress.

On 28 April, the Commission will hold a pubic meeting at the Kodiak Community College, Kodiak, Alaska starting at 8:30 a.m. Matters to be considered will include review and status of implementation of Arctice Research and Policy Act, and public comment on Arctic research and policy.

From 12:00–2:45 p.m. the Commission will meet with the Mayor and Borough Assembly, Kodiak Assembly Chamber, and Kodiak City Manager and Council, Kodiak City Offices. At 2:45 p.m. the Commission will examine a Surimi Production Line, Fish Processing Facilties, and will be given a Cold Water Survival Demonstration.

At 4:40 p.m. the Commission will meet with the Director and Stafff of the Fishery Industrial Technology Center, Kodiak, Alaska. At 5:15 p.m. a Press conference will be held at the Kodiak Airport.

From 8:00–10:00 p.m. the Commission will meet in the Captain Cook Hotel, 5th & K Street, Anchorage, Alaska for an Executive Session to include discussion of budgetary matters, Commission staff and future activities.

On 29 April, the Commission will sponsor a public lecture at the Auditorium of the Anchorage Historical and Fine Arts Museum, 121 W. 7th Avenue, Achorage, Alaska starting at 9:00 a.m. Matters to be considered include (1) Chairman's items, (2) Public lecture by Oran Young on "Arctic Geopolitics and Their Impact on Research" (3) General discussion and public comment.

From 12:00–3:00 p.m. the Commission will meet at the Commission Offices, 707 A Street, Anchorage, Alaska. Matters to be considered include: (1) Future International Activities of the Commission (2) National Needs and

Arctic Research: A Framework for Action (3) Federal/State Task Forces (Data & Information, Health, Fisheries) (4) Group of Advisors (5) Future Activities of the Commission and (6) Next Meeting.

Contact Person for More Information: W. Timothy Hushen, Executive Director, Arctic Research Commission (213) 743-0970.

W. Timothy Hushen,

Executive Director, Arctic Research Commission.

[FR Doc. 86-8430 Filed 4-15-86; 8:45 am]

BILLING CODE 7555-01

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 328]

Resolution and Order Approving the Application of the Nevada Development Authority for a Foreign-Trade Zone in Sparks, Nevada, Within the Reno Customs Port of Entry

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Nevada Development Authority, a Nevada non-profit corporation, filed with the Foreign-Trade Zones Board (the Board) on August 2, 1985, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone in Sparks, Nevada, within the Reno Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal involves open space on which buildings may be constructed by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to § 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant To Establish, Operate, and Maintain a Foreign-Trade Zone in the Reno, Nevada Customs Port of Entry Area

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provided for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Nevada Development Authority (the Grantee) has made application (filed August 2, 1985, Docket 27-85, 50 FR 33089) in due and proper form to the Board, requesting the establishment, operation, and maintenance of a foreign-trade zone in Sparks, Nevada, within the Reno Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations (15 CFR Part 400) are satisfied;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 126 at the location mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Operation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United State free and unrestricted access to and throughout the foreign-trade zone site in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, DC this 4th day of April 1986, pursuant to Order of the Board.

Malcolm Baldrige,

Chairman and Executive Officer, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 86-8482 Filed 4-15-86; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

Notice of Applications for Duty-Free Entry of Scientific Instruments; University of Kansas et al.

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with §301.5(a)(3) and (4) of the regulation and be filed within 20 days with the Statutory Import Program Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No. 86-154. Applicant: University of Kansas, College of Health

Sciences and Hospital, 39th and Rainbow Boulevard, Kansas City, KS 66103. Instrument: Kidney Lithotripter. Manufacturer: Dornier Medizintechnik GmbH, West Germany. Intended use: The instrument is intended to be used for studies of the role of ESWL in treating renal and ureteral calculi in comparison to standard operative procedures, including pyelolithotomy, percutaneous nephrostomy and ureterorenoscopy. The areas to be studied will include stone composition; position of stone within the kidney and ureter; size of stone or stone volume; role of ancilliary procedures e.g. percutaneous nephrostomy and fate of retained stone fragments. In addition, the instrument will be used in ongoing educational programs which consist of the training of urology residents, nephrology fellows, and medical students, whose exposure is through the core surgical curriculum and special urology externship. Application received by Commissioner of Customs: March 12, 1986.

Docket No.: 86–156. Applicant: Howard Hughes Medical Institute, P.O. Box 330837, Coconut Grove, FL 33133. Instrument: Electron Microscope, Model EM 430 with Accessories. Manufacturer: N.V. Philips, The Netherlands. Intended use: The instrument is intended to be used for basic research into the properties of cells and their subcellular structures. Stereo view and tomographic imaging of semi-thick sections and whole mounts will be taken. These micrographs will be analyzed using three-dimensional computerized reconstruction methods. The objective of these studies is to completely describe the three dimensional structure of eukaryotic chromosome and how the structure can change with cell cycle and development. Application received by Commissioner of Customs: March 13, 1986.

Docket No.: 86–157. Applicant: Huntington Memorial Hospital, Pasadena Hospital Association DBA, 100 Congress Street, Pasadena, CA 91105. Instrument: Lithotripter. Manufacturer: Dornier, West Germany. Intended use: The instrument is intended to be used for non-invasive kidney stone removal on patients. The ongoing clinical research will be conducted in the following categories:

(1) Short-long term effect of ESWL on renal function.
(2) Effect of residual fragments.
(3) Kidney stone recurrence rate.
(4) Effect on calcification in vascular structures.
(5) Effect on aneurysms.
(6) Effect of ESWL in pregnancy.

Application received by Commissioner of Customs: March 13, 1986.

Docket No.: 86–158. Applicant: Wright State University, Dayton, OH 45435. Instrument: Mechanical Subsystem for Computed Tomography Scanner. Manufacturer: University of Zurich/JACOB AG, Switzerland. Intented use: The article is an accessory to an existing computed tomography scanner used for bone measurements. The experiments to be conducted will include various patient studies of the documentation of normal and post-menopausal bone loss, diagnosis of osteopenia and new treatment regiments for osteopenia. Application received by Commissioner of Customs: March 14, 1986.

Docket No.: 86–159. Applicant. Vanderbilt University, 21st Avenue South, Nashville, TN 37240. Instrument: Vacuum Pump (Turbomolecular), Model TMP 1000. Manufacturer: Leybold-Heraeus Co., West Germany. Intended use: The instrument will be used in the study of the electronic structure of atoms, molecules and solids by electron spectroscopy. In addition, the instrument will be used for the training of undergraduate and graduate students. Application received by Commissioner of Customs: March 14, 1986.

Docket No.: 86–160. Applicant: Southern Nevada Memorial Hospital, 1800 West Charleston Boulevard, Las Vegas, NV 89102. Instrument: Extracorporeal Shock Wave Lithotripter. Manfacturer: Dornier Medical Systems, Inc., West Germany. Intended use: The instrument will be used for teaching physicians the latest technology in the treatment of kidney stone disease. Application received by Commissioner of Customs: March 14, 1986.

Docket No.: 86–161. Applicant: USDA-ARS-NSA, Grand Forks Human Nutrition Research Center, 1420 2nd Avenue North, Grand Forks, ND 58201. Instrument: Thermal Ionization Mass Spectrometer System, Model 261. Manufacturer: Finnigan MAT, West Germany. Intended use: Studies of biological samples from human experiments, enriched with stable isotopes of minerals. A variety of human nutrition experiments will be conducted to gain a better understanding of mineral metabolism in humans. Subjects will be fed minerals, including zinc, copper, iron, boron and enriched stable isotopes. The stable isotopes will then be measured in biological samples collected from the subjects. Application received by Commissioner of Customs: March 14, 1986.

Docket No.: 86–162. Applicant: Texas A&M Research Foundation, P.O. Box 3578, USDA Building, Room 219, Corner of University and Wellborn, College Station, TX 77843. Instrument: Stopped-Flow spectrophotometer, Model SF–51 with Accessories. Manfacturer: Hi-Tech Scientific Ltd., United Kingdom. Intended use: Rapid mixing (within 1–2 milliseconds) of the protein and DNA from the bacterium *E. coli* will be performed and the kinetics of the interaction will be monitored. These rapid mixing experiments will be performed under a variety of conditions (salt, temperature and pH) in order to determine the mechanism by which the protein interacts with the DNA. The article will also be used for the research training of graduate students in the course Biochemistry 685. Application received by Commissioner of Customs: March 14, 1986.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86–8480 Filed 4–15–86; 8:45 am]

BILLING CODE 3510-DS-M

Notice of Applications for Duty-Free Entry of Scientific Instruments; University of Wisconsin et al.

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651); 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with ¶301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No.: 84–073R. Applicant: University of Wisconsin-Madison, Department of Chemistry, 1101 University Avenue, Madison, WI 53706. Instrument: Gas Isotope Ratio Mass Spectrometer System, Model Delta E. Manufacturer: Finnigan MAT GmbH, West Germany. Original notice of this resubmitted application was published in the **Federal Register** of March 5, 1984.

Docket No.: 85–177R. Applicant: University of California, Lawrence Livermore National Laboratory, P.O. Box 5012, Livermore, CA 94550. Instrument: Mass Spectrometer, Model VG 3001A with Accessories.

Manufacturer: VG Instruments, Inc., United Kingdom. Intended use: Original notice of this resubmitted application was published in the **Federal Register** of June 11, 1985.

Docket No.: 85–191R. Applicant: Montana State University, Department of Physics, CRISS Laboratory, Bozeman, MT 59717. Instrument: Electron Loss Spectrometer, Model ELS–22 with Accessories. Manufacturer: Leybold-Heraeus, West Germany. Intended use: Original notice of this resubmitted application was published in the **Federal Register** of June 26, 1985.

Docket No.: 85–289R. Applicant: U.S. Geological Survey, MS 431, National Center, Reston, VA 22092. Instrument: Electromagnetic Terrain Conductivity Meter, Model EM–34–3XL with Accessories. Manufacturer: Geonics Limited, Canada. Intended use: Original notice of this resubmitted application was published in the **Federal Register** of October 10, 1985.

Docket No.: 85–292R. Applicant: North Carolina Baptist Hospital, 300 South Hawthorne Road, Winston-Salem, NC 27103. Instrument: Lithotripter. Manufacturer: Dornier, West Germany. Intended use: Original notice of this resubmitted application was published in the **Federal Register** of October 30, 1985.

Docket No.: 86–007R. Applicant: State of Minnesota, Department of Natural Resources, Division of Waters, Box 32, 500 Lafayette Road, St. Paul, MN 55146. Instrument: Ground Conductivity Meter, Model EM,–34–3. Manufacturer: Geonics, Incorporated, Canada. Intended use: Original notice of this resubmitted application was published in the **Federal Register** of November 6, 1985.

Docket No.: 86–149. Applicant: The University of Chicago, 5801 South Ellis Avenue, Chicago, IL 60637. Instrument: Electron Microprobe, Model CAMEBAX SX–50. Manufacturer: Cameca, France. Intended use: The instrument is intended to be used for studies of rocks, minerals, meteorites and synthetic inorganic compounds. The experiments to be conducted will include measurement of X-ray intensity emitted by samples when bombarded by focused electron beam. X-rays characteristic of the elements in the sample will be energy and wavelength analyzed, counted and intensities related to those of standard materials. The instrument will also be used for teaching purposes in the course, Introduction to Microprobe Analysis. Application received by Commissioner of Customs: March 5, 1986.

Docket No.: 86–150. Applicant: University of Utah, Department of Biology, Salt Lake City, UT 84112. Instrument: Mass Spectrometer System, Model Delta E. Manufacturer: Finnigan MAT, West Germany. Intended use: The instrument is intended to be used for studies of biological materials including both plant and animal tissues. These studies will involve analyses of both whole tissues and individual subcellular components. In addition, atmospheric gases and soil water will be studied since they will affect the composition of the biological materials being analyzed. The instrument will also be used for educational purposes in the following courses: Biology 386 Plant Adaptation, Biology 506 Biological Instrumentation and Biology 601 Biological Techniques. Application Received by Commissioner of Customs: March 11, 1986.

Docket No.: 86–152. Applicant: SUNY at Buffalo, Department of Physics, 239 Fronczak Hall, Buffalo, NY 14260. Instrument: Infrared Spectrometer, Model IZM50. Manufacturer: Bomem, Inc., Canada. Intended use: This instrument will be used in a broad based research program directed at the study of the physics of semiconductor devices, device structures and semiconductor growth and processing. Materials to be investigated include: SiMOS devices, GaAs-AlGaAs heterostructures and quantum wells, MIS structures in InP and InSb, CdTe-InSb heterostructures, CdTe-CdMnTe heterostructures and quantum wells, Fe-GaAs, Fe-Si, and Fe-Ge structures, and various chemical vapors associated with the growth of metals and insulators on semiconductors and vapor etching of semiconductors. The instrument will also be used to teach practical laboratory techniques and procedures and scientific report writing through "hands-on" experimental work on a series of advanced modern physics experiments. Application received by Commissioner of Customs: March 11, 1986.

Docket No.: 86–153. Applicant: Texas A&M University, Department of Chemistry, College Station, TX 77843. Instrument: Mass Spectrometer System, Model VG–70S. Manufacturer: VG Instruments, United Kingdom. Intended use: The instrument is intended to be used for the following research projects:

(1) Mass spectrometry development for non-volatile organic species.
(2) Fundamental studies of gas phase chemistry.
(3) Autoxidation of cobalt dioxygen complexes.
(4) Mass spectrometry studies of organometallics.
(5) High resolution mass spectrometry of biologically important molecules.
(6) Applications of mass spectrometry to analytical biochemistry and toxicology.
(7) Applications of high resolution mass spectroscopy.

Application received by Commissioner of Customs: March 11, 1986.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86–8481 Filed 4–15–86; 8:45 am]

BILLING CODE 3510-DS-M

Biotechnology Technical Advisory Committee; Partially Closed Meeting

A meeting of the Biotechnology Technical Advisory Committee will be held May 19, 1986, at 9:00 a.m., Herbert C. Hoover Building, Room 3807, 14th Street and Constitution Avenue, NW., Washington, D.C. The Committee advises the Office of Technology and Policy Analysis, Export Administration, with respect to technical questions that affect the level of export controls applicable to biotechnology and related equipment or technology.

Agenda

1. Welcoming remarks by the Chairman.
2. Introduction of members and guests.
3. Presentation of papers or comments by the public.
4. Discussions of commodities listed under ECCN 4997B and ECCN 4998B.
5. Action items and plans for next meeting.

Executive Session

6. Discussions of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 19, 1985, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the

Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, telephone: (202) 377-4217. For further information or copies of the minutes, contact Margaret A. Cornejo, (202) 377-2583.

Dated: April 11, 1986.

Margaret A. Cornejo,

Acting Director, Technical Support Staff, Office of Technology and Policy Analysis.

[FR Doc. 86-8398 Filed 4-15-86; 8:45 am]

BILLING CODE 3810-DT-M

Patent and Trademark Office

Semiconductor Chip Protection Act of 1984; Extension of Previously Granted Interim Orders

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Extension of Period for Comments.

SUMMARY: On March 24, 1986, in the **Federal Register**, 51, FR 10073-10098, the Patent and Trademark Office requested comments on existing interim orders issued under section 914 of the Semiconductor Chip Protection Act of 1984. The due date for comments is extended from April 16, 1986, to April 30, 1986.

DATE: Comments must be received by the Commissioner of Patents and Trademarks before 5:00 P.M. on April 30, 1986.

ADDRESS: Address written comments to: Commissioner of Patents and Trademarks, Box 4, Washington, DC 20231.

FOR FURTHER INFORMATION CONTACT: Michael K. Kirk, Assistant Commissioner for External Affairs, by telephone at (703) 557-3065, or by mail marked to his attention and addressed to Commissioner of Patents and Trademarks, Box 4, Washington, DC 20231.

Dated: April 10, 1986.

Donald J. Quigg,

Assistant Secretary and Commissioner of Patents and Trademarks.

[FR Doc. 86-8449 Filed 4-15-86; 8:45 am]

BILLING CODE 3510-16-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Import Limits for Certain Cotton and Wool Textiles and Textile Products Produced or Manufactured in Peru

April 11, 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 May 1, 1986. For further information contact Nathaniel Cohen, Trade Reference Assistant, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

The Bilateral Cotton , Wool and Man-Made Fiber Textile Agreement of January 3, 1985 between the Governments of the United States and Peru establishes limits for cotton and wool textiles and textile products in Categories 300, 301, 313, 315, 317, 319, 320, 410 and Categories 330 through 359 (cotton apparel group) and 400 through 469 (wool group), produced or manufactured in Peru and exported during the twelve-month period beginning on May 1, 1986 and extending through April 30, 1987. The directive to the Commissioner of Customs which follows this notice establishes the new limits.

A description of 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).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 11, 1986.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1985), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of January 3, 1985, between the Governments of the United States and Peru; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on May 1, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and wool textile products in the following categories, produced or manufactured in Peru and exported during the twelve-month period beginning on May 1, 1986 and extending through April 30, 1987, in excess of the following restraint limits:

Category	12-mo restraint limit
330-359	10,000,000 square yards equivalent.
400-469	4,000,000 square yards equivalent.
300	3,000,000, pounds.
301	2,250,000 pounds.
313	18,725,000 square yards.
315	4,121,640 square yards.
317	17,173,500 square yards of which not more than 5,152,050 square yards shall be in Category 317pt.[1]
319	22,898,000 square yards.
320	16,601,050 square yards of which not more than 4,579,600 square yards shall be in Category 320pt.[2]
410	1,500,000 square yards.

[1] In Category 317, only TSUSA items 320.—through 331.— with statistical suffixes 50, 87, and 93.

[2] In Category 320, only TSUSA numbers 320.—, 321.—, 322.—, 326.—, 327.—, and 328.— with statistical suffixes 21, 22, 24, 31, 38, 49, 57, 74, 80 and 98.

In carrying out this directive, entries of textile products in the foregoing categories, produced or manufactured in Peru, which have been exported in the United States on and after May 1, 1985 and extending through April 30, 1986, shall, to the extent of any unfilled balances, be charged to the levels established for that twelve-month period. To the extent the levels established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The restraint limits set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of January 3, 1985 between the Governments of the United States and Peru which provide, in part, that: (a) specific limits may be exceeded by designated percentages, provided a corresponding reduction in equivalent square yards is made in one or more other specific limits during the same agreement year; (2) specific limits may be increased for carryover and carryforward not to exceed 11 percent, and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

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).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth on Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553 (a)(1).

Sincerely

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-8444 Filed 4-15-86; 8:45 am]

BILLING CODE 3510-DR-M

COMMODITY FUTURES TRADING COMMISSION

Advisory Committee on CFTC-State Cooperation; Fifth Renewal

The Commodity Futures Trading Commission has determined to renew again for a period of two years its advisory committee designated as the Commission's "Advisory Committee on CFTC-State Cooperation." As required by section 14(a)(2)(A) of the Federal Advisory Committee Act, 5 U.S.C. App. I, 14(a)(2)(A), and 41 CFR 101-6.1007 and 101.6.1029, the Commission has consulted with the Committee Management Secretariat of the General Services Administration, and the Commission certifies that the renewal of the advisory committee is in the public interest in connection with duties imposed on the Commission by the Commodity Exchange Act, 7 U.S.C. 1, *et seq.* as amended.

The objectives and scope of activities of the Advisory Committee of CFTC-State Cooperation are to conduct public meetings and submit reports and recommendations on matters of joint concern to the states and the Commission arising under the Commodity Exchange Act regarding regulation of commodity transactions and related activities.

Commissioner Fowler C. West serves as Chairman and Designated Federal Official of the Advisory Committee on CFTC-State Cooperation. State officials who have had experience in the commodities and consumer protection fields, a representative of the industry's only registered futures association, and an expert in the commodities field serve as members.

Interested persons may obtain information or make comments by writing to the Commodity Futures Trading Commission, 2033 F Street, NW., Washington, DC 20581.

Issued in Washington, DC, this 11th day of April 1986 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 86-8528 Filed 4-15-86; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Public Information Collection Requirement Submitted to OMB for Review

AGENCY: Department of Defense, DOD.

ACTION: Public Information Collection Requirement Submitted to OMB for Review.

SUMMARY: The Department of Defense has submitted to OMB for review the following request for renewal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C., Chapter 35). Each entry contains the following information: (1) Type of Submission, (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact for whom a copy of the information proposal may be obtained.

Extension

Defense Acquisition Regulation (DAR)

Information principally concerns certain data required to administer contracts awarded to DAR contracting procedures as a result of solicitations issued prior to April 1, 1984.

Reporting is required to support contract administration actions.

Businesses or others for profit/small businesses or organizations and nonprofit institutions.

Responses: 150,000

Burden Hours: 4,400,000

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503, and Mr. Daniel J. Vitiello, DoD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, telephone (202) 746-0933.

SUPPLEMENTARY INFORMATION: A copy of the information collection proposal may be obtained from Mr. Fred J. Kohout, ODASD(P)CPA, Room 3D116, Pentagon, Washington, DC 20301-8000, telephone (202) 697-8334. This is a revision of an existing collection.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

April 11, 1986.

[FR Doc. 86-8486 Filed 4-15-86; 8:45 am]

BILLING CODE 3810-01-M

Department of the Navy

Privacy Act of 1974; Amended Systems of Records

AGENCY: Department of the Navy, DOD.

ACTION: Notice of amended systems of records.

SUMMARY: The Department of the Navy proposes to amend three systems of records in its inventory of systems of records subject to the Privacy Act of 1974.

DATE: This proposed action will be effective without further notice May 16, 1986, unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to Mrs. Gwen Aitken, Privacy Act Coordinator, Office of the Chief of Naval Operations (OP-09B30), Department of the Navy, The Pentagon, Washington, DC 20350-2000, telephone: 202-697-1459, autovon: 227-1459.

SUPPLEMENTARY INFORMATION: Department of the Navy systems of records notices subject to the Privacy Act of 1974 have been published in the **Federal Register** as follows:

FR Doc 85-10237 (50 FR 22735) May 29, 1985
FR Doc 85-16564 (50 FR 28442) July 12, 1985
FR Doc 85-20719 (50 FR 35290) August 30, 1985
FR Doc 85-21577 (50 FR 36914) September 10, 1985
FR Doc 86-30596 (50 FR 52997) December 27, 1985
FR Doc 86-4185 (51 FR 6777) February 26, 1986
FR Doc 86-4166 (51 FR 7090) February 28, 1986
FR Doc 86-5108 (51 FR 8225) March 10, 1986

The proposed amendments are not within the purview of the provision of 5

U.S.C. 552a(o) which requires the submission of an altered systems report.

Patricia H. Means,
OSD Federal Register Liaison Officer, Department of Defense.
April 11, 1986.

N01001–5

System name:

MSC/NCSORG Reserved Personnel Record (50 FR 22737) May 29, 1985.

Changes:

System name:

Delete the entry in its entirety and substitute with: "MSC Civilian and Naval Reserve Personnel Data File."

System location:

At the end of the entry, add: "* * *–5320."

Categories of individuals covered by the system:

At the beginning of the entry, add the following phrase: "MSC masters and chief engineers aboard civil service manned ships and * * *"

Categories of records in the system:

Delete the entire entry and substitute with the following: "Biographical and professional information which may include name, rank, SSN, designation, date and place of birth, home address and phone number, active duty training, education, correspondence courses taken, active military service, civilian employment experience, training for sea, maritime licenses held, commercial shipboard and shoreside experience, marital status, number of children and their names and ages, highlights of merchant marine career, special skills and accomplishments, hobbies, community activity and association membership."

Authority for maintenance of the system:

Delete the entry in its entirety and substitute with: "10 USC 5031."

Purpose(s):

Delete the entry in its entirety and substitute with: "To facilitate COMSC in keeping current record of MSC and NCSORG reserve personnel and biographical information for MSC civil service mariners. Such information is used to identify location, qualifications and training assignments of the Naval Reservist; provide biographical information on civil service mariners in response to media and internal requests for information prior to public appearances, press releases or courtesy calls to MSC ships by MSC personnel and members of other organizations or commands.

Policies and practices for storing, retrieving/accessing, retaining, and disposing of records in the system:

storage:

Delete the entry in its entirety and substitute with the following: "Data cards or paper file folders stored in file cabinets."

Retrievability:

Delete the entry in its entirety and substitute with: "Data is indexed alphabetically by name."

Safeguards:

Delete the entry in its entirety and substitute with: "Files are maintained in areas accessible to authorized personnel only who are properly screened, cleared and trained for proper use of the data stored. Building employs security guards. MSC/NCSORG reserve personnel files are stored in the Naval Reserve Division Office. Civil service mariner files are stored in the Employment and labor Relations Division."

Retention and disposal:

Delete the entry in its entirety and substitute with the following: "Reserve personnel records are retained indefinitely. Civil service mariner records are maintained for the duration of employment with MSC. Outdated files are destroyed when updated information is received and the entire file is destroyed immediately upon the employee's separation or retirement from the Command.

N01001–5

SYSTEM NAME:

MSC Civilian and Naval Reserve Personnel Data File.

SYSTEM LOCATION:

Commander, Military Sealift Command, Department of the Navy, Wahington, DC 20390–5320.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

MSC masters and chief engineers aboard civil service manned ships and Naval Reserve Personnel in the MSC/NCSORG Reserve Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical and professional information which may include name, rank, SSN, designation, date and place of birth, home address and phone number, active duty training, education, correspondence courses taken, active military service, civilian employment experience, training for sea, maritime licenses held, commercial shipboard and shoreside experience, marital status, number of children and their names and ages, highlights of merchant marine career, special skills and accomplishments, hobbies, community activity and association membership.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 5031.

PURPOSE(S):

To facilitate COMSC in keeping current record of MSC and NCSORG reserve personnel and biographical information for MSC civil service mariners. Such information is used to identify location, qualifications and training assignments of the Naval Reservist; provide biographical information on civil service mariners in response to media and internal requests for information prior to public appearances, press releases or courtesy calls to MSC ships by MSC personnel and members of other organizations or commands.

* * * * *

POLICIES AND PRACTICE FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data cards or paper file folders stored in file cabinets.

RETRIEVABILITY:

Data is indexed alphabetically by name.

SAFEGUARDS:

Files are maintained in areas accessible to authorized personnel only who are properly screened, cleared and trained for proper use of the data stored. Building employs security guards. MSC/NCSORG reserve personnel files are stored in the Naval Reserve Division Office. Civil service mariner files are stored in the Employment and Labor Relations Division.

RETENTION AND DISPOSAL:

Reserve personnel records are retained indefinitely. Civil service mariner records are maintained for the duration of employment with MSC. Outdated files are destroyed when updated information is received and the entire file is destroyed immediately upon the employee's separation or retirement from the Command.

* * * * *

N01070-1

System name:

JAG Corps Officer Personnel Information (50 FR 22738) May 29, 1985.

Changes:

Categories of Individuals covered by the system:

Delete the entire entry and substitute with the following: "Name, grade, designator, date of birth, social security account number, date of rank, pay entry base date, active duty service date, active commission base date, year and month of graduation from Naval Justice School, service date, lineal number, year group, current billet, future billets that are finalized, subspecialty code, number of primary and secondary dependents, spouse's name, projected loss date and reason for loss, projected rotation date, law school and year of graduation from law school, state bar membership and year admitted, officer's preferences for duty assignment and postgraduate education."

Purpose(s):

Delete the last sentence in its entirety and substitute with the following: "The information is promulgated in the Directory for general informational purposes within the JAG Corps, including provision of postion (billet) availability information to officers contemplating rotation."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

At the beginning of the entry, add the following: "Certain of this information (not including social security account number and date of birth) is promulgated to active-duty JAG Corps officers in a semi-annual publication known as the Directory of Naval Judge Advocates. The information is promulgated for general informational purposes within the JAG Corps, including provision of position (billet) availability information to officers contemplating rotation and as a social roster for official and nonofficial functions."

In line 3 of the existing entry, add the word: "* * * also * * *" before the word: "* * * apply * * *".

Policies and practice for storing, retrieving/accessing, retaining and disposing of records in the system:

Storage:

Delete the entire entry and substitute with the following: "Data contained in limited-access word processing equipment and paper records kept in a folder identified by the officer's name kept in file cabinets."

Notification Procedure:

In line 3, delete the phrase: "* * * Room 9S25 * * *"

Record access procedures:

In line 6, delete the phrase: "* * * Room 9S25 * * *"

N01070-1

SYSTEM NAME:

JAG Corps Officer Personnel Information.

* * * * *

CATEGORIES OF RECORD IN THE SYSTEM:

Name, grade, designator, date of birth, social security account number, date of rank, pay entry base date, active duty service date, active commission base date, year and month of graduation from Naval Justice School, service date, lineal number, year group, current billet, future billets that are finalized, subspecialty code, number of primary and secondary dependents, spouse's name, projected loss date and reason for loss, projected rotation date, law school and year of graduation from law school, state bar membership and year admitted, officer's preferences for duty assignment and postgraduate education.

* * * * *

PURPOSE(S):

To manage the officers of the Navy JAG Corps, as the Judge Advocate General is statutorily required to make recommendation on the assignment of all active duty JAG Corps officers; to detemine qualifications of an officer to receive a JAG Corps designation and to be certified as a trail or defense counsel; to determine the rotation dates and release from active duty dates of JAG Corps officers as well as the date new officers will be available for duty; to prepare JAG Corps strength plans for submission to OPNAV, and to obtain an officer's preference for duty assignment as well as eligibility for consideration for postgraduate education and overseas assignments. Certain of this information is promulgated to all active-duty JAG Corps officers in a semi-annual publication known as the Directory of Navy Judge Advocates. The information promulgated in the Directory for general informational purposes within the JAG Corps, including provision of position (billet) availability information to officers contemplating rotation."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Certain of this information (not including social security account number and date of birth) is promulgated to active-duty JAG Corps officers in a semi-annual publication known as the Directory of Navy Judge Advocates. The information is promulgated for general informational purposes within the JAG Corps, including provision of position (billet) availability information to officers contemplating rotation and as a social roster for official and nonofficial functions.

The Blanket Routine Users that appear at the beginning of the Department of the Navy's compilation also apply to this system.

POLICIES AND PRACTICE FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data contained in limited-access word processing equipment and paper records kept in a folder identified by the officer's name kept in file cabinets.

* * * * *

NOTIFICATION PROCEDURE:

Information may be obtained from: Judge Advocate General (Code 61), Department of the Navy, Hoffman Bldg. II, 200 Stovall, St., Alexandria, VA 22332, Telephone: (202) 325-9380.

Written requests must be signed by the requesting individual. For personal visits, the requesting individual should be able to provide some acceptable identification, e.g. Armed Forces identification card, driver's license, etc.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Judge Advocate General (Code 61), Department of the Navy, 200 Stovall, St., Alexandria, VA 22332.

Personal visits may be made to JAG Personnel Office, Hoffman Bldg. II, 200 Stovall St., Alexandria, VA 22332.

* * * * *

N05300-3

System name:

Faculty Professional Files [51 FR 6779] February 26, 1986.

Changes:

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the first paragraph in its entirety.

N05300-3

SYSTEM NAME:

Faculty Professional Files.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF EACH USES:

The Blanket Routine Uses that appear at the beginning of the Department of the Navy's compilation also apply to this system.

* * * * *

[FR Doc. 86-8485 Filed 4-15-86; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TA86-2-23-000, -001]

Eastern Shore Natural Gas Co; Tariff Filing

April 10, 1986.

Take notice that Eastern Shore Natural Gas Company (ESNG) on April 7, 1986 tendered for filing the following proposed tariff sheets to Original Volume No. 1 of ESNG's FERC Gas Tariff:

To Be Effective May 1, 1986

31st Revised Sheet No. 5
31st Revised Sheet No. 6
14th Revised Sheet No. 7
31st Revised Sheet No. 10
31st Revised Sheet No. 11
31st Revised Sheet No. 12
8th Revised Sheet No. 13
2nd Revised Sheet No. 14

ESNG states that the purpose of these tariff sheets is to: (1) "track" Transcontinental Gas Pipe Line Corporation's (Transco) rate adjustments in their PGA filing dated March 31, 1986 in Docket No. TA86-2-29-000, (2) reflect a change in the Deferred Gas Cost Adjustment and (3) report the Projected Incremental Pricing Surcharges.

The impact of the adjustments described above reflect an overall rate decrease of 17.21 cents per dt in the commodity charge of ESNG's CD and PS rate schedules.

Over the last several months, Transco has been intensively engaged in efforts to afford its customers and others open access to its system under Order No. 436 on terms which are acceptable to Transco and its customers and to renegotiate a successful resolution of its problems relative to high cost gas purchasing contracts. The discussions relative to open access culminated in Transco's offer of settlement in their proposed Stipulation and Agreement as filed on March 28, 1986 in Docket Nos. TA85-1-20-000, et al. One of the features of the offer is a proposal to reflect in its rates a purchased gas cost of $2.25 per dt to be effective May 1, 1986. Such Stipulation and Agreement must, however, be approved by the Commission before Transco places rates based on $2.25 per dt cost of gas into effect.

Therefore, in the event of Commission approval, take notice that ESNG also tendered for filing the following proposed alternate tariff sheets to Original Volume No. 1 of ESNG's FERC Gas Tariff:

To Be Effective May 1, 1986

Alternate 31st Revised Sheet No. 5
Alternate 31st Revised Sheet No. 6
Alternate 14th Revised Sheet No. 7
Alternate 31st Revised Sheet No. 10
Alternate 31st Revised Sheet No. 11
Alternate 31st Revised Sheet No. 12
Alternate 8th Revised Sheet No. 13
Alternate 2nd Revised Sheet No. 14

ESNG states that the purpose of these alternate tariff sheets is to: (1) "Track" Transco's rate adjustments in their proposed Stipulation and Agreement dated March 28, 1986 in Docket No. TA-85-1-29-000, et al., (2) reflect a change in the Deferred Gas Cost Adjustment and (3) report the Projected Incremental Pricing Surcharges.

The impact of the adjustments described above reflect an overall rate decrease of $1.6141 per dt in the commodity charge of ESNG's CO and PS rate schedules.

ESNG states that copies of the filing have been mailed to each of its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 17, 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-8423 Filed 4-15-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-3-7-002]

Southern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

April 10, 1986.

Take notice that on April 8, 1986, Southern Natural Gas Company (Southern) tendered for filing the following original and revised sheets to its FERC Gas Tariff, Sixth Revised Volume No. 1 with a proposed effective date of May 8, 1986:

Sixth Revised Sheet No. 45D
Sixth Revised Sheet No. 45E
Original Sheet No. 45E.1
Original Sheet No. 45E.2

Southern states that the sheets are filed pursuant to Ordering Paragraph (C) of the Commission's March 31, 1986 order in Docket No. TA86-3-7-000 and reflect the implementation of the new industry method for the treatment of exchange gas imbalances.

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). All such motions or protests should be filed on or before April 17, 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-8425 Filed 4-15-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-66-000]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Tariff Revisions

April 10, 1986.

Take notice that on April 4, 1986, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), tendered for filing First Revised Sheet Nos. 208, 209, 210, 211, 212, and 213 and Original Sheet Nos. 213A, 213B and 213C to First Revised Volume No. 1 of its FERC Gas Tariff. Except for Original Sheet No 213C, these tariff sheets are proposed to be effective May 4, 1986. Original Sheet No. 213 is proposed to be effective November 1, 1985. The tariff sheets reflect various revisions to the

purchased gas adjustment clause in Article XXIII of the General Terms and Conditions of Tennessee's tariff and correct an omission from Tennessee's December 31, 1985, filing Docket Nos. RP80–97, *et al.*

Tennessee is proposing a new Section 4 to its PGA to permit Tennessee, in addition to the required semi-annual PGA filings, to adjust its gas rates on one day's notice to reflect anticipated known and measurable changes in its markets or purchased gas costs.

Tennessee is also proposing to revise its PGA provision to include a new Section 5 setting forth a Fuel Use Gas Rate Adjustment to be applicable to those transportation Rate Schedules where Tennessee provides the fuel.

Section 3.3 of Tennessee's PGA provision has been revised to provide for an adjustment in determining Tennessee's unrecovered purchased gas cost for each month to eliminate the effects of imbalances in exchange transactions as recorded in FERC Account No. 806. Section 3.4 has been revised to provide that the exchange adjustment shall not affect the carrying charge calculation.

Additionally, Section 2.3 of Tennessee's PGA provision has been revised to reflect the inclusion of estimated storage withdrawals and injections to be recorded in FERC Account Nos. 808.1 and 808.2 in the calculation of Tennessee's Current Purchased Gas Cost Rate Adjustment.

Finally, Original Sheet No. 213C is included to correct the omission in Tennessee's December 31, 1985, filing in Docket Nos. RP80–97 *et al.* of a portion of Article XXIV of the General Terms and Conditions of Tennessee's FERC Gas Tariff.

Tennessee requests any waivers the Commission deems necessary in order to permit these tariff sheets to become effective as proposed. Tennessee states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFP 385.211, 385.214). All Such motions or protests should be filed on or before April 17, 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–8426 Filed 5–15–86; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP80–97–054]

Tennessee Gas Pipeline Co., a Division of Tenneco, Inc.; Filing of Tariff Sheets

April 10, 1986.

Take notice that on April 7, 1986, Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Tennessee) tendered for filing in its FERC Gas Tariff the tariff sheets listed in the attached appendix. Tennessee states that the tariff sheets are filed in accord with an undated letter order received by Tennessee on March 18, 1986, in order to reflect certain technical changes to make clear that quantities of measurement, as well as rates, will be on a dekatherm basis consistent with the Commission's Opinion Nos. 240 and 240–A.

Tennessee further states that the revised tariff sheets also reflect the elimination of certain tariff sheets relating to canceled Rate Schedules IBGT and IBGT–NE as well as the elimination of Article XXVIII of the General Terms and Conditions relating to the Louisiana First Use Tax. Additionally, the revised tariff sheets filed herewith also incorporate Tennessee's December 20, 1985, filing in Docket No. CP84–441, *et al.*, implementing Rate Schedules FSST–E, FSST–NE and T–149, modified to reflect rates and entitlements on a dekatherm basis.

All of the tariff sheets submitted are proposed to be effective November 1, 1985, except for those relating to Rate Schedules FSST–E, FSST–NE and T–149 which are proposed to be effective December 1, 1985.

Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intevene 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). All such motions or protests should be filed on or before April 17, 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.

Kenneth F. Plumb,

Secretary.

Appendix

First Revised Volume No. 1

Second Substitute Original Sheet No. 20
Second Substitute Original Sheet No. 21
Second Substitute Original Sheet No. 22
Substitute Original Sheet No. 49
Substitute Original Sheet No. 55
Substitute Original Sheet No. 69
Substitute Original Sheet No. 72
Substitute Original Sheet No. 77
Substitute Original Sheet No. 85
Substitute Original Sheet No. 86
Substitute Original Sheet No. 88
Substitute Original Sheet No. 94
Substitute Original Sheet No. 97
First Revised Sheet No. 99
Original Sheet No. 99A
Original Sheet No. 99B
Original Sheet No. 99C
First Revised Sheet No. 100
Original Sheet No. 100A
Original Sheet No. 100B
Original Sheet No. 100C
Original Sheet No. 100D
Substitute Original Sheet No. 104
Substitute Original Sheet No. 200
Substitute Original Sheet No. 201
Substitute Original Sheet No. 203
Substitute Original Sheet No. 215
Substitute Original Sheet No. 216
First Revised Sheet No. 229
Substitute Original Sheet Nos. 230–235
Substitute Original Sheet Nos. 341–361
Original Sheet No. 361A
Original Sheet No. 361B
Original Sheet No. 361C
Original Sheet No. 361D
Substitute Original Sheet Nos. 362–392
Substitute Original Sheet Nos. 393–402

Sixth Revised Volume No. 2

Third Substitute Third Revised Sheet No. 2AA
Third Substitute Fifth Revised Sheet No. 2BB
Third Substitute Fourth Revised Sheet No. 2CC
Substitute Second Revised Sheet No. 2DD.
Substitute Original Sheet No. 299CCC2
Second Substitute First Revised Sheet No. 299CCC5
Second Substitute First Revised Sheet No. 299DDD4
Second Substitute First Revised Sheet No. 299EEE4
Second Substitute First Revised Sheet No. 299EEE5
Second Substitute First Revised Sheet No. 299FFF3
Second Substitute First Revised Sheet No. 299GGG4
Second Substitute First Revised Sheet No. 299HHH4
Second Substitute First Revised Sheet No. 299III4
Second Substitute First Revised Sheet No. 299JJJ4

Second Substitute First Revised Sheet No. 299KKK4
Second Substitute First Revised Sheet No. 299LLL5
Second Substitute First Revised Sheet No. 299OOO4
Second Substitute First Revised Sheet No. 299PPP5
Second Substitute First Revised Sheet No. 299QQQ4
Second Substitute First Revised Sheet No. 299QQQ5
Second Substitute First Revised Sheet No. 299RRR4
Second Substitute First Revised Sheet No. 299SSS4
Second Substitute First Revised Sheet No. 299UUU4
Second Substitute First Revised Sheet No. 299UUU5
Second Substitute First Revised Sheet No. 299VVV5
Second Substitute First Revised Sheet No. 299WWW5
Second Substitute First Revised Sheet No. 299XXX5
Second Substitute First Revised Sheet No. 299YYY7
Second Substitute First Revised Sheet No. 300A5
Second Substitute First Revised Sheet No. 300B6
Second Substitute First Revised Sheet No. 300C4
Second Substitute First Revised Sheet No. 300C5
Second Substitute First Revised Sheet No. 300D5
Second Substitute First Revised Sheet No. 300E5

[FR Doc. 86-8427 Filed 4-15-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. SA86-15-000]

Williston Basin Interstate Pipeline Co. Petition for Adjustment

April 10, 1986.

Take notice that on March 17, 1986, Williston Basin Interstate Pipeline Company (Williston) filed with the Federal Energy Regulatory Commission (Commission) a petition for relief under section 502(c) of the Natural Gas Policy Act of 1978 [1] and Rules 1101-1117 of the Commission's Rules of Practice and Procedure.[2]

Williston asserts that it purchases gas from ARCO Oil and Gas Company (ARCO). Pursuant to the Commission's regulations authorizing incentive pricing for certain natural gas produced from tight formations,[3] the area where that gas is produced has been designated as a tight formation,[4] although Williston is contesting that designation in the United States Court of Appeals for the District of Columbia Circuit.[5] ARCO has requested that Williston pay for all gas purchased from wells in the designated area at the incentive price under section 107(c)(5) of the NGPA.[6] Williston seeks an adjustment from the application of the Commission's Order No. 99 to the gas at issue, both prospectively and retroactively.[7]

The procedures applicable to the conduct of this proceeding are set forth in Rules 1101-1117 (Subpart K) of the Commission's Rules of Practice and Procedure. Any person desiring to participate in this proceeding must file a motion to intervene in accordance with Rule 1105.[8] All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-8428 Filed 4-15-86; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 8915-000, etc.]

Hydroelectric Development, Inc. et al.; Availability of Environmental Assessment and Finding of No Significant Impact

April 10, 1986.

Hydroelectric Development, Inc., Project Nos. 8915-000; Utah Power and Light Company, 9281-000; Columbus Development Corporation, 5871-003; Charles D. Howard, 6015-007; Synergics, Inc., 6903-001; Niagara Mohawk Power Corporation, 7321-000; Richard & Georgenia Wilkinson, 7806-001; John N. Webster, 8611-000; and Pennsylvania Hydroelectric Development Corp., 9167-000.

In accordance with the National Environmental Policy Act of 1969, the Office of Hydropower Licensing, Federal Energy Regulatory Commission (Commission), has reviewed the applications for major and minor licenses (or exemptions) listed below and has assessed the environmental impacts of the proposed developments.

Project No.	Project name	State	Water body	Nearest town	Applicant
			Exemptions		
8915-000	Upper Robertson	CT	Ashuelot River	Winchester	Hydroelectric Development, Inc.
9281-000	Santa Clara	UT	Santa Clara River	Veyo & Gunlock	Utah Power & Light Co.
			Licensees		
5871-003	Stillwater River	MO	Stillwater River	Columbus	Columbus Dev. Corporation
6015-007	Rock Creek No. 2	ID	Rock Creek	Twin Falls	Charles D. Howard
6903-001	Middle Greenwich	NY	Batten Kill River	Easton and Greenwich	Synergics, Inc.
7321-000	Macomb	NY	Salmon River	Malone	Niagara Mohawk Power Corp.
7806-001	Prospect Creek	MT	Prospect Creek	Sanders County	Richard and Georgenia Wilkinson
8611-000	Alton Dam Hydroelectric	NH	Merrymeeting River	Alton	John N. Webster
9167-000	New Kernsville	PA	Schuylkill River	Hamburg	Pennsylvania Hydroelectric Dev. Corp.

Environmental assessments (EA's) were prepared for the above proposed projects. Based on independent analyses of the above actions as set forth in the EA's, the Commission's staff concludes that these projects would not have significant effects on the quality of the human environment. Therefore, environmental impact statements for these projects will not be prepared. Copies of the EA's are available for review in the Commission's Division of

[1] 15 U.S.C. 3412(c) (1982).

[2] 18 CFR 385.1110-1117 (1985).

[3] Order No. 99, FERC Statutes & Regulations [Regulations Preambles 1977-1981] ¶ 30,183.

[4] Order No. 338, 48 FR 46,268 (1983), FERC Statutes and Regulations [Regulations Preambles 1982-1985] ¶ 30,505; Order No. 338-A, 33 FERC ¶ 61,175 (1985).

[5] Williston Basin Interstate Pipeline Co. v. Federal Energy Regulatory Commission, Docket No. 85-1835.

[6] 15 U.S.C. 3317(c)(5) (1982).

[7] Williston states that it has also filed with the Commission a Complaint against ARCO, which seeks, *inter alia*, an order declaring that the gas contracts at issue therein and pursuant to which ARCO seeks to collect retroactively an incentive price for the subject gas, do not contain the contractual authority that is required by the Commission's regulations for such collection. To the extent that the Commission grants the relief requested in the Complaint, the adjustment sought herein would only be applicable prospectively from that date.

[8] 18 CFR 385.1105 (1985).

Public Information, Room 1000, 825 North Capitol Street, NE., Washington, DC 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-8424 Filed 4-15-86; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding to adversely affected parties $437,920 obtained as a result of a consent order which the DOE entered into with Petroleum Heat and Power Co., Inc., a reseller-retailer of petroleum products located in Stamford, Connecticut. The money is being held in escrow following the settlement of enforcement proceedings brought by the DOE's Economic Regulatory Administration.

DATE AND ADDRESS: Comments must be filed on or before May 16, 1986, and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All comments should conspicuously display a reference to case number HEF-0150.

FOR FURTHER INFORMATION CONTACT: Walter J. Marullo, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-6602.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision sets forth procedures and standards that the DOE has tentatively formulated to distribute to adversely affected parties $437,920 plus accrued interest obtained by the DOE under the terms of a consent order entered into with Petroleum Heat and Power Co., Inc. (PH&P). The funds were provided to the DOE by PH&P to settle all claims and disputes between the firm and the DOE regarding the manner in which the firm applied the federal price regulations with respect to its sales of No. 2 heating oil during the period November 1, 1973, through June 30, 1974.

OHA proposes that a two-stage refund process be followed. In the first stage, OHA has tentatively determined that a portion of the consent order funds should be distributed to firms and individuals that purchased PH&P No. 2 heating oil during the consent order period provided they have not already received a direct refund from the firm. In order to obtain a refund, each claimant will be required to submit a schedule of its monthly purchases of PH&P No. 2 heating oil and to demonstrate that it was injured by PH&P's pricing practices. The specific requirements for providing injury are set forth in the following Proposed Decision and Order. Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Some residual funds may remain after all meritorious first-stage claims have been satisfied. OHA invites interested parties to submit their views concerning alternative methods of distributing any remaining funds in a subsequent proceeding.

Any member of the public may submit written comments regarding the proposed refund procedures. Such parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice. All comments received in this proceeding will be available for public inspection between 1:00 and 5:00 p.m., Monday through Friday, except Federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: April 4, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

April 4, 1986.

Name of Firm: Petroleum Heat and Power Co., Inc.

Date of Filing: October 13, 1983.

Case Number: HEF-0150.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of actual or alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. In accordance with the provisions of Subpart V, on October 13, 1983, ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order entered into with Petroleum Heat and Power Co., Inc. (PH&P).

I. Background

PH&P is a "reseller-retailer" of refined petroleum products as that term was defined in 10 CFR 212.31 and is located in Stamford, Connecticut. A DOE audit of PH&P's records revealed possible violations of the Mandatory Petroleum Price Regulations, 10 CFR Part 212, Subpart F. The audit alleged that between November 1, 1973, and June 30, 1974, PH&P committed possible pricing violations with respect to its sales of No. 2 heating oil.

In order to settle all claims and disputes between PH&P and the DOE regarding the firm's sales of No. 2 heating oil during the period covered by the audit, PH&P and the DOE entered into a consent order on November 13, 1980. The consent order refers to ERA's allegations of overcharges, but notes that there was no finding that violations occurred. Additionally, the consent order states that PH&P does not admit that it violated the regulations.

Under the terms of the consent order, PH&P agreed to make refunds amounting to $1,275,000 as follows: First, PH&P was to directly issue checks and credit memoranda totaling $1,143,267 to its end-user customers; second, in order to make restitution to its non-end-user customers, PH&P was required to deposit $131,733 into an interest-bearing escrow account for ultimate distribution by the DOE. On April 15, 1981, PH&P complied with this letter requirement by remitting $140,344.13, a sum which included interest, to the DOE. However, since the firm was unable to contact all of its end-user customers, it could not issue all of the direct refunds. In addition, some of the refund checks which PH&P did issue were never cashed.[1] As a result, PH&P remitted an additional $297,575.87, the amount it was unable to refund to end users, to the DOE. This Decision and Order proposes procedures to distribute the $437,920 received from PH&P plus the interest which has accrued on the escrow account.[2]

[1] The names and addresses of two of the end-user customers that did not cash their direct refund checks are listed in the Appendix to this Decision.

[2] The total value of the PH&P account stood at $642,367.46 as of February 28, 1986.

II. Proposed Refund Procedures

The procedural regulations of the DOE set forth general guidelines to be used by OHA in formulating and implementing a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to identify readily those persons who likely were injured by alleged overcharges or to ascertain readily the amount of such persons' injuries. For a more detailed discussion of Subpart V and the authority of OHA to fashion procedures to distribute refunds, *see Office of Enforcement*, 9 DOE ¶82,508 (1981), and *Office of Enforcement*, 8 DOE ¶82,597 (1981) (*Vickers*).

Our experience with Subpart V cases leads us to believe that the distribution of refunds in this proceeding should take place in two stages. In the first stage, we will accept claims from wholesale purchasers of No. 2 heating oil who may have been injured by PH&P's pricing practices during the period November 1, 1973, through June 30, 1974. We will also accept claims from end users that may have been injured during the same period provided they have not already received a direct refund from PH&P.[3] If any funds remain after all meritorious first-stage claims have been paid, they may be distributed in a second-stage proceeding. *See, e.g., Office of Special Counsel*, 10 DOE ¶85,048 (1982) (*Amoco*).

A. *Refunds to Identifiable Purchasers.* In the first stage of the PH&P refund proceeding, we propose to distribute the funds currently in escrow to claimants who demonstrate that they were injured by PH&P's alleged overcharges provided they have not already received a direct refund from the firm. As we have done in many prior refund cases, we propose to adopt certain presumptions, which will be used to help determine the level of a purchaser's injury.

The presumptions we plan to adopt in this case are used to permit claimants to participate in the refund process without incurring inordinate expenses and to enable OHA to consider the refund applications in the most efficient way possible in view of the limited resources available. First, we plan to adopt a presumption that the alleged overcharges were dispersed evenly in all of PH&P's sales of No. 2 heating oil made during the consent order period. In the past, we have referred to a refund process that uses this presumption as a volumetric method. Second, we propose to adopt a presumption of injury with respect to small claims. Third, we plan to adopt a presumption that spot purchasers were not injured by the alleged overcharges. Finally, we are making proposed findings that end users, types of regulated firms, and cooperatives were injured by PH&P's pricing practices.

The pro rata, or volumetric, refund presumption asumes that alleged overcharges by a consent order firm were spread equally over all gallons of product covered by the consent order. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices. This presumption is rebuttable, however. A claimant which believes that it incurred a disproportionate share of the alleged overcharges may submit evidence proving this claim in order to receive a larger refund. *See, e.g., Sid Richardson Carbon and Gasoline Co. and Richardson Products Co./Siouxland Propane Co.*, 12 DOE ¶ 85,054 at 88,164 (1984), and cases cited therein.

Under the volumetric method we plan to adopt, a claimant will be eligible to receive a refund equal to the number of gallons of PH&P No. 2 heating oil that it purchased times the volumetric factor.[4] The volumetric factor is the average per gallon refund and in this case equals $0.015781 per gallon.[5] In addition, successful claimants will receive a proportionate share of the accrued interest.

The second presumption we plan to use is that purchasers of PH&P No. 2 heating oil seeking small refunds were injured by PH&P's pricing practices. There are a variety of reasons for adopting this presumption. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 (1982). These firms were in the chain of distribution where the alleged overcharges occurred and therefore bore some impact of the alleged overcharges, at least initially. In order to support a specific claim of injury, a firm would have to compile and submit detailed factual information regarding the impact of alleged overcharges which took place many years ago. This procedure is generally time-consuming and expensive. With small claims, the cost to the firm of gathering the necessary information and the cost of OHA of analyzing it would exceed both the expected refund and the benefits from any additional precision. As a result, without simplified procedures injured parties could effectively be denied the opportunity to receive a refund.

Under the small-claims presumption, a claimant who is a reseller or retailer would not be required to submit any additional evidence of injury beyond volumes of PH&P No. 2 heating oil purchased if its refund claim is below a certain sum. Several factors determine the value of this threshold. For example, the cost to the applicant and the government of compiling and analyzing information sufficient to show injury should not exceed the amount of any relevant refund. In this case, where the refund amount is fairly low and the early months of the consent order period are many years past, $5,000 is a reasonable value for the threshold. *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 at 88,210 (1984); *Office of Special Counsel*, 11 DOE ¶ 85,226 (1984) (*Conoco*), and cases cited therein.

A reseller or retailer which claims a refund in excess of $5,000 will be required to document its injury. While there are a variety of methods by which a firm can make such a showing, a firm is generally required to demonstrate (i) that it maintained a "bank" of unrecovered costs, in order to show that it did not pass the alleged overcharges through to its own customers, and (ii) that market conditions were the reason that it did not pass through those increased costs.[6]

If a reseller or retailer made only spot purchases, we propose that it should not recieve a refund since it is unlikely to have been injured. As we have previously stated with respect to spot purchasers:

> [T]hose customers tend to have considerable discretion in where and when to make purchases and wouid therefore not have made spot market purchases of [the firm's product] at increased prices unless they were able to pass through the full

[3] The ERA audit file includes a list of the end-user customers that received direct refunds from PH&P. These purchasers are not eligible to apply for refunds in this proceeding.

[4] An exeption is Mrs. Ilse Newman, one of the end-user customers listed in the Appendix to this Decision. If she submits an Application for Refund, she will be paid $16.64, the amount of her uncashed direct refund check, plus a proportionate share of the accrued interest.

[5] This figure is derived by dividing the $437,920 received from PH&P by the 27,749,039 gallons of No. 2 heating oil estimated to have been sold by PH&P during the consent order period to customers which did not receive direct refunds from the firm. Since this volumetric figure is based on estimated sales volumes, it may be revised if we are able to obtain more precise information at a later date.

[6] Resellers or retailers who claim a refund in excess of $5,000 but who cannot establish that they did not pass through the price increases will be eligible for a refund of up to the $5,000 threshold, without being required to submit further evidence of injury. Firms potentially eligible for greater refunds may choose to limit their claims to $5,000. *See* Vickers, 8 DOE at 85,396. *See also* Office of Enforcement, 10 DOE ¶ 85,029 at 88,122 (1982) (Ada).

amount of [the firm's] quoted selling price at the time of purchase to their own customers.

Vickers, 8 DOE at 85,396–97. We believe the same rationale holds true in the present case. Therefore, we propose that firms which made only spot purchases of PH&P No. 2 heating oil not receive refunds unless they present evidence which rebuts the spot purchaser presumption and establishes the extent to which they were injured as a result of their purchases of PH&P No. 2 heating oil during the consent order period.

As noted above, we have concluded that end users were injured by the alleged overcharges. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period. They were therefore not required to base their pricing decisions on cost increases or to keep records which would show whether they passed through cost increases. An analysis of the impact of the alleged overcharges on the final prices of goods and services which were not covered by the petroleum price regulations would therefore be beyond the scope of a special refund proceeding. *See Office of Enforcement*, 10 DOE ¶ 85,072 (1983) (*PVM*); *see also Texas Oil & Gas Corp.*, 12 DOE at 88,209, and cases cited therein.[7]

In addition, we propose that firms whose prices for goods and services are regulated by a governmental agency or by the terms of a cooperative agreement not be required to demonstrate that they absorbed the No. 2 heating oil overcharges alleged by ERA. In the case of regulated firms, *e.g.*, public utilities, any overcharges incurred as a result of PH&P's alleged violations of the DOE regulations would routinely be passed through to the utilities' customers. Similarly, any refunds received by such firms would be reflected in the rates they were allowed to charge their customers. Refunds to agricultural cooperatives would likewise directly influence the prices charged to their member customers. Consequently, we propose adding such firms to the class of claimants that are not required to show that they did not pass through to their customers cost increases resulting from alleged overcharges. *See, e.g., Office of Special Counsel*, 9 DOE ¶ 82,538 (1982) (*Tenneco*), *and Office of Special Counsel*, 9 DOE ¶ 82,545 at 85,244 (1982) (*Pennzoil*). Instead, those firms should provide with their application a full explanation of the manner in which refunds would be passed through to their customers and how the appropriate regulatory body or membership group will be advised of the applicant's receipt of any refund money. Sales by cooperatives to nonmembers, however, will be treated the same as sales by any other reseller.

As in previous cases, only claims for at least $15 will be processed. This minimum has been adopted in prior refund cases because the cost of processing claims for refunds of less than $15 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE at 85,225. *See also* 10 CFR 205.286(b). The same principle applies here.

If valid claims exceed the funds available in the escrow account, all refunds will be reduced proportionately. Actual refunds will be determined after analyzing all appropriate claims.

B. *Applications for Refund.* Any purchaser claiming a portion of the consent order funds will be required to file an Application for Refund pursuant to 10 CFR 205.283. In it application, a claimant must include a schedule of its monthly purchases of PH&P No. 2 heating oil during the consent order period.[8] An applicant should also provide all relevant information necessary to support its claim in accordance with the presumptions and findings outlined above. A claimant must also state whether it has previously received a refund, from any source, with respect to the alleged overcharges underlying this proceeding. Each applicant must also state whether there has been a change in ownership of the firm since the audit period. If there has been a change in ownership, the applicant must provide the names and addresses of the other owners, and should either state the reasons why the refund should be paid to the applicant rather than to the other owners or provide a signed statement from the other owners indicating that they do not claim a refund. Finally, an applicant should report whether it is or has been involved as a party in DOE enforcement or private actions filed under 210 of the Economic Stabilization Act. It these actions have been concluded the applicant should furnish a copy of any final order issued in the matter. If the action is still in progress, the applicant should briefly describe the action and its current status. The applicant must keep OHA informed of any change in status while its Application for Refund is pending. *See* 10 CFR 205.9(d).

C. Distribution of Remaining Consent Order Funds. In the event that money remains after all meritorious claims have been satisfied, residual funds could be distributed in a number of ways in a subsequent proceeding. However, we will not be in a position to decide what should be done with any remaining funds until the initial stage of this refund proceeding has been completed. We encourage the submission by interested parties of proposals which address alternative methods of distributing any remaining funds.

It Is Therefore Ordered That: The refund amount remitted to the Department of Energy by Petroleum Heat and Power Co., Inc. pursuant to the Consent Order executed on November 13, 1980, will be distributed in accordance with the foregoing decision.

APPENDIX

End user	Share of settlement [1]
Mrs. James C. Mellady, 37 Bronson Avenue, Scarsdale, NY 10583	[2] $11.68
Mrs. Ilse Newman, 153–15 77th Avenue, Flushing, NY 11367	16.64

[1] Not including accured interest.
[2] As noted in the body of the Decision, we do not intend to process claims for less than $15.

[FR Doc. 86–8414 Filed 4–15–86; 8:45 am]
BILLING CODE 6450–01–M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding to adversely affected parties $56,217.18 obtained as a result of a remedial order which the DOE issued to Propane Gas and Appliance Company, a reseller-retailer of petroleum products located in New Brockton, Alabama. The money is being held in escrow following the settlement of enforcement proceedings brought by the DOE's Economic Regulatory Administration.

DATE AND ADDRESS: Comments must be filed on or before May 16, 1986 and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All

[7] If a firm is both a spot purchaser and an end user, it will be treated as an end user and will not be required to make any showing of injury beyond that required of other end users.

[8] Instead of submitting a schedule of her monthly purchases from PH&P, Mrs. Ilse Newman will simply have to verify that she purchased No. 2 heating oil from PH&P during the consent order period.

comments should conspicuously display a reference to case number HEF–0156.

FOR FURTHER INFORMATION CONTACT: Walter J. Marullo, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–6602.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision sets forth procedures and standards that the DOE has tentatively formulated to distribute to adversely affected parties $56,217.18 plus accrued interest obtained by the DOE under the terms of a remedial order issued to Propane Gas and Appliance Company (PGA). The remedial order found that PGA had violated the federal price regulations in its sales of propane during the period November 1, 1973, through March 31, 1974.

OHA proposed that a two-stage refund process be followed. In the first stage, OHA has tentatively determined that a portion of the remedial order funds should be distributed to firms and individuals that purchase PGA propane during the audit period. In order to obtain a refund, each claimant will be required to submit a schedule of its monthly purchases of PGA propane and to demonstrate that it was injured by PGA's pricing practices. The specific requirements for proving injury are set forth in the following Proposed Decision and Order. Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Some residual funds may remain after all meritorious first-stage claims have been satisfied. OHA invites interested parties to submit their views concerning alternative methods of distributing any remaining funds in a subsequent proceeding.

Any member of the public may submit written comments regarding the proposed refund procedures. Such parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice. All comments received in this proceeding will be available for public inspection between 1:00 and 5:00 p.m., Monday through Friday, except Federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: April 4, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

April 4, 1986.

Name of Firm: Propane Gas and Appliance Company.

Date of Filing: October 13, 1983.

Case Number: HEF–0156.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of actual or alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. In accordance with the provisions of Subpart V, on October 13, 1983, ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order entered into with Propane Gas and Appliance Company (PGA).

I. Background

PGA is a "retailer" of refined petroleum products as that term was defined in 10 CFR 212.31 and is located in New Brockton, Alabama. An ERA audit of PGA's records for the period November 1, 1973, through March 31, 1974, revealed possible violations of the Mandatory Petroleum Price Regulations in the firm's sales of propane. 10 CFR Part 212, Subpart F.

As a result of the audit, ERA issued a Proposed Remedial Order (PRO) on April 6, 1978, which found that PGA's pricing practices had resulted in overcharges to its customers totaling $24,797.72. The order directed PGA to make restitution for its pricing practices by refunding the total overcharge amount, plus interest, practices by refunding the total overcharge amount, plus interest, through a price rollback to its customers. After considering and rejecting PGA's objections to the PRO, OHA issued it as the final Remedial Order (RO) of the Department on May 23, 1979. *Propane Gas and Appliance Co.*, 4 DOE ¶ 83,010 (1979). PGA then appealed the RO to the Federal Energy Regualtory Commission (FERC).

On January 22, 1982, FERC issued a final decision affirming the RO. *Propane Gas and Appliance Co.*, 18 FERC ¶ 61,084 (1982). In that decision, FERC also granted the DOE's request for a modification of the refund procedures outlined in the RO. This change was necessary since the advent of decontrol prevented the implementation of a price rollback to PGA's customers. Accordingly, PGA was subsequently required to deposit the overcharge amount, plus interest, into an interest-bearing escrow account for ultimate distribution by the DOE.[1]

II. Proposed Refund Procedures

The procedural regulations of the DOE set forth general guidelines to be used by OHA in formualting and implementing a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to identify readily those persons who likely were injured by alleged overcharges or to ascertain readily the amount of such persons' injuries. For a more detailed discussion of Subpart V and the authority of OHA to fashion procedures to distribute refunds, *See Office of Enforcement*, 9 DOE $82,508 (1981), *and Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (*Vickers*).

Our experience with Subpart V cases leads us to believe that the distribution of refunds in this proceeding should take place in two stages. In the first stage, we will accept claims from identifiable purchasers of propane who may have been injured by PGA's pricing practices during the period November 1, 1973, through March 31, 1974.[2] If any funds remain after all meritorious first-stage claims have been paid, they may be distributed in a second-stage proceeding. *See, e.g., Office of Special Counsel*, 10 DOE ¶ 85,048 (1982) (*Amoco*).

A. *Refunds to Indentifiable Purchasers.* In the first stage of the PGA refund proceeding, we propose to distribute the funds currently in escrow to claimants who demonstrate that they were injured by PGA's overcharges. As we have done in many prior refund cases, we propose to adopt certain presumptions, which will be used to help establish the level of a purchaser's injury.

The presumptions we plan to adopt in this case are used to permit claimants to participate in the refund process without incurring inordinate expenses and to

[1] PGA paid $56,217.18 including interest into the escrow account on June 10, 1985. This amount represents the principal which will form the basis for refund calculations. The total value of the PGA account stood at $59,558.92 as of February 28, 1986.

[2] In its audit, the ERA did not assign specific overcharges to individual purchasers nor did the audit file include the names and addresses of any of PGA's customers.

enable OHA to consider the refund applications in the most efficient way possible in view of the limited resources available. First, we plan to adopt a presumption that the overcharges were dispersed evently in all of PGA's sales of propane to a refund process that uses this presumption as a volumetric method. Second, we propose to adopt a presumption of injury with respect to small claims. Third, we plan to adopt a presumption that spot purchasers were not injured by the overcharges. Finally, we are making proposed findings that end users, certain, types of regulated firms, and cooperatives were injured by PGA's pricing practices.

The pro rata, or volumetric, refund presumption assumes that overcharges were spread equally over all gallons of product marketed by a remedial order firm during the audit period. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices. This presumption is rebuttable, however. A claimant which believes that it incurred a disproportionate share of the overcharges may submit evidence proving this claim in order to receive a larger refund. *See, e.g., Sid Richardson Carbon and Gasoline Co. and Richardson Products Co./Siouxland Propane Co.*, 12 DOE ¶ 85,054 at 88,164 (1984), and cases cited therein.

Under the volumetric method we plan to adopt, a claimant will be eligible to receive a refund equal to the number of gallons of PGA propane that it purchased times the volumetric factor. The volumetric factor is the average per gallon refund and in this case equals $0.041963 per gallon.[3] In addition, successful claimants will receive a proportionate share of the accrued interest.

The second presumption we plan to use is that purchasers of PGA propane seeking small refunds were injured by PGA's pricing practices. There are a variety of reasons for adopting this presumption. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 (1982). These firms were in the chain of distribution where the overcharges occurred and therefore bore some impact of the overcharges, at least initially. In order to support a specific claim of injury, a firm would have to compile and submit detailed factual information regarding the impact of overcharges which took place many years ago. This procedure is generally time-consuming and expensive. With small claims, the cost to the firm of gathering the necessary information and the cost to OHA of analyzing it could exceed the expected refund. As a result, without simplified procedures injured parties could effectively be denied the opportunity to receive a refund.

Under the small-claims presumption, a claimant who is a reseller or retailer would not be required to submit any additional evidence of injury beyond volumes of PGA propane purchased if its refund claim is below a certain sum. Several factors determine the value of this threshold. For example, the cost to the applicant and the government of compiling and analyzing information sufficient to show injury should not exceed the amount of any relevant refund. In this case, where the refund amount is fairly low and the early months of the consent order period are many years past, $5,000 is a reasonable value for the threshold. *See Texas Oil & Gas Corp.*, 12 DOE ¶85,069 at 88,210 (1984); *Office of Special Counsel*, 11 DOE ¶85,226 (1984) (*Conoco*), and cases cited therein.

A reseller or retailer which claims a refund in excess of $5,000 will be required to document its injury. While there are a variety of methods by which a firm can make such a showing, a firm is generally required to demonstrate (i) that it maintained a "bank" of unrecovered costs, in order to show that it did not pass the overcharges through to its own customers, and (ii) that market conditions were the reason that it did not pass through those increased costs.[4]

If a reseller or retailer made only spot purchases, we propose that it should not receive a refund since it is unlikely to have been injured. As we have previously stated with respect to spot purchasers:

> [T]hose customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of [the firm's product] at increased prices unless they were able to pass through the full amount of [the firm's] quoted selling price at the time of purchase to their own customers.

Vickers, 8 DOE at 85,396–97. We believe the same rationale holds true in the present case. Therefore, we propose that firms which made only spot purchases of PGA propane not receive refunds unless they present evidence which rebuts the spot purchaser presumption and establishes the extent to which they were injured as a result of their purchases of PGA propane during the audit period.

As noted above, we have concluded that end users were injured by the overcharges. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the audit period. They were therefore not required to base their pricing decisions on cost increases or to keep records which would show whether they passed through cost increases. An analysis of the impact of the overcharges on the final prices of goods and services which were not covered by the petroleum price regulations would therefore be beyond the scope of a special refund proceeding. *See Office of Enforcement*, 10 DOE ¶85,072 (1983) (*PVM*); *see also Texas Oil & Gas Corp.*, 12 DOE at 88,209, and cases cited therein.[5]

In addition, we propose that firms whose prices for goods and services are regulated by a governmental agency or by the terms of a cooperative agreement not be required to demonstrate that they absorbed the propane overcharges. In the case of regulated firms, *e.g.*, public utilities, any overcharges incurred as a result of PGA's violations of the DOE regulations would routinely be passed through to the utilities' customers. Similarly, any refunds received by such firms would be reflected in the rates they were allowed to charge their customers. Refunds to agricultural cooperatives would likewise directly influence the prices charged to their member customers. Consequently, we propose adding such firms to the class of claimants that are not required to show that they did not pass through to their customers cost increases resulting from overcharges. *See, e.g., Office of Special Counsel*, 9 DOE ¶82, 538 (1982) (*Tenneco*), *and Office of Special Counsel*, 9 DOE ¶82,545 at 85,244 (1982) (*Pennzoil*). Instead, those firms should provide with their application a full explanation of the manner in which refunds would be passed through to their customers and how the appropriate regulatory body or membership group will be advised of the applicant's receipt of any refund money. Sales by cooperatives to nonmembers, however,

[3] This figure is derived by dividing the $56,217.18 received from PGA by the 1,339,673 gallons of propane sold by the firm during the audit period.

[4] Resellers or retailers who claim a refund in excess of $5,000 but who cannot establish that they did not pass through the price increases will be eligible for a refund of up to the $5,000 threshold, without being required to submit further evidence of injury. Firms potentially eligible for greater refunds may choose to limit their claims to $5,000. *See* Vickers, 8 DOE at 85,396. *See also* Office of Enforcement, 10 DOE ¶ 85,029 at 88,122 (1982) (Ada).

[5] If a firm is both a spot purchaser and an end user, it will be treated as an end user and will not be required to make any showing of injury beyond that required of other end users.

will be treated the same as sales by any other reseller.

As in previous cases, only claims for at least $15 will be processed. This minimum has been adopted in prior refund cases because the cost of processing claims for refunds of less than $15 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE at 85,225. *See also* 10 CFR 205.286(b). The same principle applies here.

If valid claims exceed the funds available in the escrow account, all refunds will be reduced proportionately. Actual refunds will be determined after analyzing all appropriate claims.

B. *Application for Refund.* Any purchaser claiming a portion of the remedial order funds will be required to file an Application for Refund pursuant to 10 CFR 205.283. In its application, a claimant must include a schedule of its monthly purchases of PGA propane. Applicants should also provide all relevant information necessary to support their claim in accordance with the presumptions and findings outlined above. A claimant must also state whether it has previously received a refund, from any source, with respect to the overcharges underlying this proceeding. Each applicant must also state whether there has been a change in ownership of the firm since the audit period. If there has been a change in ownership, the applicant must provide the names and addresses of the other owners, and should either state the reasons why the refund should be paid to the applicant rather than to the other owners or provide a signed statement from the other owners indicating that they do not claim a refund. Finally, an applicant should report whether it is or has been involved as a party in DOE enforcement or private actions filed under section 210 of the Economic Stabilization Act. If these actions have been concluded the applicant should furnish a copy of any final order issued in the matter. If the action is still in progress, the applicant should briefly describe the action and its current status. The applicant must keep OHA informed of any change in status while its Application for Refund is pending *See* 10 CFR 205.9(d).

C. *Distribution of Remaining Consent Order Funds.* In the event that money remains after all meritorious claims have been satisfied, residual funds could be distributed in a number of ways in a subsequent proceeding. However, we will not be in a position to decide what should be done with any remaining funds until the initial stage of this refund proceeding has been completed. We encourage the submission by interested parties of proposals which address alternative methods of distributing any remaining funds.

It is Therefore Ordered That: The refund amount remitted to the Department of Energy by Propane Gas and Appliance Company pursuant to the Remedial Order issued on May 23, 1979, as modified by the Order of Federal Energy Regulatory Commission issued on January 22, 1982, will be distributed in accordance with the foregoing decision.

[FR Doc. 86-8415 Filed 4-15-86; 8:45 am]

BILLING CODE 6450-01-M

Proposed Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $3,800,000.00 (plus accrued interest) obtained as the result of a consent order between the DOE and Dorchester Gas Corporation (Dorchester). The funds will be distributed to refund applicants who purchased products other than crude oil from Dorchester during the settlement period (August 18, 1973 through January 31, 1976).

DATE AND ADDRESS: Comments must be filed in duplicate by May 16, 1986 and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All comments should display a conspicuous reference to Case Number HEF-0559.

FOR FURTHER INFORMATION CONTACT: Thomas Wieker, Deputy Director, or Irene Bleiweiss, Attorney, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-2400.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy (DOE), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision and Order sets forth the procedures and standards that the DOE has tentatively formulated to distribute monies obtained from Dorchester Gas Corporation (Dorchester). Dorchester entered into a Consent Order to settle disputes regarding Dorchester's compliance with the federal refiner price and NGL regulations during the period August 18, 1973 through January 31, 1976. Under the terms of the Consent Order, Dorchester has remitted $3,800,000.00 which is being held in an interest-bearing escrow account pending determination of its proper distribution.

The DOE proposes to use a two stage refund proceeding to distribute the Dorchester settlement fund. The first stage will attempt to refund monies to customers who purchased Dorchester products during the settlement period. The specific requirements which an applicant must meet in order to receive a refund will vary depending on a number of factors (e.g. the size of the refund amount which the applicant is claiming and the applicant's position in the supply chain). These specific requirements are set out in section II(A) of the Proposed Decision. Claimants who meet these specific requirements will be eligible to receive refunds based on the number of gallons which they purchased from Dorchester. After meritorious claims are paid in the first stage, second-stage refund procedures may become necessary to distribute any remaining funds.

Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the **Federal Register**, and should be sent to the address set forth at the beginning of this notice. All comments received will be available for public inspection between the hours of 1:00 p.m. and 5:00 p.m., Monday through Friday, except Federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: April 4, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Special Refund Procedures

April 4, 1986

Name of Case: Dorchester Gas Corporation.

Date of Filing: December 27, 1984.

Case Number: HEF-0559.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of

Hearings and Appeals (OHA) formulate and implement special refund procedures. *See* 10 CFR Part 205, Subpart V. Such procedures enable the DOE to refund monies to those injured by alleged violations of the DOE pricing regulations. On December 27, 1984, the ERA requested that the OHA formulate and implement procedures to distribute $3,800,000.00 which it received pursuant to a consent order with Dorchester Gas Corporation (Dorchester).

This Proposed Decision contains the OHA's tentative plan for distributing the Dorchester settlement fund. Of special interest to potential refund applicants is section II which explains the proposed requirements for refund eligibility. Since the specific requirements which an applicant must meet will vary depending on a number of factors (e.g. the size of the refund amount which the applicant is claiming and the applicant's position in the supply chain), we have set out the specific requirements applicable to each type of applicant in section II(A). A claimant should take note of those requirements applicable to its particular circumstances. These specific requirements are followed, in section II(B), by a discussion of general requirements which we propose for all Dorchester refund applicants.

I. Background

During the period covered by the Consent Order, Dorchester owned 100% of four gas processing plants and owned partial interests in four others.[1] As result of these activities, Dorchester was a "gas plant operator" within the meaning of 10 CFR 212.162, a "refiner" as defined in 10 CFR 212.31, and was subject to the Mandatory Petroleum Price Regulations set forth in 6 CFR Part 150, Subpart L and 10 CFR Part 212, Subparts E and K. These regulations governed the maximum prices that could lawfully be charged in the sales of various products which Dorchester sold including motor gasoline, distillates, natural gas liquid products, diesel fuel, and pentane.

The ERA conducted an audit to determine Dorchester's compliance with the regulations for the period from August 1973 to January 1976. On June 1, 1983, the ERA issued a Proposed Remedial Order (PRO) to Dorchester alleging that, from October 1973 through January 1976, Dorchester charged more than the law permitted for gasoline and distillate.

In order to settle the claims made in the PRO and other potential claims by the DOE, Dorchester and the DOE entered into a Consent Order on February 9, 1984. 49 FR 8673 (March 8, 1984), *finalized at* 49 FR 18773 (May 2, 1984). The Consent Order resolved all issues regarding Dorchester's compliance with the federal refiner price and NGL regulations during the period August 18, 1973 through January 31, 1976 (the settlement period). The Consent Order explicitly does not cover Dorchester's compliance with regulations relating to crude oil. Pursuant to the Consent Order, Dorchester refunded the sum of $3,800,000.00 to the DOE. These monies have been deposited in an escrow account pending ultimate disposition by the DOE.

II. Proposed Refund Procedures

We propose to implement a two-stage refund proceeding to distribute the Dorchester settlement fund. During the first stage, purchasers of Dorchester petroleum products will be afforded the opportunity to submit refund applications. The Appendices to this Proposed Decision list customers who purchased propane, butane, pentane, A-B oil, and motor gasoline from Dorchester during the settlement period. Since the audit file from which we compiled this information did not contain information on every Dorchester plant or for every month in the settlement period, it is likely that there are additional potential refund applicants. From our experience with Subpart V proceedings, we believe that potential claimants will fall into the following categories: (1) End users, e.g. Dorchester employees who purchased motor gasoline at the Cargray Plant Filling Station; (2) regulated non-petroleum entities which used Dorchester products in their businesses or cooperatives which sold Dorchester products to their members; and (3) refiners, resellers, or retailers who resold Dorchester products.

In this refund proceeding, we plan to adopt certain presumptions which will permit claimants to participate in the refund process without incurring inordinate expense and will enable the OHA to consider the refund applications in the most efficient manner possible. First, we plan to adopt a presumption that the alleged overcharges were dispersed equally in all of Dorchester's sales of petroleum products during the consent order period and that refunds should therefore be made on a pro-rata or volumetric basis. In the absence of better information, such a volumetric refund assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices. *American Pacific International*, Case No. HEF-0316 Slip op. at 4 (February 10, 1986) (*American Pacific*).

Under the volumetric refund approach we are adopting, a claimant will be eligible to receive a refund equal to the number of gallons purchased times the per gallon refund amount, plus accrued interest. In the present case, we have set the per gallon refund amount at $0.00945 per gallon. We derived this figure by dividing the consent order amount ($3,800,000.00) by an estimate of the number of gallons of covered products other than crude oil which Dorchester sold during the settlement period (402,168,755).[2] However, we also recognize that the impact on an individual purchaser might have been greater, and any purchaser may file a refund application based on a claim that it suffered a disproportionate share of the alleged overcharges. *See Sid Richardson Carbon and Gasoline Co.*, 12 DOE ¶ 85,054 at 88,164 (1984).

We also propose to adopt a number of presumptions concerning injury. These presumptions will excuse certain categories of refund applicants from proving that they were injured by Dorchester's alleged overcharges, thus enabling certain applicants to simplify their refund applications. We will discuss these presumptions and the showing which each type of applicant must make in section II(A) below.

(A) Specific Application Requirements for Each Category of Refund Applicants

(1) Refund Applications of End-Users

We propose to adopt a finding that end-users and ultimate consumers whose businesses are unrelated to the petroleum industry were injured by Dorchester's alleged overcharges. Unlike regulated firms in the petroleum industry, end-users generally were not subject to price controls during the

[1] Dorchester owned the Cargray, Hooker, Texon, and Woodlawn Plants and percentages of the Acadia (20.6%), Carthage (41.2%), and Port (25%) Plants. The locations of these plants are as follows: Acadia Plant, Acadia Parish, Louisiana; Cargray Plant, Carson County, Texas; Carthage Plant, Panola County, Texas; Hooker Plant, Texas County, Oklahoma; Port Plant, Jefferson County, Texas; Sterling Plant, Sterling County, Texas; Texon Plant, Reagan County, Texas; and Woodlawn Plant, Harrison County, Texas.

[2] This gallonage estimate as based on information contained in the ERA's implementation petition and in the Dorchester audit file. These materials did not contain information for every month of the settlement period or for every Dorchester plant. Although we believe that our estimate reasonably accounts for these additional volumes, we recognize the possibility that we may have underestimated the volumes which Dorchester sold. If we receive refund applications based on volumes exceeding our estimate, it may become necessary to adjust the per gallon refund amount.

consent order period and were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 at 88,209 (1984). We propose, therefore, that end-users of Dorchester products need only document that they were ultimate consumers of a specific amount of Dorchester products to make a sufficient showing that they were injured by the alleged overcharges.

(2) Refund Applications of Cooperatives and Regulated Firms

We also will not require firms whose prices for goods and services are regulated by a government agency or by the terms of a cooperative agreement to demonstrate injury in this case. Although such firms, *e.g.*, public utilities and agricultural cooperatives, generally would pass overcharges through to their customers, they generally would pass through any refunds as well. Therefore, we will require such applicants to certify that they will pass any refund received through to their customers, to provide us with a full explanation of how they plan to accomplish this restitution, and to explain how they will notify the appropriate regulatory body or membership group of their receipt of the refund money. *See Office of Special Counsel*, 9 DOE ¶ 82,538 at 85,203 (1982). We note, however, that a cooperative's sales of Dorchester products to non-members will be treated in the same manner as sales by other resellers.

(3) Refund Applications of Resellers, Retailers and Refiners

a. *Refiners, Resellers and Retailers Seeking Refunds of $5,000 or Less.* We propose to adopt a presumption, as we have in many previous cases, that purchasers seeking small refunds were injured by Dorchester's pricing practices. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,224–25 (1982). With small claims, the cost to the firm of gathering evidence of injury to support a refund claim could exceed the expected refund. Consequently, without simplified procedures, some injured parties would be denied an opportunity to obtain a refund. Under the small-claims presumption, a claimant seeking a refund of $5,000 or less will not be required to submit any evidence of injury beyond establishing the volume of Dorchester products it purchased during the settlement period. *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 at 88,210 (1984).

b. *Refiners, Resellers and Retailers Seeking Large Refunds.* Unlike small-claims applicants, a firm which claims a refund in excess of $5,000 will be required to provide a detailed demonstration of its injury in addition to providing purchase volume information. It will be required to demonstrate that it maintained a "bank" of unrecovered product costs in order to show that it did not pass along the alleged overcharges to its own customers. In addition, a claimant must show that market conditions would not permit it to pass through those increased costs. *See Panhandle Eastern Pipeline Co./I.V. Cole Petroleum Co.*, 10 DOE ¶ 85,051 at 88,265 (1983). For periods in which the DOE regulations did not require retailers to compute cost banks, a retailer will not only be required to show that market conditions prevented it from recovering increased costs. Such a showing might be make through a demonstration of lowered profit margins, decreased market share, or depressed sales volume during the period of purchases from Dorchester. *American Pacific*, Slip op. at 7.

(B) General Refund Application Requirements

In addition to the specific requirements outlined above, all applicants must meet a number of general requirements in order to receive a refund. Every applicant must file a written application for refund, signed by the applicant. The application must make reference to the Dorchester Gas Special Refund Proceeding (Case No. HEF–0559). Each applicant must submit a monthly purchase schedule for each product purchased from Dorchester during the settlement period (August 18, 1973 through January 31, 1976). However, if the applicant is identified as a Dorchester purchaser in the Appendices to this Proposed Decision, the applicant may be able to rely on the purchase volumes contained therein. In order to rely on the volumes in the Appendices the applicant must: (1) Limit its claim to the volumes and products contained in the Appendices; (2) certify that it is unable to or it would be unduly burdensome for it to determine its actual purchase volumes; and (3) certify that the volumes attributed to it in the Appendices appear reasonably accurate. Applicants identified in the Appendices who are required to prove injury, e.g. resellers claiming refunds over $5,000, should note that the Appendices make no determinations as to injury. Therefore, such applicants may rely on the Appendices only to prove purchase volumes and must make separate showings of injury.

Firms which made indirect purchases of Dorchester products may also apply for refunds. If an applicant did not purchase directly from Dorchester but believes that products it purchased from another firm originated with Dorchester, the applicant must establish its basis for that belief and identify the reseller from whom the products were purchased. Indirect purchasers who either fall within a class of applicant whose injury is presumed, or who can prove injury, may be eligible for a refund if the reseller of Dorchester products passed through Dorchester's alleged overcharges to its own customers.

We will establish a rebuttable presumption that claimants who made only spot purchases from Dorchester were not injured. Spot purchasers tend to have considerable discretion in where and when to make purchasers and generally would not have made spot market purchases from Dorchester at increased prices unless they were able to pass through the full amount of the selling price to their own customers. *See Office of Enforcement*, 8 DOE ¶82,597 at 85,396–97 (1981). Therefore, a firm which made only spot purchases from Dorchester will not receive a refund unless it presents evidence rebutting the spot purchaser presumption and establishing the extent to which it was injured as a result of its spot purchases from Dorchester.

Each refund applicant should furnish us with the name, position or title, and telephone number of a person whom we may contact for additional information. If the applicant is affiliated or associated with Dorchester in any manner, it must so indicate and provide information explaining the nature of its relationship with the firm. If the applicant has been involved in enforcement proceedings brought by the DOE, it must provide a summary of the present status of the proceeding, or if the matter is no longer pending, it must indicate how the proceeding was resolved. If the applicant is a firm which did not actually purchase from Dorchester, but is a successor to a Dorchester customer, the applicant must provide evidence establishing that it, rather than Dorchester's former customer, is entitled to a refund.

Applications for Refund should not be filed at this time. Detailed procedures for filing applications for refunds will be provided in a final Decision and Order. Before distributing any portion of the Consent Order fund, we intend to publicize the distribution process, to solicit comments on the proposed refund procedures and to provide an opportunity for any affected party to file

a claim. Comments regarding the tentative distribution process set forth in this Proposed Order should be filed with the Office of Hearings and Appeals within 30 days of publication of this Proposed Order in the **Federal Register.**

C. Distribution of the Remainder of the Consent Order Funds

In the event thats money remains after all first stage claims have been disposed of, the remaining funds could be distributed in a number of ways. For example, the OHA previously has approved the distribution of funds to state governments on behalf of consumers within the states who were likely to have been injured by a firm's alleged overcharges. *E.g., Northeast Petroleum Industries,* 11 DOE ¶85,199 (1983). We encourage the submission of comments containing proposals for alternative distribution schemes. However, since the distribution methods which we will ultimately select will depend upon the amount of money remaining in the settlement fund, we will not be in a position to determine second stage refund procedures until the first stage refund procedures are completed.

It Is Therefore Ordered That

The refund amount remitted to the Department of Energy by Dorchester Gas Corporation pursuant to the Consent Order executed on February 9, 1984 will be distributed in accordance with the foregoing Decision.

APPENDIX A—PROPANE 12/73-1/75

Customer	Gallons
Bultman Inc	701,775
Carl Losson	360,145
Champlin Refining Co.	799,602
Cities Service	835,393
Cities Service Oil	840,000
Col Kan Propane Service	198,026
Engel Oil Co.	671,163
Evans Oil Co.	244,006
Farmland Ind.	2,444,118
Gruver Oil & Gas	980,188
Home Petroleum	1,764,958
Home Petroleum (Union)	5,809,135
Hosier Oil Co.	171,260
J.K. McBee	258
J.S. Skelly Fuel	195,901
L.E. Oliver	1,243
L.G. Vanderwork	1,406,669
Larry (L.F.) Witt	229
Logan Gas	271,717
Mangum Oil & Gas	287,311
Marion Corp.	1,708,044
Mendenhall Oil	21,690
Petrol. Trading & Transport	1,765,144
Phillips Petroleum	3,015,624
Phillips Petroleum Corp.	2,272,985
Ramey Butane	218,952
Sauvage Gas Co.	1,136,452
Sauvage Gas Co.	7,084,801
Schaapveld Oil Co.	480,370
Schroeder Oil Co.	4,053
Shamrock Butane	350,102
Shamrock Products	1,730,690
Swanee Petroleum	1,678,152
Texas Eastman	982,084
Tigrett Butane	855,907
Top O' Texas	177,488
Travis Oil Co.	9

APPENDIX A—PROPANE 12/73-1/75—Continued

Customer	Gallons
Tutcher Majic Gas	22,051
UPG, Inc.	730,141
W.R. Hanson	876
Wanda Petroleum	130,005
Warren Petroleum	240,234
Williams Bros.	424,035
Wilson Petroleum Co.	1,148,559

NOTE: This Appendix identifies propane purchasers from the following plants: Cargray, Hooker, Texon, Woodlawn, and Sterling. If a purchaser's name appears more than once, this is due to its purchase from more than one plant.

APPENDIX B—BUTANE 12/73-1/75

Customer	Gallons
Normal Butane	
Bultman Inc.	15,701
Carl Losson	449,826
Celanese Chemical	15,511,615
Champlin Pet.	21,903
Diamond Shamrock	881,868
Diamond Shamrock	200,976
Gruver Oil & Gas	25,049
Home Pet Corp.	9,037,035
Home Petroleum	364,981
J.S. Skelly Fuel	80,526
L.E. Oliver	34
Liquid Pet. Corp.	6,483,951
Mobil Oil Corp.	989,784
Phillips Pet. Corp.	1453
Phillips Pet.	2,529,063
Ramey Butane	9,516
Schaapveld Oil Co.	61,425
Shamrock Products	279,794
Tigrett Butane	32,242
Top O'Texas	9,947
UPG Inc.	272,974
Wanda Petroleum	177,143
Warren Petroleum	18,627
Williams Bros.	208,444
Iso Butane	
Diamond Shamrock	8,532,962
Diamond Shamrock	567,394
Home Pet Corp.	4,968,040

NOTE: This Appendix identifies butane purchasers from the following plants: Cargray, Hooker, Texon, Woodlawn, and Sterling. If a purchaser's name appears more than once, this is due to its purchase from more than one plant.

APPENDIX C—PENTANE AND A-B OIL (12/73-1/75)

Customer	Gallons
Normal Pentane	
Atlas Processing Company	2,873,385
Diamond Shamrock	7,338,251
Permian Corp.	4,942,440
Phillips Petroleum	2,669,611
Trans South	473,174
UPG Inc.	431,214
Iso Pentane	
Deep South (Kennesaw)	85,822
Permian Corp.	7,304
Phillips Petroleum	243,833
Shell Chemical Co.	282,260
A-B Oil	
Diamond Shamrock	67,610
Kerr McGee	199,677
Permian	981,751

NOTE: This Appendix identifies pentane purchases from the Cargray, Hooker, Texon, and Woodlawn plants, and A-B oil purchases from the Cargray plant.

APPENDIX D—GASOLINE—CARGRAY PLANT—8/73-10/74

Customer	Gallons
Air Speed Oil	8,748,976
Al's Bait Shop	634,059

APPENDIX D—GASOLINE—CARGRAY PLANT—8/73-10/74—Continued

Customer	Gallons
Cargray Filling Station	60,390
Curr's Oil Co.	2,052,418
Diamond Shamrock	128,876
Ed Flood Oil Company	41,288
Greendyke Transport	8,503
Home Oil Company	1,277,036
Hoover Supply	10,186
J.C. Penney	167,626
M.L.J. Inc.	168,245
Silverton Oil	2,700
Steere Tank	3,451
Ted Lokey Oil Co.	30,759
Triangle Refineries	2,815,490
Utility Oil	190,766
Williams Bros.	521,200

[FR Doc. 86-8416 Filed 4-15-86; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Floodplain/Wetlands Involvement Determination for the Roseville Direct Service Transmission Project, Sacramento and Placer Counties, CA

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Floodplain/wetlands involvement and opportunity to comment.

SUMMARY: The Western Area Power Administration (Western) is proposing to construct, operate and maintain a 230-kV transmission line from Western's Elverta Substation in Sacramento County, California, to the city of Roseville in Placer County in order to provide direct services of that city's 69 megawatt Federal power entitlement. The proposed transmission line would be approximately 14 miles long and would be constructed on vacant existing Western right-of-way.

Pursuant to the requirements of the Department of Energy's "Compliance with Floodplain/Wetlands Environmental Review Requirements," 10 CFR Part 1022, Western has determined that this project would involve activities within a floodplain/wetlands area. The floodplain maps prepared by the Federal Emergency Management Agency for the project area show that the first mile of proposed transmission line out of the Elverta Substation (section 18, T.10.N., R.5 E.) would be situated in a 100- and/or 500-year floodplain of the Natomas East Drainage Canal, an overflow canal for the Sacramento River. The substation itself is on slightly higher ground, and is out of the floodplain area. In Placer County, the proposed transmission line would cross a 100-year floodplain of Curry Creek (section 34, T.11.N., R.5 E.).

In this case it appears the floodplain could be entirely spanned by the new line. No known wetland areas will be affected by the proposed project.

At present, four existing high voltage power transmission lines traverse the floodplain area near Elverta Substation, and two existing lines cross the floodplain zone associated with Curry Creek. None of the existing structures in the floodplain have needed to be "floodproofed" through special construction measures.

Further information on this proposed action is available from the addresses provided below. Public comments or suggestions on Western's proposal in the floodplain/wetlands area are invited.

DATE: Any comments are due May 1, 1986.

ADDRESS: Mr. David G. Coleman, Area Manager, Sacramento Area Office, Western Area Power Administration, 1825 Bell Street, Suite 105, Sacramento, CA 95825.

FOR FURTHER INFORMATION CONTACT:

Mrs. Nancy Weintraub, Environmental Manager, Sacramento Area Office, Western Area Power Administration, 1825 Bell Street, Suite 105, Sacramento, CA 95825, (916) 978–4460.

Mr. Gary W. Frey, Director of Environmental Affairs, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401; (303) 231–1527.

Issued at Golden, Colorado, March 28, 1986.

William H. Clagett,

Administrator.

[FR Doc. 86–8512 Filed 4–15–86; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–180689; FRL–3001–1]

Emergency Exemptions; Triadimefon, Etc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pest in the six States listed below. Also listed are three crisis exemptions initiated by the California Department of Food and Agriculture, Florida Department of Agriculture and the Texas Department of Agriculture. These exemptions, issued during the months of January and February, are subject to application and timing restrictions and reporting requirements designed to protect the environment to the maximum extent possible. Information on these restrictions is available from the contact persons in EPA listed below.

DATE: See each specific exemption for its effective dates.

FOR FURTHER INFORMATION CONTACT: See each specific exempton for the name of the contact person. The following information applies to all contact people:

By mail:

Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Office location and telephone number:

Rm. 716, CN#2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–1806).

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. California Department of Food and Agriculture for the use of triadimefon on tomatoes to control powdery mildew; February 28, 1986 to January 1, 1987. (Jack E. Housenger)

2. Louisiana Department of Agriculture for the use of triadimefon on strawberries to control powdery mildew; February 28, 1986 to October 1, 1986. (Jack E. Housenger)

3. Michigan Department of Agriculture for the use of metolachlor on dry bulb onions in high organic soils to control grassy weeds; January 29, 1986 to September 15, 1986. (Gene Asbury)

4. Texas Department of Agriculture for the use of fenvalerate on danvers 126 carrots to control the carrot weevil; January 23, 1986 to June 15, 1986. (Jack E. Housenger)

5. Wisconsin Department of Agriculture, Trade, and Consumer Protection for the use of diazinon on ginseng to control soil and foliar-feeding insects; February 12, 1986 to December 31, 1986. (Libby Pemberton)

6. Wisconsin Department of Agriculture, Trade, and Consumer Protection for the use of metolachlor on dry bulb onions in high organic soils to control grassy weeds; January 29, 1986 to September 15, 1986. (Gene Asbury)

Crisis exemptions were initiated by the:

1. California Department of Food and Agriculture on February 20, 1986, for the use of metalaxyl on asparagus to control *Phytophthora megasperma* var. *sojae*. Since it was anticipated that this program would be needed for more than 15 days, California requested a specific exemption to continue it. The need for this progrm is expected to last until May 15, 1986. (Libby Pemberton)

2. Florida Department of Agriculture on February 24, 1986, for the use of metalaxyl on head lettuce to control downy mildew. The need for this program has ended. (Jim Tompkins)

3. Texas Department of Agriculture on February 28, 1986, for the use of cypermethrin on dry bulb onions to control the onion thrip. Since it was anticipated that this program would be needed for more than 15 days, Texas is expected to request a specific exemption to continue it. (Libby Pemberton)

Authority: 7 U.S.C. 136.

Dated: April 4, 1986.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 86–8144 Filed 4–15–86; 8:45 am]

BILLING CODE 6560–50–M

[OPP–30267; (FRL–3003–4)]

Applications To Register Pesticide Products; Miles Laboratories et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to conditionally register pesticide products containing active ingredients not included in any previously registered products pursuant to the provision of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comment by May 16, 1986.

ADDRESS:

By mail submit comments identified by the document control number [OPP–30267] and the registration/file number to: Information Services Section (TS–757C), Program Management and Support Division, Attn: Product Manager (PM) 15, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Rm. 236, CM#2, Attn: PM 15, Registration Division (TS–767C), Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All

written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: George LaRocca, PM 15, Rm. 204, CM#2, (703–557–2400).

SUPPLEMENTARY INFORMATION: EPA received applications as follows to conditionally register pesticide products containing active ingredients not included in any previously registered products pursuant to the provision of section 3(c)(4) of FIFRA. Notice to receipt of these applications does not imply a decision by the Agency on the applications

I. Products Containing Active Ingredients Not Included in Any Previously Registered Products.

1. File Symbol: 121–GL. Applicant: Miles Laboratories, Household Product Div., 7123 West 65th St., Chicago, IL 60638. Product name: Laser Flying Insect Killer. Insecticide. Active ingredient: [Cyano-(4-fluoro-3-phenoxyphenyl)methyl-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate] 0.04%. Proposed classification/Use: General. To Kill flying and crawling insects such as houseflies, stableflies, mosquitoes, roaches, waterbugs, ticks, and fleas.

2. File Symbol: 121–GA. Applicant: Miles Laboratories. Product name: Laser Ant and Roach Killer. Insecticide. Active ingredient: [Cyano-(4-fluoro-3-phenoxyphenyl)methyl-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate] 0.1%. Proposed classification/Use: General. To kill ants, roaches, and other insects around baseboards, cracks, and crevices.

3. File Symbol: 121–GT. Applicant: Miles Laboratories, Household Product Div., 7123 West 65th St., Chicago, IL 60638. Product name: Laser Flea Killer Spray. Insecticide. Active ingredient: [Cyano-(4-fluoro-3-phenoxyphenyl)methyl-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate] 0.1%. Proposed classification/Use: General. Use as a surface spray to kill fleas, roaches, crickets, ticks, spiders, ants, flies, and other household insects.

4. File Symbol: 121–GO. Applicant: Miles Laboratories. Product name: Laser Room Fogger. Insecticide. Active ingredient: [Cyano-(4-fluoro-3-phenoxyphenyl)methyl-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate] 0.1%. Proposed classification/Use: General. To kill roaches, houseflies, spiders, fleas, ticks, and other household insects.

5. File Symbol: 121–GI. Applicant: Miles Laboratories. Product name: Laser House and Garden Multipurpose Insect Killer. Insecticide. Active ingredient: [Cyano-(4-fluoro-3-phenoxyphenyl)methyl-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate] 0.04%. Proposed classification/Use: General. To kill household and garden bugs, and sucking insects.

6. File Symbol: 3125 GTE. Applicant: Mobay Chemical, Corp., Agricultural Chemicals, Div., P.O. Box 4913, Kansas City, MO 64120. Product name: Tempo™ 2. Insecticide. Active ingredient: [Cyano-(4-fluoro-3-phenoxyphenyl)methyl-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate] 24.3%. Proposed classification/Use: General. For use by professional applicators to control crawling and flying pests in and around buildings.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register.** The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the Program Management and Support Division (PMSD) office at the address provided from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the PMSD office (703–557–3262), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

Dated: April 7, 1986.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR. Doc. 86–8503 Filed 4–15–86; 8:45 am]

BILLING CODE 6560–50–M

[PP 2G2719/T512; (CFR-3003-6)]

Pesticides; 3,6-Bis (2-Chlorophenyl) 1,2,4,5-Tetrazine; Extension of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended temporary tolerances for the combined residues of the insecticide 3,6-Bis (2-chlorophenyl)-1,2,4,5-tetrazine in or on certain raw agricultural commodities.

DATE: These temporary tolerances expire March 13, 1987.

FOR FURTHER INFORMATION CONTACT:

By mail: Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 202, MC#2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice that was published in the **Federal Register** of March 27, 1985 (50 FR 12080), announcing the extension of temporary tolerances for the combined residues of the insecticide 3,6-Bis (2-chlorophenyl)-1,2,4,5-tetrazine in or on the raw agricultural commodities fat, meat and meat byproducts of cattle (except kidney and liver) at 0.01 part per million (ppm); in cattle kidney at 0.05 ppm; in cattle liver at 0.1 ppm; and in milk at 0.01 ppm; and for residues in fresh apples at 1.0 ppm. A related feed additive regulation extending a tolerance for residues of the insecticide in dried apple pomace, published in the **Federal Register** of March 19, 1986 (51 FR 9439). These tolerances were issued in response to pesticide petition PP 2G2719, submitted by Nor-Am Chemical Co., 3509 Silverside Rd, P.O. Box 7495, Wilmington, DE 19803.

These temporary tolerances have been extended to permit the continued marketing of the raw agricultural commodities named above when treated in accordance with the provisions of experimental use permit 45639–EUP–14, which is being extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that the extension of these temporary tolerances will protect the public health. Therefore, the temporary tolerances have been extended on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Nor-Am Chemical Co. must immediately notify the EPA of any findings from the experimental use that

have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire March 13, 1987. Residues not in excess of this amount remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has Exempted this notice from the requirements of section 3 of executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Authority: 21 U.S.C. 346a(j)

Dated: April 8, 1986.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 86–8501 Filed 4–15–86; 8:45 am]

BILLING CODE 6560–50–M

[PF–449; (FRL 3003–7)]

Pesticide Tolerance Petitions; Borderland Products, Inc., et al.

AGENCY: Envronmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide petitions relating to the establishment and/or withdrawal of tolerances for certain pesticide chemicals in or on certain agricultural commodities.

ADDRESS: By mail, submit comments identified by the document control number [PF–449] and the petition number, attention Product Manager (PM–16), at the following address:

Information Services Section (TS–757C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Information Services Section (TS–757C), Environmental Protection Agency, Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so market will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not market confidential may be disclosed publicly by EPA without prior notice. All written comments filed in response to this notice will be available for public inspection in the Information Services Section office at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: William Miller, (PM–16), Registration Division (TS–767C) Environmental Protection Agency, Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 211, CM#2, 1921 Jefferson Davis Hwy., Arlington, VA, (703–557–2600).

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions (PP), relating to the establishment and/or withdrawal of tolerances for certain pesticide chemicals in or on certain agricultural commodities.

I. Initial Filing

PP 6F3328. Borderland Products, Inc., P.O. Box 1005, Buffalo, NY 14240. Proposes amending 40 CFR 180.320 by establishing a tolerance for the combined residues of the insecticide and bird repellant 3,5-dimethyl-4-(methylthio)phenyl methylcarbamate and its cholinesterase-inhibiting metabolities in or on the commodities rice, grain, and straw at 0.04 part per million (ppm). The proposed analytical method for determining residues is a gas chromatographic procedure using a flame photometric detector.

II. Petition Withdrawal

PP 5F3190. EPA issued a notice published in the **Federal Register** of January 23, 1985 (50 FR 3023) which announced that Mobay chemical Corp., P.O. Box 4913, Hawthorn Rd., Kansas City, MO 64120, had submitted PP 5F3190 to the Agency proposing to amend 40 CFR 180.320 by establishing tolerances for residues of the insecticide 3,5-dimethyl-4-(methylthio)phenyl methylcarbamate and its cholinesterase-inhibiting metabolites in or the commodities grass at 35 ppm, pecans at 2 ppm, and ground pecan shells at 8 ppm.

Mobay chemical Corp. has withdrawn this petition without prejudice to future filing in accordance with 40 CFR 180.8.

Authority: 21 U.S.C. 346a.

Dated: April 9, 1986.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 86–8500 Filed 4–15–86; 8:45 am]

BILLING CODE 6560–50–M

[PF–446; (FRL–3003–5)]

Pesticide Tolerance Petition; Shell Oil Co.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Shell Oil Company has submitted to EPA a pesticide petition proposing a tolerance for residues of cyano (3-phenoxyphenyl)-methyl-4-choloro-alpha-(1-methylethyl) benzenacetate in or on celery.

ADDRESS: By mail, submit comments identified by the document control number [PF–446] and the petition number, attention Product Manager (PM–15), at the following address:

Information Services section (TS–757C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Information Services Section (TS–757C), Environmental Protection Agency, Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All Written comments filed in response to this notice will be available for public

inspection in the Information Services Section office at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: George LaRocca, (PM–15), Registration Division (TS–767C), Environmental Protection Agency, Office of Pesticide Programs, 401 M. St., S.W., Washington, DC 20460.
Office location and telephone number: Rm. 204, CM #2, 1921 Jefferson Davis Hwy., Arlington, Va. (703–557–2400).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of February 23, 1984 (49 FR 6794), which announced that Shell Oil Co., Suite #200, 1025 Connecticut Ave., NW., Washington DC, 20036, had submitted pesticide petition (PP) 4F3023 to the Agency proposing to amend 40 CFR 180.379 by establishing tolerances for residues of the insecticide cyano (3-phenoxyphenyl)-methyl-4-chloro-alpha-(1-methylethyl) benzenacetate in or on the raw agricultural commodity celery at 10.0 parts per million (ppm).

Shell has amended the petition by increasing the tolerance in or on celery from 10.0 ppm to 12.0 ppm.

The proposed analytical method for determining residues is gas chromatography.

Authority: 21 U.S.C. 346a.

Dated: April 7, 1986.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 86–8502 Filed 4–15–86; 8:45 am]

BILLING CODE 6560–50–M

[SAB–FRL–3002–5]

Science Advisory Board Environmental Engineering Committee; Open Meeting

Under Pub. L. 92–463, notice is hereby given that a two-day meeting of the Environmental Engineering Committee of the Science Advisory Board will be held at the Environmental Protection Agency, Conference Room #3 North (on the Ground Floor, near the EPA Washington Information Center), Waterside Mall, 401 M Street SW., Washington, DC on May 1–2, 1986. The meeting will begin at 9:00 a.m. and last until 5:00 p.m. on May 1, and will begin at 9:00 a.m. and last until 2:00 p.m. on May 2.

The purpose of the meeting is to begin review of technical documents supporting proposed Agency regulations for the reuse and disposal of sewage sludges under section 405(d) of the Clean Water Act, and proposed revisions to the Agency's Ocean Dumping Regulations (40 CFR 220–229). Options being considered for reuse/disposal of sludge include land treatment, landfilling, ocean disposal and incineration, and a major component of the review of revised ocean dumping rules will be the disposal of dredged materials. The Agency will have prepared documents to support each of these.

The meeting is open to the public. Any member of the public wishing to participate or obtain further information about the meeting should contact Harry C. Torno, Executive Secretary, at (202) 382–2552, or Terry F. Yosie, Director, Science Advisory Board, at (202) 382–4126. Public comment will be accepted at the meeting. Written comments will be accepted in any form, and there will be opportunity for brief oral statements. Anyone wishing to make oral or written comments must contact Mr. Torno prior to April 25 in order to be placed on the agenda. Any member of the public wishing to attend should contact Mrs. Brenda Browne at (202) 382–2552).

Dated: April 8, 1986.

Kathleen Conway,

Director, Science Advisory Board.

[FR Doc. 86–8511 Filed 4–15–86; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Michigan Bell Telephone Co. et al.

In re the Applications of CC Docket No. 86–105	File No.
Michigan Bell Telephone Co., for a new one-way station to operate on frequency 158.10 MHz in the Public Land Mobile Service at Ann Arbor, Michigan.	23646–CD–P/L–84
Century Television of Michigan for a new one-way station to operate on frequency 158.10 in the Public Land Mobile Service at Ann Arbor and Jackson, Michigan; erratum.	22941–CD–P/L–84

Released April 9, 1986.
By the Common Carrier Bureau.

On April 1, 1986, the Bureau released an *Order Designating Applications for Hearing*, Mimeo No. 3509, in the referenced matter. Paragraph 7 of that order should be deleted and the following paragraph substituted:

7. This order is issued under § 0.291 of the Commission's rules and is effective on its release date. Applications for review will be entertained under § 1.115(e)(3) of the rules. (*See* § 1.4(b)(2)).

In addition, the words "and Jackson, Michigan" should be added at the end of the caption description of the application of Century Teleview of Michigan.

Federal Communications Commission.

Michael Deuel Sullivan,

Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 86–8442 Filed 4–15–86; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

[Docket No. 86–12]

Distribution Services, Ltd., v. Trans-Pacific Freight Conference of Japan and Its Members Lines; Filing of Complaint and Assignment

Notice is given that a complaint filed by Distribution Services, Ltd. against the Trans-Pacific Freight Conference of Japan and its member lines was served April 11, 1986. Complainant alleges that respondents have violated section 16 of the Shipping Act, 1916 and section 10 of the Shipping Act of 1984 by interpreting and adhering to a tariff rule which prohibits the ocean carriers' absorption of transloading costs incurred by complainant.

This proceeding has been assigned to Administrative Law Judge Joseph N. Ingolia. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by April 13, 1987, and the final decision of the Commission shall be issued by August 11, 1987.

Tony P. Kominoth,

Assistant Secretary.

[FR Doc. 86–8451 Filed 4–15–86; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

April 8, 1986.

Background

Notice is hereby given of final approval of proposed information collection(s) by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.9 (OMB Regulations on Controlling Paperwork Burdens on the Public).

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Martha Bethea—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202–452–3822)

OMB Desk Officer—Robert Neal—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202–395–6880)

Proposal to approve under OMB delegated authority the extension with revisions of the following report:

1. Report title: Survey of Terms of Bank Lending (STBL)

Agency form number: FR 2028A, 2028A–S, 2028B

OMB Docket number: 7100–0061

Frequency: Quarterly

Reporters: Commercial banks

Small businesses are affected.

General description of report:

This information collection is voluntary 12 U.S.C. 248(a)(2) and is given confidential treatment 5 U.S.C. 552(b)(4).

The STBL collects information on interest rates, including the prime rate, and selected nonprice terms of lending on individual loans to businesses and farmers from a sample of insured commercial banks.

Proposal to approve under OMB delegated authority a revision of the following report:

1. Report title: Monthly Survey of Selected Deposits and Other Accounts

Agency form number: FR 2042

OMB Docket number: 7100–0066

Frequency: Monthly

Reporters: Commercial banks, mutual savings banks and FDIC insured federal savings banks

Small businesses are affected.

General description of report:

This information collection is voluntary [12 U.S.C. 248(a)(2)] and is given confidential treatment 5 U.S.C. 552(b)(4)].

These data, which are collected from a sample of commercial banks, mutual savings banks, and FDIC-insured federal savings banks, are used by the Federal Reserve (1) to analyze and interpret movements in the monetary aggregates, (2) to observe competitive developments between banks and thrift institutions, and (3) to help monitor the earnings position of banks and thrifts.

Board of Governors of the Federal Reserve System, April 8, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86–8433 Filed 5–15–86; 8:45 am]

BILLING CODE 6210–01–M

CCNB Corp. et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 8, 1986.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *CCNB Corporation,* New Cumberland, Pennsylvania; to acquire 86.12 percent of the voting shares of The Gettysburg National Bank, Gettysburg, Pennsylvania.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *First Banc Securities, Inc.,* Morgantown, West Virginia; to acquire 100 percent of the voting shares of The Peoples National Bank of Martinsburg, Martinsburg, West Virginia.

Board of Governors of the Federal Reserve System, April 10, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86–8432 Filed 4–15–86; 8:45 am]

BILLING CODE 6210–01–M

Hamptons Bancshares, Inc.; Correction

This notice corrects a previous **Federal Register** document (FR Doc. No. 86–5304), published at page 8558 of the issue for Wednesday, March 12, 1986.

1. Hampton Bancshares Inc., East Hampton, New York, Suffolk Bancorp, Riverhead, New York, and First Long Island Corporation, Glen Head, New York; to acquire Island Computer Corporation, Bohemia, New York; and thereby engage in the processing of incoming and outgoing cash letters, DDA checking (which includes deposit sorting and posting) and account reconciliation, time deposit accounting, club accounting, and certain certificate of deposit accounting, which includes computation and posting of interest, pursuant to §225.25(b)(7) of the Board's Regulation Y. Comments on this application must be received no later than April 30, 1986.

Board of Governors of the Federal Reserve System, April 11, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86–8462 Filed 4–15–86; 8:45 am]

BILLING CODE 6210–01–M

Peoples Financial Services Corp. et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in

lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 8, 1986.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Peoples Financial Services Corp.*, Hallstead, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of Peoples National Bank of Susquehanna County, Hallstead, Pennsylvania.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Americom Financial Corporation*, Peru, Indiana; to merge with Wabanc, Inc., Wabash, Indiana, thereby indirectly acquiring The First National Bank in Wabash, Wabash, Indiana, and Wabash Valley Bancorporation, Inc., thereby indirectly acquiring Wabash Valley Bank and Trust Company, both of Peru, Indiana.

Board of Governors of the Federal Reserve System, April 11, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-8463 Filed 4-15-86; 8:45 am]

BILLING CODE 6210-01-M

Summcorp; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1)) of the Board's Regulation Y (12 CFR 225.23(a)(1) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by the statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 8, 1986.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 2310 South LaSalle Street, Chicago, Illinois 60690:

1. *Summcorp*, Fort Wayne, Indiana; to engage *de novo* through its subsidiary Summcorp Financial Services, Inc., Fort Wayne, Indiana, in securities brokerage activities. Company's activities will be restricted to buying and selling securities solely as agent for the account of customers. Custodial services and individual retirement accounts will also be offered on an agency basis, pursuant to § 225.25(b)(15) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 11, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-8461 Filed 4-15-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Institutes of Health; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HN (National Institutes of Health) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (40 FR 22859, May 27, 1975, as amended most recently in pertinent part at 49 FR 30598-99, July 31, 1984), is amended to reflect the following changes within the National Institutes of Health: (1) Abolish the Division of Arthritis, Musculoskeletal and Skin Diseases (HNK4) within the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases (NIADDK) (HNK); (2) establish the National Institute of Arthritis and Musculoskeletal and Skin Diseases (HN-Y), with an Office of the Director (HN-Y1), an Intramural Research Program (HN-Y2), and an Extramural Activities Program (HN-Y3); (3) rename the NIADDK (HNK) to the National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK) and modify the functional statement for the Institute; (4) modify the functional statements for the following staff offices in the NIDDK: (a) Office of the Director (HNK1), (b) Office of Program Planning and Evaluation (HNK12), (c) Office of Health Research Reports (HNK13), and Office of Administrative Management (HNK14); (5) modify the functional statement for the Division of Intramural Research (HNK6) of the NIDDK; and (6) modify the functional statement of the Division of Extramural Activities (HNK7) of the NIDDK.

These changes implement Pub. L. 99-158, the "Health Research Extension Act of 1985" which establishes a separate National Institute of Arthritis and Musculoskeletal and Skin Diseses. Because the research on arthritis, musculoskeletal , and skin diseases is currently under the direction of the NIADDK, it is appropriate that that organization be modified in order to comply with the intent of Congress.

Section HN-B, Organization and Functions is amended as follows:

(1) After the heading *National Institute of Aging (HN-X)*, insert the following:

National Institute of Arthritis and Musculoskeletal and Skin Diseases (HN-Y). (1) Provides leadership for a national program in the major disease categories of arthritis and musculoskeletal and skin diseases; (2) plans, conducts, fosters, and supports an integrated and coordinated program of research, investigations, clinical trials, and demonstrations relating to the causes, prevention, methods of diagnosis and treatment of these categorical diseases through: research performed in its own laboratories and clinics, epidemiologic studies, research contracts and grants, and cooperative agreements to scientific institutions and to individuals; (3) supports training of manpower in fundamental sciences and clinical disciplines by individual and institutional research training awards; (4) conducts educational activities, including the collection and dissemination of health educational materials on these diseases, with emphasis on the prevention thereof, for health professionals and the lay public;

health programs relevant activities in the categorical diseases.

Office of the Director (HN–Y1). (1) Directs, coordinates, and evaluates development and progress of the programs of the Institute; (2) implements programs to support research and training (other than National Research Service Awards) in diagnosis, prevention, and treatment of categorical diseases and establishes programs to evaluate, plan and disseminate knowledge related to those supported programs; (3) provides management guidance, fiscal and administrative services to Institute components; (4) develops and provides policy guidance and staff direction to the Institute's multidisease oriented programs; and (5) coordinates with other national research institutes of the National Institutes of Health to the extent that they have responsibilities with respect to arthritis, musculoskeletal, and skin diseases.

Intramural Research Program (HN–Y2). (1) Plans and conducts a program of laboratory and clinical research related to various arthritic, rheumatic, musculoskeletal, and skin diseases to insure maximum utilization of available resources in attainment of Institute objectives; (2) conducts basic research in biochemistry; immunology; pathology; histochemistry; chemistry; physical, chemical, and molecular biology; and pharmacology; (3) evaluates research efforts and establishes program priorities; (4) allocates funds, space, and personnel ceilings and integrates new research activities into the program structure; (5) collaborates with other Institute and NIH programs and maintains an awareness of national research efforts in program areas; and (6) advises Director and staff on intramural research program and areas of science of interest to the Institute.

Extramural Activities Program (HY–Y3). (1) Plans and directs the Institute's research grant, contract, and training programs in arthritis, musculoskeletal, and skin diseases, encompassing basic research, targeted research, clinical trials and community demonstrations, multipurpose arthritis centers, technological development, and application of research findings to insure maximum utilization of available resources to obtain program objectives; (2) advises the Institute Director concerning Institute extramural program policies related to research contracts, grants, cooperative agreements and training programs; (3) maintains surveillance over developments in program areas and assesses the national need for research in the causes, prevention, diagnosis, and treatment of diseases for which the Institute is responsible; (4) prepares analyses of national research, identifies areas of increased efforts, and assists advisory groups in recommending funding levels for new and/or continuing program emphases; (5) develops, for presentation to the National Advisory Council, recommendations as to the modulating effect of categorical needs, desires, and demands on the priority judgments of scientific merit of grant applications made by Initial Review Groups; (6) develops and manages an information system which identifies areas of increased efforts and provides reports and statistics related to Institute grant and contract programs; (7) provides Institute programs with grant processing services; and (8) advises and participates with outside lay (voluntary health) and professional organizations in assessing and responding to needs and requirements of arthritis, musculoskeletal, and skin diseases.

(2) Under the heading *National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases (HNK),* make the following changes:

Delete the statement for the *National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases (HNK),* and the following statements (HNK1), (HNK12) through (HNK14), (HNK4), (HNK6), and (HNK7) in their entirety and substitute the following:

National Institute of Diabetes and Digestive and Kidney Diseases (HNK). (1) Provides leadership for a national program in the three major disease categories of diabetes, endocrinology and metabolic diseases; digestive diseases and nutrition; and kidney, urologic, and hematologic diseases; (2) plans, conducts, fosters, and supports an integrated and coordinated program of research, investigations, clinical trials, and demonstrations relating to the causes, prevention, methods of diagnosis and treatment of categorical diseases through: research performed in its own laboratories and clinics, epidemiologic studies, research contracts and grants, and cooperative agreements to scientific institutions and to individuals; (3) supports training in manpower in fundamental sciences and clinical disciplines by individual and institutional research training awards; (4) conducts educational activities, including the collection and dissemination of educational materials on these diseases, with emphasis on the prevention thereof, for health professionals and the lay public; (5) coordinates with the other research institutes and with all Federal health programs relevant activities in the categorical diseases; and (6) maintains continuing relationships with institutions and professional associations and with international, national, State and local officials, and voluntary agencies and organizations concerned with these diseases.

Office of the Director (HNK1). (1) Directs, coordinates, and evaluates development and progress of the programs of the Institute; (2) implements programs to support research and training (other than National Research Service Awards) in diagnosis, prevention, and treatment of categorical diseases and establishes programs to evaluate, plan and disseminate knowledge related to those supported programs; (3) provides management guidance, fiscal and administrative services to Institute components; (4) develops and provides policy guidance and staff direction to the Institute's multidisease oriented programs; and (5) coordinates research activities with other institutes of the National Institutes of Health and with other Federal health programs relevant activities in the categorical diseases.

Office of Program Planning and Evaluation (HNK12). (1) Develops and executes a program for the planning, evaluation, and analysis of the Institute's policies, program, and research accomplishments; (2) provides leadership and guidance in program development and program planning, evaluation, and analysis related to the disease categories and relevant disciplines within the Institute's mission; (3) develops new analytical methods and techniques specifically suitable for the planning and evaluation of research efforts and manpower assessment; (4) prepares reports on overall activities and specific program matters and yearly reviews of program activities, research advances, and the status of research efforts; (5) monitors the total Institute program in terms of actual accomplishments vs. plans; and recommends programmatic actions to correct discrepancies; (6) directs the compilation and analysis of program data and statistics for special studies and advises the Institute Director and his immediate staff concerning the operational and policy implications arising therefrom; and (7) serves as a focus for presentation of congressional testimony and analysis of legislative matters.

Office of Health Research Reports (HNK13). (1) Advises the Director, Division Directors, and members of the Institute's scientific and administrative staff on a coordinated program to disseminate findings of research

and (5) coordinates with the other research institutes and with all Federal programs and projects to the public, the biomedical community, the Congress, and voluntary health organizations; (2) provides responses to public inquiries in areas relating to disease categories encompassed by the Institute's mission; (3) provides advice to scientific and program staff engaged in research reporting; (4) cooperates with voluntary and professional health agencies in coordinating and planning publications and reports of clinical and research activities; (5) collects and disseminates scientific and technical information to the biomedical community and health practitioners; (6) manages and directs the operations and long range plans of legislatively mandated clearinghouses for the collection and dissemination of information to health professionals and patients; and (7) maintains liaison with the NIH Office of Communications, PHS Office of Public Affairs and DHHS Assistant Secretary for Public Affairs, providing information and advice as needed.

Office of Administrative Management (HNK14). (1) Advises the Director, Division Directors, and other key officials on administrative policies and practices; (2) plans, coordinates, and directs management functions of the Institute including budget, financial management, personnel, procurement, office services, management analysis; (3) interprets, analyzes, and implements any new legislation affecting administrative policy, administrative orders, and new concepts affecting the overall mission of the Institute; and (4) develops policies on administrative management and prepares and issues procedures and guidelines for implementation.

Division of Intramural Research (HNK6). (1) Plans and conducts the Institute's laboratory and clinical research program, which encompasses the broad spectrum of metabolic diseases such as diabetes, other inborn errors of metabolism, endocrine disorders, mineral metabolism, digestive diseases, nutrition, urology and renal disease, hematology, and subjects related to the above to insure maximum utilization of available resources in attainment of Institute objectives; (2) conducts basic research in biochemistry; nutrition, pathology; histochemistry; chemistry; physical, chemical, and molecular biology; pharmacology; and toxicology; (3) evaluates research efforts and establishes program priorities; (4) allocates funds, space, and personnel ceilings and integrates new research activities into the program structure; (5) collaborates with other Institutes and NIH programs and maintains an awareness of national research efforts in program areas; and (6) advises Director and staff on intramural research program and areas of science of interest to the Institute.

Division of Extramural Activities (HNK7). (1) Advises the Institute Director concerning Institute extramural program policies related to research contracts, grants, and training programs; (2) identifies areas for increased efforts and advises the three categorical programs of the development of funding levels; (3) provides scientific merit review of applications for special grant programs and research contract proposals; (4) provides Institute programs with grant and contract management and processing services; (5) maintains a system for operational control of funds for numerous individual program budgets; (6) provides reports and statistics related to Institute grant and contract programs through operational and technical support activities in programs analysis; (7) represents the Institute on overall NIH extramural and collaborative program policy committees and coordinates such policy within the Institute; (8) coordinates the presentation of Institute research grant and training programs to the National Diabetes and Digestive and Kidney Diseases Advisory Council; (9) coordinates program planning in the extramural activities program area and assesses progress toward objectives within the broad field represented by the categorical diseases programs; and (10) advises the Director and Institute staff on matters relating to the Privacy Act and the Freedom of Information Act.

Dated: April 8, 1986.

Otis R. Bowen,

Secretary.

[FR Doc. 86-8487 Filed 4-15-86; 8:45 am]

BILLING CODE 4140-01-M

Food and Drug Administration

Sulfadimethoxine and Ormetoprim Combination for Use in Catfish; Availability of Data

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of target animal safety data to be used in support of an appropriate new animal drug application (NADA) or a supplement to an NADA for use of sulfadimethoxine and ormetoprim combination in feed for catfish. The data, contained in Public Master File (PMF) 5056, were compiled under Interregional Research Project No. 4 (IR-4), a national agricultural program, for obtaining clearances for use of agricultural products for minor or special uses.

ADDRESS: Submit NADA's to Document Control Section (HFV-16), Center for Veterinary Medicine, Food and Drug Administration, Rm. 6B-45, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles E. Haines, Center for Veterinary Medicine (HFV-133), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3410.

SUPPLEMENTARY INFORMATION: The use of sulfadimethoxine and ormetoprim combination in feed for catfish is a new animal drug use under section 201(w) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(w)). As a new animal drug it is subject to section 512 of the act (21 U.S.C. 360b) requiring that its uses be the subject of an approved NADA. Rutgers University, IR-4 Project, Cook College, New Brunswick, NJ 08903, has provided data and information to demonstrate safety to the target animal for use of sulfadimethoxine and ormetoprim in feed for catfish for control enteric septicemia caused by *Edwardsiella ictaluri* susceptible to the drug combination. The data and information are contained in PMF 5056. Sponsors of NADA's or supplemental NADA's may reference without further authorization the PMF to support approval. An NADA or supplemental NADA should include, in addition to a reference to the PMF, animal effectiveness data, human food safety data, drug labeling and other information needed for approval, such as data concerning manufacturing methods, facilities, and controls; and information addressing the potential environmental impacts of the manufacturing process. Persons desiring more information concerning the PMF or requirements for approval of an NADA may contact Charles E. Haines (address above).

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

Dated: April 10, 1986.

Gerald B. Guest,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 86-8411 Filed 4-15-86; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 85D-0561]

Food for Human Consumption; Defect Action Levels for Adulteration of Paprika by Mold, Insect Filth, and Rodent Filth; Proposed Revision of Compliance Policy Guide; Revised Procedures for Establishing and Evaluating New and Revised FDA Defect Action Levels

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is proposing to revise FDA Compliance Policy Guide 7109.03 by revising the current defect action levels (DAL's) for mold, insect filth, and rodent filth in ground paprika. Pending the receipt and review of comments on the proposed DAL's, the agency will reply on the current DAL's for regulatory actions. The agency also announces a revised agency procedure for establishing and evaluating all new and revised DAL's.

DATES: Written comments by June 16, 1986. The agency announces that these DAL's will become effective 60 days after publication of a **Federal Register** notice announcing the agency's final decision.

ADDRESS: Written comments on the proposed revised DAL's and requests for single copies of proposed FDA Compliance Policy Guide 7109.03 should be submitted by June 16, 1986, to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. (Sending two self-addressed adhesive labels will assist the Branch in processing your requests.)

FOR FURTHER INFORMATION CONTACT: Raymond W. Gill, Center for Food Safety and Applied Nutrition (HFF-312), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0175.

SUPPLEMENTARY INFORMATION:

The Proposed DAL's

Food DAL's provide FDA's field offices with uniform criteria for evaluating whether food is adulterated within the meaning of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) and whether regulatory action should be recommended in a given instance. In this notice, the agency is proposing a revised Compliance Policy Guide concerning DAL's for ground paprika.

The proposed DAL's for paprika are based on analytical data obtained from a recent sampling of paprika taken from five different retail grocery stores in 56 standard metropolitan areas. The sampling was representative of available brands and defects present in the marketplace nationally at the time of collection. FDA district laboratories analyzed the samples according to official Association of Official Analytical Chemists (AOAC) methods. FDA's evaluation of the data from the sampling shows that the mold, insect fragment, and rodent filth defects present in ground and crushed paprika are much lower than indicated by the current Compliance Policy Guide 7109.3.

From computer simulations using the data from 467 samples collected, the agency has determined that DAL's of 16 percent Howard mold count, 75 insect fragments, and 4.0 rodent hairs for a 6-subsample average are more appropriate than the existing DAL's and would result in a rejection rate of approximately 3 percent of the survey samples. There is little chance that a product would fail to meet these DAL's. Accordingly, the agency is proposing to so revise FDA Compliance Policy Guide 7109.3.

A copy of the proposed revised Compliance Policy Guide and supporting data are on file in the Dockets Management Branch, Food and Drug Administration, under the docket number found in brackets in the heading of this document.

Procedures for Establishing DAL's

In the **Federal Register** of September 21, 1982 (47 FR 41637), FDA announced its procedures for establishing new or revised DAL's. The procedures permitted interested persons to submit relevant data and information concerning the DAL's for a 1-year period following the publication of the new or revised DAL's in the **Federal Register**. The new or revised DAL's were to be in effect on an interim basis until FDA evaluated the comments and all available data and published its evaluation in the **Federal Register**.

The agency has reviewed these procedures and believes that the practice of immediately implementing DAL's and providing 1 year for comment and an additional period of time for the agency to evaluate the comments and data is unduly time consuming and protracted. Accordingly, the agency is revising the procedures for establishing DAL's. Under these new procedures, FDA will announce new or revised DAL's in a notice published in the **Federal Register**. The agency will provide interested persons with a 60-day period to submit relevant comments and relevant data and information. The comment period may be extended for a longer period of time if warranted. For example, if the new or revised DAL's involve a seasonal commodity for which the industry needs an additional growing season to collect and evaluate relevant data, the comment period may be extended to 1 year. Under the new procedures, the new or revised DAL's will not be effective immediately or on an interim basis. The DAL's will only become effective 60 days after publication of a **Federal Register** notice announcing the agency's final decision on the propriety of the new or revised DAL's.

In accordance with this revised procedure, this notice is provided to inform interested persons of the agency's intent to revise the DAL's for mold, insect filth, and rodent filth in paprika. Interested persons may submit to the Dockets Management Branch (address above) written comments and additional data regarding the proposed revised DAL's. Received comments are available for examination in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 9, 1986.

Joseph P. Hile,

Associate Commissioner of Regulatory Affairs.

[FR Doc. 86-8412 Filed 4-11-86; 11:39 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-16466, AA-6650-A]

Alaska Native Claims Selection; Belkofski Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(a), will be issued to Belkofski Corporation for approximately 40 acres. The lands involved are in the vicinity of Belkofski, within T. 59 S., R. 84 W., Seward Meridian, Alaska.

A notice of the decision will be published once in the ALEUTIAN EAGLE and once a week for four (4) consecutive weeks in THE ANCHORAGE DAILY NEWS. Copies of

the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision shall have until May 16, 1986, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Helen Burleson,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc 86–8396 Filed 4–15–86; 8:45 am]

BILLING CODE 4310-JA-M

[CA-16538]

Proposed Issuance of Recordable Disclaimer of Interest for Lands in San Diego County, CA

April 8, 1986.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Application has been filed by the City of Oceanside, for a recordable disclaimer of Interest by the United States, involving 1.978 acres of land.

DATE: Comments should be received by July 14, 1986.

ADDRESS: Comments should be sent to: Chief, Branch of Lands and Minerals Operations, California State Office (Room E–2841), Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Marie Getsman, California State Office, (916) 978–4815.

SUPPLEMENTARY INFORMATION: Pursuant to section 315 of the (Federal Land Policy and Management Act of 1976 (90 Stat. 2770; 43 U.S.C. 1745), application number CA 16538, has been filed by the Community Development Commission of the City of Oceanside, California, for issuance of a recordable disclaimer of interest by the United States, affecting the following described land:

The portion of section 26 and 27 of Township 11 South, Range 5 West, San Bernardino Base and Meridian lying within that portion of that certain 200 foot right of way of the Atchison, Topeka and Santa Fe Railway Company as granted to California Southern Railway Company under the provisions of the Act of Congress of March 3, 1875 (18 Stat. 482) and shown on the Map of said right of way filed in the Office of Secretary of the Interior March 14, 1881 and approved May 12, 1881 together with that portion of that certain tract of land commonly known as the Depot Grounds in Oceanside, in the City of Oceanside, County of San Diego, State of California, according to Map thereof No. 313 by H.P Vincent, filed in the Office of the County Recorder of San Diego County, July 19, 1886, described as follows:

Beginning at the most Northerly corner of Lot 1 in Block 13 according to a Map thereof No. 344, filed in the Office of the County Records of San Diego County, July 1, 1885, said point also being on the Southerly line of Sixth Street (80.00 feet wide); thence North 54°42'30" East along the Northeasterly prolongation of the Southeasterly line of said Sixth Street, a distance of 63.00 feet; thence South 35°13'13" East parallel with the center line of said Railway Company right of way 763.63 feet to a point in the Northerly prolongation of the Southeasterly line of Fourth Street (80.00 feet wide) as shown on said Map No. 344; thence South 54°45'14" West along said prolongation, 155.48 feet to a point in the Northeasterly line of Myers Street (60.00 feet wide; thence along said Northeasterly line North 35°11'58" West, 423.10 feet to a point in the Northeasterly prolongation of the center line of Fifth Street (80.00 feet wide); thence North 54°45'08" East along said Northeasterly prolongation 89.65 feet to a point in the Southeasterly prolongation of the Northeasterly line of said Block 13, Map No. 344; thence North 35°13'13" West along the Northeasterly line of said Block 13, a distance of 340.44 feet to the Point of Beginning. Containing 1.978 acres more or less.

1. The Bureau of Land Management has reviewed the official records and has determined that the United States has no claim to or interest in the above described lands and that the issuance of a recordable disclaimer of interest will help to remove a cloud on the title to the land.

2. For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed disclaimer may present their views in writing to the Chief, Branch of Lands and Minerals Operations, in the California State Office.

3. Accordingly, the recordable disclaimer of interest will be issued no sooner than ninety days after the date of this publication.

Ed Hastey,

State Director.

[FR Doc. 86–8407 Filed 4–15–86; 8:45 am]

BILLING CODE 4310-40-M

Designation of the Red Hills Area of Critical Environmental Concern, Bakersfield District, CA; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice that Certain Public Lands in the Folsom Resource Area, Bakersfield District, California are Designated as an Area of Critical Environmental Concern (ACEC)—Corrections.

SUMMARY: The following corrections are made to a notice published in the **Federal Register** on Thursday, July 18, 1985, on page 29276. The legal description for the public land designated as an ACEC are corrected as follows:

Mount Diablo Meridian, California

T. 1 S., R. 13 E.,
- Sec. 13, NW¼, N½NE¼, SE¼NE¼, NE¼SE¼;

T. 1 S., R. 14 E.,
- Sec. 16, N½NW¼, NE¼, SE¼, S½SW¼ SW¼, S½SE¼SW¼;
- Sec. 20, S½SE¼, NE¼SE¼SW¼, S½SE¼SW¼;
- Sec. 26, Lots 1–8, includes W½ Lot 9, 10–15, includes W½ Lot 16;
- Sec. 27, N½NE¼, E½SE¼NE¼, NW¼SE¼NE¼, SW¼NE¼, W¼SE¼, W½;
- Sec. 34, W½NE¼NE¼, NW¼NE¼, N½NW¼.

FOR FURTHER INFORMATION CONTACT: Deane K. Swickard, Folsom Resource Area Manager, 63 Natoma St., Folsom, California 95630, (916) 985–4474.

Dated: April 8, 1986.

D.K. Swickard,

Area Manager, Folsom.

[FR Doc. 86–8397 Filed 4–15–86; 8:45 am]

BILLING CODE 4310-40-M

[N-41576]

Realty Action; Lease for Recreation and Public Purposes; Elko County, NV

The following described lands have been examined and found suitable for classification and lease with the option of purchase after development, under the Recreation and Public Purposes Act (R&PP) of June 14, 1926, as amended (43 U.S.C. 869 et. seq.). The lands will not be

offered for lease until at least 60 days after the date of publication of this Notice in the **Federal Register.**

Mount Diablo Meridian, Nevada

T. 47 N., R. 64 E.
Sec. 12, N½NW¼SW¼NE¼.
This land contains approximately 5 acres.

These lands are hereby classified for public purpose use as a church site. The Church of Jesus Christ of Latter Day Saints (LDS) has made application for, and intends to use these public lands within the unincorporated town of Jackpot, Nevada to construct a church and associated facilities for their members.

The lease, when issued, will be subject to the provisions of the R&PP Act, applicable regulations of the Secretary of the Interior, and will contain the following:

1. A Reservation to the United States for all mineral deposits in the lands so leased, and to it, or persons authorized by it, the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe;

2. An 80 foot wide easement for County Road 761, as it traverses the northeast corner of the subject lands.

The proposed use does not qualify for the special pricing program under the Bureau of Land Management current regulations. Therefore, the subject lands would be initially leased and after substantial development, sold at the appraised fair market value of the property, excluding mineral rights, less 50 percent.

The land is not required for any Federal purpose. The lease is consistent with the Bureau's planning for the area.

Upon publication of this Notice of Realty Action in the **Federal Register,** the subject lands will be segregated from appropriation under any other public land law, including locations under the mining laws. If after 18 months following the publication of this Notice in the **Federal Register,** an application has not been filed for the purpose for which the public lands have been classified, the segregative effect of the classification shall automatically expire and the public lands classified in this Notice shall return to their former status without further action by the Authorized Officer.

Detailed information concerning this action, is available for review at the Elko District Office, Bureau of Land Management. For a period of 45 days from the date of publication of this Notice in the **Federal Register,** interested parties may submit comments to District Manager, Elko District Office of the Bureau of Land Management, 3900 E. Idaho St., Elko, Nevada 89801. Any adverse comments will be evaluated by the District Manager and forwarded to the Nevada State Director, Bureau of Land Management, who may sustain, vacate or modify this realty action. In the absence of any objections, on the 60th day from the date of this publication in the **Federal Register,** this realty action will become the final determination of the Department of the Interior.

Dated: April 4, 1986.

Rodney Harris,

District Manager.

[FR Doc. 86-8521 Filed 4-15-86; 8:45 am]

BILLING CODE 4310-HC-M

Intent To Prepare a Management Framework Plan Amendment/ Environmental Impact Statement; New Mexico

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Intent to Prepare a Management Framework Plan Amendment/Environmental Impact Statement (MFPA/EIS).

SUMMARY: The El Paso Electric Company is proposing to build approximately 225 miles of 345 kV transmission line from a substation in Deming, New Mexico, to a point on the existing Tucson Electric Power Company transmission line near Red Hill, New Mexico. The proposed line is called the Arizona Interconnection Project. The proposal will be analyzed in a MFPA, including an EIS as an integral part of the planning process. The Code of Federal Regulations, Title 43, Subpart 1601, will be followed for this planning effort. This project will be completed through a "third-party" agreement under the direction of the Las Cruces District Office. In addition, the U.S. Forest Service will be a cooperating agency. This process would serve to amend the forest plans, in addition to the BLM plans, if the decision is to route the line through the forest.

The objectives of the study are the preparation of the MFPA/EIS and supporting studies needed for informed decision-making on siting of the transmission line. An environmental planning process will be developed and implemented to provide a systematic framework for selecting and assessing alternative facility locations and for incorporating public input into the identifications of an environmentally preferred transmission corridor. These studies will be conducted in three phases: Phase I—Regional Analysis/ Alternative Corridor Identification; Phase II—Route Selection/EIS Preparation; and Phase III—Intensive Field Surveys.

Phase I will be completed in May 1986. A Record of Decision, expected in June 1987, marks the end of Phase II. During Phase III, a total, intensive (Class III) cultural resource survey of the selected route will be made and a mitigation plan developed. Additional biological studies may be required to identify specific locations of sensitive plant and animal communities.

Geographic Area

The Regional area is bound on the north by the northern County line of Catron and Socorro Counties, on the east by the White Sands Missile Range, on the south by a line running east to west, approximately 20 miles north of the U.S.-Mexico border, and on the west by a line running north in Arizona between the San Carlos Indian Reservation and the Apache National Forest.

Anticipated Issue

The issue is the siting of the power line in a location which is least environmentally disruptive. Important concerns which have been identified to date include: visual, cultural, threatened or endangered plants and animals, sensitive land uses and important wildlife habitats.

Interdisciplinary Team

The MFPA/EIS will be developed by an interdisciplinary team through a "third party contractor" under direction of the BLM. Individuals working on the team will include a Project Director, Project Manager, Technical Writer, Graphics Specialist, Earth Resources Specialist, Biological Resources Specialist, Archaeological/Historical Resources Specialist and Visual Resource Specialist. Other Specialists, including those with expertise in land use, socio-economics, paleontological, atmospheric, noise and electrical effects will also be on the team.

Public Participation Plan

During Phase I, key agencies and organizations will be contacted, as well as key landowners, community leaders and special interest groups. This will be followed by public scoping meetings at the beginning of Phase II. Six scoping meetings will be held during the weeks of May 6–15, 1986, in the following locations:

Tuesday, May 6, 1986—7:00 p.m.
Socorro, NM, Bureau of Land Management, Socorro Resource

Area Office, 198 Neel Ave.
Wednesday, May 7, 1986—7:00 p.m.
Truth or Consequences, NM, T or C Convention Center, 501 MacAdoo
Thursday, May 8, 1986—7:00 p.m.
Deming, NM, Public Service Company, Conference Room, 420 South Gold
Tuesday, May 13, 1986—7:00 p.m.
Clifton, AZ, Greenlee County Court House
Wednesday, May 14, 1986—7:00 p.m.
Springerville, AZ, Springerville Inn, Banquet Room
Thursday, May 15, 1986—7:00 p.m.
Reserve, NM, Catron County Court House.

FOR FURTHER INFORMATION CONTACT: Juan Padilla, 1800 Marquess, Las Cruces, NM 88004–1420, Phone (505) 525–8228, FTS 571–8312.

Juan may be contacted for any additional information on this project and any documents relevant to the planning process.

Dated: April 7, 1986.

David A. Jones,

Acting State Director.

[FR Doc. 86–8434 Filed 4–15–86; 8:45 am]

BILLING CODE 4310-FB-M

Albuquerque District, NM; Availability of Draft Fossil Forest Interim Management Plan

AGENCY: Bureau of Land Management.

ACTION: Request for Public Comments on Draft Fossil Forest Interim Management Plan.

SUMMARY: The Bureau of Land Management, Farmington Resource Area, New Mexico, has prepared a draft Fossil Forest Interim Management Plan which will include an Environmental Assessment. The plan will guide and control future management actions on approximately 2,720 acres of public land and mineral resources by the BLM's Farmington Resource Area until a long-range study is completed. The public is invited to review and comment upon this draft plan before it is finalized. The draft plan will be available to the public for comment beginning May 1, 1986.

DATE: Comments on the plan will be accepted until June 1, 1986.

ADDRESS: Copies of the draft Interim Management Plan can be obtained by writing to BLM, Farmington Resource Area, Fossil Forest Team, Caller Service 4104, Farmington, NM 87499.

Review comments should be sent to this address as well.

FOR FURTHER INFORMATION CONTACT: J. Stan McKee, Acting Area Manager, or Barbara am Ende, Fossil Forest Team Leader, Farmington Resource Area, (505) 325–4572.

SUPPLEMENTARY INFORMATION: The San Juan Basin Wilderness Protection Act of 1984 (the Act) was enacted on October 30, 1984. Section 103 thereof withdraws an area of approximately 2,720 acres in T. 23 N., R. 12 W., New Mexico Principal Meridian, San Juan County, New Mexico, known as the "Fossil Forest," from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral and geothermal leasing, subject to valid existing rights. That section further directs the Secretary of the Interior to administer the area in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and to ensure that no activities are permitted that would significantly disturb the land surface of the area or impair its existing natural, educational, and scientific research values, including paleontological study, excavation, and interpretation. The Act also requires the Secretary to promulgate regulations for the administration of the area within one year of its enactment and to file them with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. These rules and regulations were published in the **Federal Register** on October 17, 1985, and became effective on November 18, 1985. The Act further directs the Bureau of land Management to couduct a long-range study to determine the best management for the area, and to submit the results of the study to Congress within eight years (no later than 1992).

The final rules and regulations direct the Bureau of Land Management to prepare an Interim Management Plan for the Fossil Forest that will remain in effect until the long-range study is completed and acted upon by Congress. A draft of the Interim Management Plan will be released to the public on May 1, 1986. A public review and comment period will extend from May 1, 1986 until June 1, 1986. Furthermore an open house for public review and discussion of the Interim Management Plan will be held at the Farmington Resource Area, Room 206, 3535 East 30th Street, Farmington, New Mexico from 8:00 a.m. to 4:00 p.m., on May 20 and 22, 1986.

Dated: April 7, 1986.

District Manager

L. Paul Applegate,

[FR Doc. 86–8409 Filed 4–15–86; 8:45 am]

BILLING CODE 4310-FB-M

Miles City District Advisory Council Meeting

Notice is hereby given in accordance with Pub. L. 92–463 that the Miles City District Advisory Council will meet Monday, May 12, 1986 at 1 p.m. The meeting will be held in the Cafe Banquet Room, Red Rock Village, Miles City, Montana.

The agenda for the Advisory Council meeting includes an organizational session with election of officers and a discussion of on-going resources programs priorities.

The meeting is open to the public. The public may make oral statements before the council or file written statements for their consideration.

Summary minutes of the meeting will be maintained in the Bureau of land Management, Miles City District Office, and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

For futher information contact District Manager, Miles City District, BLM, P.O. Box 940, Miles City, Montana 59301.

Dated April 7, 1986.

Robert A. Teegarden,

Acting District Manager.

[FR Cod. 86–8394 Filed 4–15–86, 8:45am]

BILLING CODE 4310-DN-M

Ukiah District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting, Ukiah, California, District Advisory Council.

SUMMARY: Pursuant to Pub. L. 94–579 and 43 CFR Part 1780, the Ukiah District Advisory Council will meet to discuss issues and alternatives to be addressed in a resource management plan for public lands in northwestern California.

DATES: The meeting will start at 1:00 p.m. Wednesday, May 21, 1986 and adjourn at 3:00 p.m. Thursday, May 22, 1986.

ADDRESS: The meeting will be held in the Empire Room at the LuAnn Motel, 1240 North State Street, Ukiah, California.

FOR FURTHER INFORMATION CONTACT: Barbara Taglio, Ukiah District Office, Bureau of Land Management, P.O. Box 940, 555 Leslie Street, Ukiah, California 95482–0940, (707) 462–3873.

SUPPLEMENTARY INFORMATION: Public lands included in the Arcata Resource Management Plan are located primarily in Mendocino and Humboldt counties

(does not include the King Range National Conservation Area), with small tracts located in Del Norte, Trinity, and Sonoma counties. The meeting is open to the public. Individuals may submit oral or written comments for the Council's consideration. Opportunity for oral comments will be provided at 11:00 a.m. Thursday, May 22. Summary minutes of the meeting will be maintained by the Ukiah District Office and will be available for inspection and reproduction within 30 days of the meeting.

Dated: April 8, 1986.

Van W. Manning,

District Manager.

[FR Doc. 86-8518 Filed 4-15-86; 8:45 am]

BILLING CODE 4310-84-M

[M 63927]

Opening of Public Land in Carter County, MT; Conveyance and Order

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Conveyance and Order Providing for Opening of Public Land in Carter County, Montana.

SUMMARY: This order will open lands reconveyed to the United States in an exchange under the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1701 et seq. (FLPMA), to the operation of the public land laws. It also informs the public and interested state and local governmental officials of the issuance of the conveyance document.

DATE: At 9 a.m. on May 26, 1986, the lands reconveyed to the United States shall be open to the operation of the public land laws, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. The lands described in paragraph 1 below were segregated from settlement, sale, location and entry, including the mining laws, but not from exchange, by the Notice of Realty Action published in the **Federal Register** on August 1, 1985 (50 FR 31255). The segregation terminated on issuance of the patent on March 14, 1986.

ADDRESS: For further information contact: Edward H. Croteau, Chief, Lands Adjudication Section, BLM, Montana State Office, P.O. Box 36800, Billings, Montana 59107, Phone (406) 657-6082.

SUPPLEMENTARY INFORMATION:

1. Notice is hereby given that pursuant to sec. 206 of FLPMA, the following described surface estate was conveyed to Belltower Ranch, Inc.:

Principal Meridian, Montana

T. 3 S., R. 59 E.,
Sec. 19, lot 2;
Sec. 20, NE¼SW¼, NW¼SE¼;
Sec. 27, W½SW¼;
Sec. 28, N½NE¼, W½NW¼;
Sec. 34, SW¼NW¼.
T. 4 S., R. 59 E.,
Sec. 2, S½SW¼;
Sec. 11, NW¼NW¼.
Aggregating 502.32 acres.

2. In exchange for the above selected land, the United States acquired the surface estate of the following described land in Carter County, Montana:

Principal Meridian, Montana

T. 3 S., R. 58 E.,
Sec. 10, S½SW¼;
Sec. 15, N½NW¼.
T. 3 S., R. 59 E.,
Sec. 17, SW¼SW¼.
T. 4 S., R. 59 E.,
Sec. 1, S½.
Aggregating 520 acres.

3. The values of federal public land and the nonfederal land in the exchange were both appraised at $39,000. No minerals were transferred by either party in the exchange.

4. At 9 a.m. on May 26, 1986, the lands described in paragraph 2 above that were conveyed to the United States will be open to the operation of the public land laws.

Edward H. Croteau,

Acting Deputy State Director Division of Lands and Renewable Resources Montana State Office.

April 7, 1986.

[FR Doc. 86-8393 Filed 4-15-86; 8:45 am]

BILLING CODE 4310-DN-M

[I-21102, I-21103]

Realty Action; Sale of Public Land in Oneida County, ID

AGENCY: Bureau of Land Management, Idaho.

ACTION: Notice of Realty Action, Sale of Public Land in Oneida County, Idaho.

DATE AND ADDRESS: The sale offering will be held on Wednesday, July 16, 1986, at 1:30 p.m. at the Deep Creek Resource Area Office, in Malad, Idaho, 83252.

SUMMARY: The following described lands have been examined and through the public supported land use planning process have been determined to be suitable for disposal by sale pursuant to section 203 of the Federal Land Policy and Management Act of 1976, at no less than fair market value as determined by an appraisal:

Parcel No.	Legal description	Appraised fair market value	Sale type
I-21102	T. 16 S., R. 33 E., B.M., sec. 7, lot 8, 3.83 acres.	$575	Direct.
I-21103	T. 16 S., R. 33 E., B.M., sec. 7, lot 5, 6.26 acres.	900	Direct.

When patented, the lands will be subject to the following reservations: Ditches and Canals, and Oil and Gas rights will be reserved to the United States Government; and County road right-of-way to Oneida County.

Continued use of the land by valid right-of-way holders is proper subject to the terms and conditions of the grant. Administrative responsibility previously held by the United States will be assumed by the patentee.

The previously described lands are hereby segregated from appropriation under the public land laws including the mining laws for a period of 270 days or until patent is issued, whichever comes first.

Sale Procedures:

Sale Parcel I-21102 is being offered directly to Ross "Junior" Anderson because of his past occupancy and inadvertent use of the parcel.

Sale Parcel I-21103 is being offered directly to Jess Showell because of his past inadvertent use of the parcel.

Bids must be submitted for at least fair market value and will constitute an application to purchase that portion of the mineral estate of no known value. A thirty percent (30%) deposit must accompany each bid as well as an additional $50 non-returnable mineral conveyance processing fee. The filing fee and deposit must be paid by certified check, money order, bank draft or cashier's check. Bids will be rejected if accompanied by a personal check.

SUPPLEMENTARY INFORMATION: Detailed information concerning the conditions of the sale can be obtained by contacting Wes Duggan, Deep Creek Realty Specialist at (208) 678-5514.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Bureau of Land Management, Route 3, Box 1, Burley, ID 83318.

Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of Interior.

Dated: April 7, 1986.

Marvin R. Bagley,

Acting District Manager.

[FR Doc. 86-8395 Filed 4-15-86; 8:45 am]

BILLING CODE 4310-GG-M

[UT-040-046]

Decision to Grant a Right of Way to Allow Construction of a Temporary Culinary Water Well in the Cottonwood Canyon Wilderness Study Area

AGENCY: Bureau of Land Management, Cedar City District, Cedar City, Utah, Interrior.

ACTION: Notice of availability of a Final Environmental Assessment, Interim Management Policy Analysis, and Decision Record/Rationale.

SUMMARY: The City of St. George is proposing to develop a temporary culinary water well to meet peak demands pending availability of other water sources. The proposal is for a temporary right-of-way 35 feet wide and 673 feet long to accommodate buried water and transmission lines and a one-acre site for a well installation. This facility would be entirely within the Cottonwood Canyon Wilderness Study Area (UT-040-046), which is located north of Washington, Utah. The location of the proposed well facility is in the SE¼SW¼SW¼NW¼ of Sec. 26, T. 41 S., R. 15 W., SLB&M.

DATES: The final decision is to grant the right-of-way request, with a grant termination date of December 31, 1989. The grant will become effective on May 6, 1986. The delay in implementation is to allow interested parties sufficient time to prepare a repsonse, legal or otherwise, to the decision prior to on-the-ground implementation.

ADDRESS: To obtain a copy of these documents or to obtain additional information on the proposal, contact Frank Rowley, Area Manager, Bureau of Land Management, Dixie Resource Area, P.O. Box 726, St. George, Utah 84770 or telephone at (801) 673-4654.

Dated: April 9, 1986.

Morgan S. Jensen,

District Manager.

[FR Doc. 86-8520 Filed 4-5-86; 8:45 am]

BILLING CODE 4310-DQ-M

Bureau of Reclamation

[INT DES 86-15]

Grass Valley Creek Debris Dam Study Trinity County, CA; Availability of Draft Environmental Statement and Public Hearing

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Bureau of Reclamation, Department of the Interior, has prepared a draft environmental statement (DES). The DES addresses the impacts associated with the construction and operation of the Grass Valley Creek Debris Dam Project.

The project, located in Trinity County, California, would control sediments of the Grass Valley Creek watershed, a tributary to the Trinity River. Those sediments have been eroding out of the watershed into the Trinity River where they have been covering the fish spawning riffles and filling in the resting pools. This has contributed to the decline in the Trinity River fishery. It is anticipated that this project will help in the restoration of the Trinity River fishery.

Reclamation also will be conducting a public hearing to elicit comments on the statement. The meeting will be held on May 22, 1986, at 7:00 p.m. at the Civil Defense Hall in Weaverville, California. The Civil Defense Hall is located off Highway 299 at the north end of town adjacent to the Sheriff's Department.

Copies of the draft environmental statement are available for inspection at the following locations:

Director, Office of Environmental Affairs, Bureau of Reclamation, Room 7423, Department of the Interior, 18th and C Streets, NW., Washington, DC 20240, Telephone: (202) 343-4991

Regional Environmental Office, Bureau of Reclamation, Federal Building, 2800 Cottage Way, Room W-1408, Sacramento, California 95825-1898, Telephone: (916) 978-5130

Single copies are available upon request to the Director, Office of Environmental Affairs, Bureau of Reclamation, or the Regional Director at the above addresses. Copies will also be available for inspection at libraries in the project vicinity.

Written comments must be submitted by the date indicated on the cover page of the document.

Information regarding the public hearing may be obtained from: Dave Gore, Bureau of Reclamation, Mid-Pacific Region, 2800 Cottage Way, Sacramento, California 95825-1898, Telephone: (916) 978-4966.

Dated: April 10, 1986.

C. Dale Duvall,

Commissioner.

[FR Doc. 86-8434 Filed 4-15-86; 8:45 am]

BILLING CODE 4310-09-M

Fish and Wildlife Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service clearance officer and the OMB Interior Desk Officer, Washington, DC 20503, telephone 202-395-7313.

Title: Bird Banding Scheule

Abstract: Form 3-860 is used by licensed bird banders to record specific information on the use of each Service band placed on a bird and released into the wild again. Such data is used by the Service, State and private conservation organizations and the Canadian Wildlife Service and aids in the study of migration patterns, longevity and mortality factors, as well as the preparation of annual hunting and shooting regulations.

Service Form Number: 3-860

Frequency: Monthly for game species/ Annually for nongame species.

Description of Respondents: Individuals or households, State and Federal Government employees who mark wild birds.

Annual Responses: 33,000

Annual Burden Hours: 6,600

Service Clearance Officer: James E. Pinkerton, 202-653-7499, Room 859, Riddell Building, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

Dated: April 2, 1986.

Walter O. Stieglitz,

Acting Associate Director, Wildlife Resources.

[FR Doc. 86-8410 Filed 4-15-86; 8:45 am]

BILLING CODE 4310-55-M

Issuance of Permit for Marine Mammals

On March 7, 1986, a notice was published in the Federal Register (Vol. 5 No. 45) that an application had been filed with the Fish and Wildlife Service by Rio Grande Zoo, Albuquerque, New Mexico PRT 702986 for a permit to import a male and two female polar bears for scientific research.

Notice is hereby given that on April 9, 1986, as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Fish and Wildlife Service issued the requested permit to certain conditions set forth therein.

The permits are available for public inspection during normal business hours at the Fish and Wildlife Service's Office in Room 605, 1000 North Glebe Road, Arlington, Virginia 22201.

Dated: April 10, 1986.

Larry LaRochelle,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 86–8523 Filed 4–15–86; 8:45 am]

BILLING CODE 4310–55–M

Receipt of Applications for Permits

April 10, 1986.

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT–703787

Applicant: John L. Estes, Dallas, TX

The applicant requests a permit to import the personal sport-hunted trophy of a bontebok (*Damaliscus dorcas dorcas*), culled from the captive herd of Victor Pringle, Huntley Glen, Bedford Cape Province, South Africa, for the purpose of enhancement of propagation.

PRT–705574

Applicant: Kansas City Zoological Gardens, Kansas City, MO

The applicant requests a permit to import one female captive born Siberian tiger (*Panthera tigris altaica*) from Calgary Zoo, Calgary, Alberta, Canada, for the purpose of enhancement of propagation.

PRT–705523

Applicant: Herman Brooks, Christmas, FL

The applicant requests a permit to sell in foreign commerce and export two female and one male American crocodiles (*Crocodylus acutus*) to the Cayman Island Turtle Farm, Grant Cayman Islands, British West Indies for enhancement of the propagation of the species.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) in Room 611, 1000 North Glebe Road, Arlington, Virginia 22201, or by writing to the Director, U.S. Fish and Wildlife Service at the above address.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Dated: April 10, 1986.

R.T. Kavetsky,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 86–8524 Filed 4–15–86; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

Boundary Change and Transfer of Jurisdiction

AGENCY: National Park Service, Interior.

ACTION: Notice of boundary change and transfer of jurisdiction.

Section 105 of the California Wilderness Act of 1984, Pub. L. 98–425, dated September 28, 1984, (98 Stat. 1626), authorized the transfer of certain lands under the administrative jurisdiction of the National Park Service to the National Forest System. Pursuant to that authority the following described lands are transferred and added to the National Forest System:

Mount Diablo Base Meridian

T. 5 S., R. 22 E.,
NW¼ of sec. 16.

The area described consists of 160 acres, more or less.

Effective the date of publication of this Notice, the above described lands are deemed to be part of the Sierra National Forest, subject to the right of the Secretary of the Interior to the use of the water thereon for park purposes, including the right of access to facilities necessary for the transportation of water to the park.

The exterior boundary of Yosemite National Park is hereby adjusted to exclude the area described. Copies of maps depicting the boundary revision are on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior, the Chief of the Forest Service, Department of Agriculture, and appropriate field offices.

Donald Paul Hodel,

Secretary.

[FR Doc. 86–8527 Filed 4–15–86; 8:45 am]

BILLING CODE 4310–70–M

San Antonio Missions Advisory Commission Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the San Antonio Missions Advisory Commission will be held at 1:00 p.m., Tuesday, May 20, 1986, at the park headquarters, located at 2202 Roosevelt, San Antonio, Texas.

The San Antonio Missions Advisory Commission was established pursuant to Pub. L. 95–629, Title II, November 10, 1978. The purpose of the commission is to advise the Secretary of the Interior or his designee on matters relating to the park and with respect to carrying out the provisions of the statute establishing the San Antonio Missions National Historical Park.

Matters to be discussed include:

—Minutes of previous meeting
—Park Operations Update
—Los Compadres Update
—Archdiocesan Report
—City Report
—County Report
—Open Discussion

The meeting will be open to the public, however, facilities and space for accommodating members of the public will be limited and persons will be accommodated on a first-come, first-serve basis.

Any member of the public may file a written statement concerning the matters to be discussed with the Superintendent, San Antonio Missions National Historical Park.

Persons wishing further information regarding this meeting or who wish to submit a written statement may contact Jose A. Cisneros, Superintendent, 727 E. Durango, Room A612, San Antonio, Texas 78206 (512) 229–6009.

Minutes of the meeting will be available for public review approximately four weeks after the meeting at the office of the San Antonio Missions National Historical Park.

Dated: April 8, 1986.

Robert I. Kerr,

Regional Director, Southwest Region.

[FR Doc. 86–8526 Filed 4–15–86; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-308 through 310 (Preliminary)]

Butt-Weld Pipe Fittings From Brazil, Japan, and Taiwan

Determinations

On the basis of the record [1] developed in the subject investigations, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Brazil, Japan, and Taiwan of carbon steel butt-weld pipe and tube fittings under 14 inches (inside diameter), provided for in item 610.88 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value (LTFV).

Background

On February 24, 1986, petitions were filed with the Commission and the Department of Commerce by the U.S. Butt-Weld Fittings Committee, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of carbon steel butt-weld pipe fittings under 14 inches (inside diameter) from Brazil, Japan, and Taiwan. Accordingly, effective February 24, 1986, the Commission instituted preliminary antidumping investigations Nos. 731-TA-308 through 310 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of March 12, 1986 (15 FR 8568). The conference was held in Washington, DC., on March 20, 1986, and all persons who requested the opportunity were permitted to appear in person or by counsel.

Issued: April 10, 1986.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-8464 Filed 4-15-86; 8:45 am]

BILLING CODE 7020-02-M

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[Investigation No. 337-TA-183]

Indomethacin; Initial Determination Terminating Respondent on the Basis of Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a settlement agreement: Lederle Laboratories Division of American Cyanamid Co.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on April 9, 1986.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are availble for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Rudy J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-523-0176.

By order of the Commission.

Issued: April 9, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-8466 Filed 4-15-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 701-TA-235 (Final)]

Iron Ore Pellets From Brazil

AGENCY: U.S. International Trade Commission.

ACTION: Continuation of a final countervailing duty investigation and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the continuation of final countervailing duty investigation No. 701-TA-235 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil of iron ore pellets,[1] provided for in item 601.24 of the Tariff Schedules of the United States, which have been found by the Department of Commerce, in a preliminary determination, to be subsidized by the Government of Brazil. Commerce will make its final subsidy determination in this investigation on or before June 13, 1986, and the Commission will make its final injury determination by July 28, 1986 (see sections 705(a) and 705(b) of the act (19 U.S.C. 1671d(a) and 1671d(b)).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR Part 207), and part 201, subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: March 31, 1986..

FOR FURTHER INFORMATION CONTACT: Cynthia Wilson (202-523-0291), Office of

[1] For purposes of this investigation, the term "iron ore pellets" covers fine particles of iron oxide hardened by heating and formed into balls from 3/8-inch to 5/8-inch in diameter, for use in blast furnaces to obtain pig iron, reported for statistical purposes in item 601.2450 of the Tariff Schedules of the United States Annotated (TSUSA). The term does not include pellets for us in electric furnaces unless such pellets contain more than 3 percent of weight by silica.

Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce published notice in the **Federal Register** on March 31, 1986 (51 FR 10906), that the suspension agreement concerning iron ore pellets from Brazil (which was published in the **Federal Register** on June 10, 1985 (50 FR 24265)) has been cancelled because of Brazil's withdrawal from the agreement. As a consequence, Commerce has resumed its countervailing duty investigation as if its affirmative preliminary determination under section 703(b) of the Tariff Act of 1930 were made on the date of the publication of its notice to resume the investigation.

The investigation was originally requested in a petition filed on December 20, 1984 by the Cleveland-Cliffs Iron Co., Oglebay Norton Co., Pickands Mather & Co., and the United Steelworkers of America. In response to that petition the Commission conducted a preliminary countervailing duty investigation and, on the basis of information developed during the course of that investigation, determined on February 4, 1985, that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (50 FR 6074, Feb. 13, 1985).

Participation in the Investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Staff Report

A public version of the prehearing staff report in this investigation will be placed in the public record on June 3, 1986, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on June 19, 1986, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on June 2, 1986. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on June 5, 1986, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is June 13, 1986.

Testimony at the public hearing is governed by §207.23 of the Commission's rules (19 CFR 207.23). The rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedure described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2)).

Written Submissions

All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on June 26, 1986. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before June 26, 1986.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pagers of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

Authority. This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued: April 9, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–8457 Filed 4–15–86; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–229]

Nut Jewelry and Parts Thereof; Commission Determination Not To Review Initial Determination Finding Seven Respondents in Default and Imposing Procedural Sanctions

AGENCY: International Trade Commission.

ACTION: Nonreview of an initial determination (ID) finding seven respondents in default and imposing procedural sanctions.

SUMMARY: Notice is hereby given that the Commission has determined not to review the ID of the presiding administrative law judge (ALJ), finding respondents RKG Enterprises of the Philippines; Huang Hou Crafts of Taiwan; Shine Land, Inc., of Taiwan; Joey Pong & Co., Inc., of Taiwan; Oriental Arts & Crafts of Taiwan; Farlace Int'l. Corp of Taiwan; and Royal Design Creations of Taiwan (the Far Eastern respondents) in default.

FOR FURTHER INFORMATION CONTACT: Randi S. Field, Esq., Office of the General Counsel, telephone (202) 523–0261.

SUPPLEMENTARY INFORMATION: By Order No. 12, issued January 6, 1986, the Far Eastern respondents were ordered by

the presiding ALJ to show cause why they should not be held in default for failing to respond to the complaint and notice of investigation. No responses were received. By Order No. 13, issued January 7, 1986, the Far Eastern respondents were ordered by the ALJ to file discovery statements and to make arrangements for their participation in the preliminary conference. By Order No. 18, issued February 5, 1986, the Far Eastern respondents were ordered to provide responses to the Commission's investigative attorney's First Set of Interrogatories and his First Request for Production of Documents and Things. By Order No. 20, issued February 24, 1986, the Far Eastern respondents were ordered to show cause why there are not additional grounds to find them in default for not responding to Orders Nos. 13 and 18. The Far Eastern respondents did not respond to Order No. 20. For failure to respond to Orders Nos. 12, 13, 18, and 20, the ALJ issued an ID (Order No. 24) on March 11, 1986, finding the Far Eastern respondents in default. The ID ruled that each of the Far Eastern respondents has waived: (1) Any right to appear in the investigation; (2) any right to be served with documents by any party; and (3) any right to contest the allegations at issue. No petitions for review of the ID and no agency comments were received.

By order of the Commission.

Issued: April 8, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-8467 Filed 4-15-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-233]

Pharmaceutical Closure; Initial Determination Terminating Respondent on the Basis of Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investgation terminating the following respondent on the basis of a settlement agreement: Franz Pohl Metall-und Kunststoffwarenfabrik GmbH (Polh).

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on April 8, 1986.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-523-0176.

By order of the Commission.

Issued: April 9, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc 86-8468 Filed 4-15-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-274 (Final)]

Standard Pipes and Tubes From Yugoslavia

AGENCY: United States International Trade Commission.

ACTION: Termination of investigation.

SUMMARY: On March 27, 1986, the Commission received a letter from counsel for the petitioner in the subject investigation (the Standard Pipe Subcommittee of the Committee on Pipe and Tube Imports and the individual producer members of that subcommittee) withdrawing its petition. Accordingly, pursuant to § 207.40(a) of the Commission's Rules of Practice and Procedure (19 CFR § 207.40(a)), the antidumping investigation concerning standard pipes and tubes from Yugoslavia (investigation No. 731-TA-247 (Final)) is terminated.

EFFECTIVE DATE: April 4, 1986.

FOR FURTHER INFORMATION CONTACT: Abigail Eltzroth (202-523-0289), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal on 202-724-0002. Information may also by obtained via electronic mail by accessing the Office of Investigators' remote bulletin board system for personal computers at 202-523-0103.

By order of the Commission.

Issued: April 7, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc 86-8469 Filed 4-15-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-238]

Vacuum Cleaner Foot Switches; Initial Determination Terminating Respondent on the Basis of Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a settlement agreement: Buckeye Vacuum Cleaner Supply Company (Buckeye).

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on April 1, 1986.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S.

International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0161. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

By order of the Commission.

Issued: April 10, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc 86–8470 Filed 4–15–86; 8:45 am]

BILLING CODE 7020–02–M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Clean Water Act; Wellsburg, WV, Combined Water Works and Severage System Board

In accordance with Departmental Policy, 28 CFR 50.7, 30 F. R 19029, notice is hereby given that a proposed Consent Decree in *United States of America* v. *Combined Water Works and Sewerage System Board, City of Wellsburg* Civil Action No. 83–0055W(K) was lodged with the United States District Court for the Northern District Court of West Virginia on April 7, 1986.

The Complaint and Motion for Preliminary Injunction filed by the United States alleged that defendant Combined Water Works and Sewerage System Board, City of Wellsburg violated the Clean Water Act by the unlawful discharge of solids and sludges into the Ohio River. The complaint sought to enjoin Wellsburg from discharging pollutants from the sewage treatment plant except in compliance with its National Pollutant Discharge Elimination System (NPDES) and to impose a civil penalty for each day of violation of the NPDES permit. The Consent Decree requires Wellsburg to pay a civil penalty for past non-compliance of $8,500 and initiate a POTW Pretreatment Program.

The Department of Justice will receive for a period of thirty (30) days from date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530 and should refer to *United States* v. *Combined Water Works and Sewage System Board, City of Wellsburg*, DOJ Ref. No. 90–5–1–1–1936.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Northern District of West Virginia, Room 243, Federal Building, 1125–1141 Chapline Street, Wheeling, West Virginia, 26003. Copies of the Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 86–8406 Filed 4–15–86; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–17,211]

Termination of Investigation; Brookfield Clothes Corp.

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on February 18, 1986 in response to a worker petition received on December 4, 1985 which was filed on behalf of workers at Brookfield Clothes Corporation, Long Island City, New York. The workers produce men's sportswear.

The petitioning group of workers are subject to an ongoing investigation for which a determination has not yet been issued (TA–W–16,725). Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC, this 2nd day of April 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 86–8379 Filed 4–15–86; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Cascade Handle Co. et al.

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 28, 1986.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 28, 1986.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC, this 7th day of April 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers of former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Cascade Handle Co. (IWA)	Springfield, OH	4/2/86	3/26/86	TA-W-17,317	Green rough turn.
Clara Fashions (ILGWU)	Newark, NJ	3/19/86	3/11/86	TA-W-17,318	Skirts.
Fitzgerald Gaskets, Inc. (IAMAW)	Torrington, CT	4/2/86	3/27/86	TA-W-17,319	Gaskets.
Lombardi Enterprise, Inc., D.B.A. Mariel Fashions (ILGWU)	Irvington, NJ	4/1/86	3/27/86	TA-W-17,320	Ladies' coats and suits.
National Glove, Inc. (Molder & Allied Wkrs)	Mt. Sterling, OH	3/31/86	3/27/86	TA-W-17,321	Gloves, aprons, car mats.
Regal Ware, Inc. (workers)	Flora, MS	3/31/86	3/24/86	TA-W-17,322	Metal Cookware.
Revere Copper & Brass, Inc., General Office (workers)	Rome, NY	2/7/86	2/3/86	TA-W-17,323	General office (Human Resources, accounting, Data Processing, etc.).
Rockwell International Corp., Automotive Div. (UAW)	Allegan, MI	3/28/86	3/24/86	TA-W-17,324	Drive line components.
Somerset Technologies, Inc. (workers)	Somerset, NJ	3/31/86	3/26/86	TA-W-17,325	Extruder screws.
Triangle Tool Group (workers)	Orangeburg, SC	4/2/86	3/27/86	TA-W-17,326	Hand tools.
United Technologies, Essex Group, Inc. (workers)	Orleans, IN	3/31/86	3/24/86	TA-W-17,327	Ignition wire kits.
Emhart Industries, Inc., Hardware Div. (IAM&AW)	Berlin, CT	4/4/86	3/26/86	TA-W-17,328	Security door hardware for non-residential use.
GTE Communications System (workers)	El Paso, TX	4/3/86	3/16/86	TA-W-17,329	Transmission parts of telephones.
Lou Taylor, Inc. (workers)	Hialeah, FL	4/3/86	3/27/86	TA-W-17,330	Handbags.
Magnavox CATV (workers)	Manlius, NY	4/4/86	3/22/86	TA-W-17,331	Cable television components and cable converters.
Milan Mfg/Division of HKH Industries, Inc. (ILGWU)	Milan Ga	4/4/86	3/26/86	TA-W-17,332	Children's coats.
Repco, Inc. (workers)	Gilbert, WV	4/3/86	3/19/86	TA-W-17,333	Coal mining.

[FR Doc. 86-8378 Filed 4-15-86; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; F. Powers Co., Inc., et al.

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period March 31, 1986—April 4, 1986.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely; and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-16,501; F. Powers Company, Inc., San Francisco, CA

TA-W-16,324; National Semiconductor Corp., West Jordan, UT

TA-W-16,585; T.B. Woods Sons Co., Chambersburg, PA

Affirmative Determinations

TA-W-16,631; Corning Glass Works, Electronic Products Div., Bradford, PA

A certification was issued covering all workers of the firm separated on or after October 31, 1984.

TA-W-16,650; Atlantic Dress Mfg. Co., Williamstown, NJ

A certification was issued covering all workers of the firm separated on or after November 1, 1984.

TA-W-16,540; Cascade Handle Co., Inc., North Bend, OR

A certification was issued covering all workers of the firm separated on or after March 1, 1985 and before September 10, 1985.

TA-W-16,622; B.F. Goodrich Co., Oaks, PA

A certification was issued covering all workers of the firm separated on or after January 1, 1985.

TA-W-16,963; B.F. Goodrich Co., Brecksville, OH

A certification was issued covering all workers of the firm separated on or after December 4, 1984.

TA-W-16,645; Carter Footwear, Inc., Plant #1, Wilkes-Barre, PA

A certification was issued covering all workers of the firm separated on or after November 4, 1984.

TA-W-16,634; Country Cousins Shoes, Inc., Mocanaqua, PA

A certification was issued covering all workers of the firm separated on or after November 4, 1984.

TA-W-16,621; Wear Ever Proctor Silex, Chillicothe, OH

A certification was issued covering all workers of the firm separated on or after January 1, 1985.

TA-W-16,477; Fairchild Semiconductor, Wappingers Falls, NY

A certification was issued covering all workers at the Assembly Department of Fairchild Semiconductor, Wappingers Falls, NY separated on or after September 19, 1984 and after January 31, 1985.

TA-W-16,412; Beech Aircraft Corp., Selma, AL

A certification was issued covering all workers related to the production of commuter aircraft separated on or after January 1, 1985.

TA-W-16,413; Beach Aircraft Corp., Salina, KS

A certification was issued covering all workers related to the production of commuter aircraft separated on or after January 1, 1985.

TA-W-16,414; Beech Aircraft Corp., Boulder, CO

A certification was issued covering all workers related to the production of commuter aircraft separated on or before November 1, 1984.

TA-W-16,415; Beech Aircraft Corp., Liberal, KS

A certification was issued covering all workers related to the production of commuter aircraft separated on or after December 1, 1984.

TA-W-16,416; Beech Aircraft Corp., Wichita, KS

A certification was issued covering all workers related to the production of commuter aircraft separated on or after May 1, 1985.

I hereby certify that the aforementioned determinations were issued during the period March 31, 1986—April 4, 1986. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street NW.,

Washington, DC during normal business hours or will be mailed to persons who write to the above address.

Dated: April 8, 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 86-8377 Filed 4-15-86; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-86-12-C]

C. & R. Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

C. & R. Coal Company, Box 149, Turkey Creek, Kentucky 41570 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 4 Mine (I.D. No. 15-10801) located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The No. 4 Mine is in the Pond Creek Seam ranging from 38 to 48 inches in height, with consistent ascending and descending grades creating dips in the coal bed.

3. Petitioner states that the use of a canopy on the mine's equipment would result in a diminution of safety for the miners affected because it would limit the equipment operator's visibility and limit his or her seating position, increasing the chances of an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 16, 1986. Copies of the petition are available for inspection at that address.

Dated: April 7, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-8380 Filed 4-15-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-28-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, P.O. Box 537, Moundsville, West Virginia 26041 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Shoemaker Mine (I.D. No. 46-01436), its Ireland Mine (I.D. No. 46-01438), and its McElroy Mine (I.D. No. 46-01437) all located in Marshall County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the use of a locked padlock to secure battery plugs to machine-mounted battery receptacles on permissible, mobile battery-powered machines.

2. As an alternate method, petitioner proposes to use a spring-loaded locking device in lieu of padlocks. The spring-loaded device will be designed, installed and used to prevent the threaded rings that secure the battery plugs to the battery receptacles from unintentionally loosening and will be attached to prevent accidental loss. In addition, the fabricated metal brackets will be securely attached to the battery receptacles to prevent accidental loss of the brackets.

3. Petitioner states that the spring-loaded metal locking devices will be easier to maintain than padlocks because there are no keys to be lost and dirt cannot get into the workings as with a padlock.

4. Operators of permissible, mobile, battery-powered machines affected by this modification will be trained in the proper use of the locking device, the hazards of breaking battery-plug connections under load, and the hazards of breaking battery-plug connections in areas of the mine where electric equipment is required to be permissible.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations, Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 16, 1986. Copies of the petition are available for inspection at that address.

Dated: April 7, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-8381 Filed 4-15-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-46-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Dilworth Mine (I.D. No. 36-04281) located in Greene County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the use of a locked padlock to secure battery plugs to machine-mounted battery receptacles on permissible, mobile battery-powered machines.

2. As an alternative method, petitioner proposes to use a spring-loaded locking device in lieu of padlocks. The spring-loaded device will be designed, installed and used to prevent the threaded rings that secure the battery plugs to the battery receptacles from unintentionally loosening and will be attached to prevent accidental loss. In addition, the fabricated metal brackets will be securely attached to the battery receptacles to prevent accidental loss of the brackets.

3. Petitioner states that the spring-loaded metal locking devices will be easier to maintain than padlocks because there are no keys to be lost and dirt cannot get into the workings as with a padlock.

4. Operators of permissible, mobile, battery-powered machines affected by this modification will be trained in the proper use of locking device, the hazards of breaking battery-plug connections under load, and the hazards of breaking battery-plug connections in areas of the mine where electric equipment is required to be permissible.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson

Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 16, 1986. Copies of the petition are available for inspection at that address.

Dated: April 7, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-8382 Filed 4-15-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-50-C]

Consolidation Coal Co; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.1105 (housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps) to its Oak Park No. 107 Mine (I.D. No. 33-01158) located in Harrison County, Ohio. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that air currents used to ventilate structures or areas enclosing electrical installations be coursed directly into the return.

2. Petitioner states that due to the ventilation scheme employed for the longwall panels, compliance with the standard would be extremely difficult.

3. As an alternate method, petitioner proposes that:

a. The electrical installation will be totally enclosed in fire-proof structures, composed of concrete block walls with metal mandoors and incombustible roof and floor (utilizing a fire-proof mine sealant);

b. An automatic dry chemical fire suppression device activated by heat sensors will be installed in the installation;

c. No combustible material will be stored within the enclosure;

d. A warning light, integrated with the fire suppression device, will be installed in a location adjacent to the mine haulage or a location readily observed by persons working nearby. Persons working in this area will be instructed as to the purpose of the light and course of action to follow if activated; and

e. Fire-fighting equipment will be provided on the outside of the fire-proof structure.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, VA 22203. All comments must be postmarked or received in that office on or before May 16, 1986. Copies of the petition are available for inspection at that address.

Dated: April 7, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc 86-8383 Filed 4-15-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-4-M]

Demar Boren Mining, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Demar Boren Mining, Inc., P.O. Box 8, Bonanza, UT 8400 has filed a petition to modify the application of 30 CFR 57.21078 (permissible equipment) to its B-44 Gilsonite Mine (I.D. No. 42-01792) located in Uintah County, Utah. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petition's statements follows:

1. The petition concerns the requirement that only permissible equipment maintained in permissible condition be used beyond the last open crosscut or in places where dangerous quantities of flammable gases are present or may enter the air current.

2. As an alternate method petitioner proposes to install a non-permissible pump inside a steel casing. The pump is capable of dewatering the mine.

3. The pump intake and impeller are located above the watertight pump motor allowing the motor to be continuously submerged in water, thereby eliminating all sources of ignition in the mine area. Installing the pump in a grounded solid steel casing (perforated at the bottom to allow the water to enter the casing), eliminates the shock hazard. The casing would be vented to the surface to allow any accumulations of methane gas to escape to the atmosphere and would act as a relief if the methane were to be ignited inside the casing.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, VA 22203. All comments must be postmarked or received in that office on or before May 16, 1986. Copies of the petition are available for inspection at that address.

Dated: April 7, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-8384 Filed 4-15-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-19-C]

Drummond Company, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Drummond Company, Inc., P.O. Box 10246, Birmingham, Alabama 35202 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Mary Lee No. 1 Mine (I.D. No. 01-00515), its Mary Lee No. 2 Mine (I.D. No. 01-00821) both located in Walker County, Alabama and its Chetopa Mine (I.D. No. 01-00323) located in Jefferson County, Alabama. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. Petitioner states that the use of cabs or canopies on the mines's electric equipment in mining heights less than 58 inches would result in a diminution of safety to the miners affected.

3. All three mines have undulating floors and uneven roof conditions which impede the use of cabs or canopies. The cabs or canopies could damage or dislodge roof supports. The cabs or canopies would limit the equipment operator's visibility and his or her seating position, increasing the chances of an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson

Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 16, 1986. Copies of the petition are available for inspection at that address.

Dated: April 7, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-8385 Filed 4-15-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-18-C]

Gorenty Tunneling Co.; Petition for Modification of Application of Mandatory Safety Standard

Gorenty Tunneling Company, Walnut Street, Middleport, Pennsylvania 17953 has filed a petition to modify the application of 30 CFR 75.301 (air quality, quantity, and velocity) to its Gorenty Tunneling Slope (I.D. No. 36-0367) located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that the minimum quantity of air reaching the last open crosscut in any pair or set of rooms be 9,000 cubic feet a minute, and the minimum quantity of air reaching the intake end of a pillar line be 9,000 cubic feet a minute. The minimum quantity of air in any coal mine reaching each working face must be 3,000 cubic feet a minute.

2. Air sample analysis history reveals that harmful quantities of methane are nonexistent in the mine, which also has no history of an ignition, explosion, mine fire or harmful quantities of carbon dioxide and other noxious or poisonous gases.

3. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

4. Extremely high velocities in small cross sectional areas of airways and manways required in friable Anthracite veins for control purposes, particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners and cause extremely uncomfortable damp and cold conditions in the mine.

5. As an alternate method, petitioner proposes that:

a. The minimum quantity of air reaching each working face be 1,500 cubic feet per minute;

b. The minimum quantity of air reaching the last open crosscut in any pair or set of developing entries be 5,000 cubic feet per minute; and

c. The minimum quantity of air reaching the intake end of a pillar line be 5,000 cubic feet per minute, and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

6. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 16, 1986. Copies of the petition are available for inspection at that address.

Dated: April 7, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-8386 Filed 4-15-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-1-C]

Kaiser Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Kaiser Coal Corporation, Suite 800, 102 South Tejon, Colorado Springs, Colorado 80903 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Sunnyside No. 1 Mine (I.D. No. 42-00093) its Sunnyside No. 2 Mine (I.D. No. 42-00094) and its Sunnyside No. 3 Mine (I.D. No. 42-00092) all located in Carbon County, Utah. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that entries used as intake and return air courses be separated from belt haulage entries.

2. Petitioner alleges that application of the standard will result in diminution of safety to the miners because of severe ground control problems and the depth of cover. The stability of the roof and ribs under deep cover and in multiple seam mining operations is directly affected by the number of entries opened. Important ventilation, methane detection, fire control and escapeway benefits can be realized in the use of two entries in longwall mining.

3. As an alternate method, petitioner proposes to use a two-entry longwall panel development in which the belt haulage entry would serve as a return air course and longwall panel retreat mining in which the belt haulage entry would serve as an intake air course for longwall face ventilation.

4. In further support of this request, petitioner states that:

a. An early warning fire detection system utilizing low-level carbon monoxide detectors will be installed at specific locations with specific conditions;

b. Methane monitors capable of providing both audible and visual alarm signals will be installed at specific locations and will be visually examined every 24 hours to ensure proper functioning during development of the two-entry system.

c. Personnel carriers or other transportation equipment will be maintained on or near the working section and be of sufficient capacity to transport all persons who may be in the area;

d. During development of the two-entry panel, a rock dusting unit will be installed in the belt conveyor entry near the section loading point. Also during longwall retreat mining in the two-entry panel, a rock dusting unit will be installed on the last tailgate shield. These rock dusting units will run continuously during mining operations to render inert float coal dust in these entries;

e. Diesel fuel will not be stored in the two-entry panel, and the hydraulic fluid emulsifier station for the longwall support station will not be located in the two-entry panel; and

f. A sufficient number of self-contained self-rescuers for all persons on the working section will be available.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 16, 1986. Copies of the petition are available for inspection at that address.

Dated: April 2, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-8387 Filed 4-15-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-38-C]

Pyro Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Pyro Mining Company, P.O. Box 267, Sturgis, KY 42459 has filed a petition to modify the application of 30 CFR 75.1103-4(a) (automatic fire sensor and warning device systems; installation; minimum requirements) to its Pyro No. 9 Slope William Station (I.D. No. 15-13881) located in Union County, Kentucky and its Pyro No. 11 Mine (I.D. No. 15-10339) located in Webster County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that automatic fire sensor and warning device systems provide identification of fire within each belt flight (each belt unit operated by a belt drive).

2. As an alternate method, petitioner proposes to install carbon monoxide with specific safeguards outlined in the petition. The monitors will be installed at each belt drive and at intervals not to exceed 2,000 feet along each belt entry.

3. The monitoring system has a battery back-up that will keep the system operational for a minimum of four hours. The system will initiate audible and visual alarms when the carbon monoxide level at any sensor is 10 ppm above the ambient level. These alarms will be located on the surface where a responsible person is always on duty to notify the mine shift foreman. Personnel will be moved to a safe area and cause of the alarm will be determined. When the above actions are initiated at 10 ppm a trained responsible person will continuously monitor the system console for changes in the carbon monoxide levels at the activated sensor(s). When the carbon monoxide level at any sensor indicates 15 ppm above ambient, the mine evacuation plan will be implemented. A map with belt flights and sensor locations is posted in the console room and two-way communication is located in the console room.

4. If the monitoring system fails, a qualified person will monitor for carbon monoxide with a hand-held carbon monoxide detecting device at the downwind side of each affected belt conveyor flight at least once each hour, or each affected belt conveyor flight will be traveled in its entirety each hour.

5. Weekly examinations will be made of the daily shift logs to determine if the system is functioning properly. The entire carbon monoxide monitoring system will be calibrated at least once every 30 days. Records of all the examinations will be maintained in the system console room.

6. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, VA 22203. All comments must be postmarked or received in that office on or before May 16, 1986. Copies of the petition are available for inspection at that address.

Dated: April 7, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc 86-8388 Filed 4-15-86; 8:45 am]

BILLING CODE 4510-43-M

COPYRIGHT OFFICE

Library of Congress

Report of Ad Hoc Group on the Legal Issues Relating to Consideration of Adherence by United States to the Berne Convention; Extension of Comment Period

AGENCY: Copyright Office, Library of Congress.

ACTION: Extension of comment period.

DATE: Written comments should be submitted on or before May 19, 1986.

ADDRESSES: Copies of the Report are available for public inspection and copying in Room LM-401 of the James Madison Memorial Building of the Library of Congress, First Street and Independence Avenue, SE., Washington, D.C. Copies may be requested by writing to: Ralph Oman, Register of Copyrights, Library of Congress, Department D.S., Washington, D.C. 20540. Written comments should be sent to Harvey J. Winter, Office of Business Practices, Department of State, Washington, D.C. 20520.

Notice of Extension of Comment Period

By notice in the **Federal Register** on January 29, 1986 (51 FR 3706), the Copyright Office announced the availability of, and invited public comment on, a Draft Report prepared by an Ad Hoc Working Group on United States Adherence to the Berne Convention. Written comments were requested on or before March 31, 1986. The legal issues relating to United States adherence to the Berne Convention have significance of the most fundamental nature for the United States system of copyright. In order to allow the maximum opportunity for public comment, the Copyright Office hereby extends until May 19, 1986 the deadline for submitting written comments.

Any comments will be open for public inspection in the Copyright Office and will be made available to the Congress.

Dated: April 11, 1986.

Dorothy Schrader,

Associate Register of Copyrights for Legal Affairs.

[FR Doc. 86-8450 Filed 4-15-86; 8:45 am]

BILLING CODE 1410-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 86-28]

Intent To Grant an Exclusive Patent License; Macrodyne, Inc.

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Intent to Grant an Exclusive Patent License.

SUMMARY: NASA hereby gives notice of intent to grant to Macrodyne, Inc., of Schenectady, New York, a limited, exclusive, royalty-bearing, revocable license to practice the invention as described in U.S. Patent No. 4,392,749 for an "Instrument for Determining Coincidence and Elapse Time Between Independent Sources of Random Sequential Events," which issued on July 12, 1983 to the Administrator of the National Aeronautics and Space Administrator on behalf of the United States of America. The proposed exclusive license will be for a limited number of years and will contain appropriate terms and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR Part 1245, Subpart 2. NASA will negotiate the final terms and conditions and grant the exclusive license unless, within 60 days of the date of the Notice, the Director of Patent Licensing receives written objections to the grant, together with supporting documentations. The Director of Patent Licensing will review all written responses to the Notice and then recommend to the Associate General Counsel for Intellectual Property Law whether to grant the exclusive license.

DATE: Comments to this notice must be received by June 16, 1986.

ADDRESS: National Aeronautics and Space Administration, Code GP Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. John G. Mannix, (202) 453–2430.

Dated: April 11, 1986.

John E. O'Brien,

General Counsel.

[FR Doc. 86–8533 Filed 4–15–86; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL LABOR RELATIONS BOARD

Privacy Act of 1974; Proposed New Systems of Records

Pursuant to the provisions of the Privacy Act of 1974, 5 USC Section 552a, the National Labor Relations Board publishes the accompanying notice of its intention to alter an existing system of records, NLRB–7, Grievances, Appeals, and Complaints Records, to include related litigation records and some additional routine uses, and to establish a new system of records to be titled NLRB–15, Employee Counseling Services Program Records. Both changes involve records which contain personal information relating to present and former employees of the Board. A complete listing of the National Labor Relations Board's fourteen Notices of Systems of Records was last published in 47 FR 42043 on September 23, 1982.

All persons who desire to submit written comments, views, or arguments for consideration by the Board in connection with these proposed new systems of records should file same, not later than 60 calendar days following the date of this publication, with the Executive Secretary, National Labor Relations Board, Washington, DC 20570. Copies of such communications will be available for examination by interested persons during normal business hours in the Office of the Executive Secretary, Room 701, 1717 Pennsylvania Avenue, NW., Washington, D.C.

All persons are advised that in the absence of submitted comment, views, or argument considered by the Board as warranting modification of the notices as herewith published, it is the intention of the Board that the notices as herewith published shall be effective upon expiration of the comment period without further action by this Agency.

Copies of the new systems of records report required by 5 USC 552a(o) were forwarded to Congress and to the Office of Management and Budget on March 26, 1986.

Dated, Washington, DC. March 26, 1986, by direction of the Board.

John Truesdale,

Executive Secretary.

NLRB–7

SYSTEM NAME:

Grievances, Appeals, Complaints, and Related Litigation Records.

SYSTEM LOCATION:

Records are authorized to be maintained for current and former NLRB employees in all Agency offices. See the attached appendix for the addresses of these offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the Agency.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include formal or informal grievances, appeals, and complaints, together with information and documents related thereto; letters or notices to the individual; records of hearings when conducted; material placed in the file to support or contradict the decision or determination on such grievance, appeal, or complaint; affidavits or statements; testimonies of witnesses; investigative reports; related correspondence and recommendations; and records on court proceedings, arbitration, or subsequent litigation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records, or information therefrom, are disclosed:

1. To Agency officials and employees who have a need for the records or information in the performance of their duties.

2. To individuals who have a need for the information in connection with the processing of a grievance, appeal, or complaint. Wherever feasible, such information shall be furnished in depersonalized form, i.e., without personal identifiers.

3. To refer to an arbitrator for use in arbitrating a grievance or complaint.

4. To the Department of Justice for use in litigation when either: (a) The Agency, or any component thereof; or (b) any employee of the Agency in his or her official capacity; or (c) any employee of the Agency in his or her individual capacity, where the Agency has agreed to represent the employee; or (d) the United States, where the Agency determines that litigation is likely to affect the Agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the Agency to be relevant and necessary to the litigation, provided that in each case the Agency determines that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

5. In a proceeding before a court or other adjudicative body before which the Agency is authorized to appear, when either: (a) The Agency, or any component thereof; or (b) any employee of the Agency in his or her official capacity; or (c) any employee of the Agency in his or her individual capacity, where the Agency has agreed to represent the employee; or (d) the United States, where the Agency determines that litigation is likely to affect the Agency or any of its components, is a party to litigation or has an interest in such litigation, and the Agency determines that use of such records is relevant and necessary to the litigation, provided that in each case the Agency determines that disclosure of the records to a court or other adjudicative body is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

6. To officials of labor organizations recognized under Public Law 95–454, when relevant and necessary to their duties of exclusive representation of NLRB employees under the Act. Wherever feasible and consistent with responsibilities under the Act, such information shall be furnished in depersonalized form, i.e., without personal identifiers.

7. To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

8. To provide pertinent information to the appropriate Federal (including offices of Inspector General), State, or local government agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the Agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

9. To respond to general requests for statistical information (without personal identification of individuals).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on forms, documents, letters, memoranda, and other similar papers.

RETRIEVABILITY:

Alphabetically by name.

SAFEGUARDS:

Access to and use of the records are limited to those persons whose official duties require such access until the records are required to be made public in support of an Agency action or position. These records are maintained in file cabinets which during duty hours are under the surveillance of personnel charged with custody of the records and after duty hours are behind locked doors.

RETENTION AND DISPOSAL:

Placed in inactive file when case is closed. Destroyed 3 years after the end of the fiscal year in which the case is closed.

SYSTEM/MANAGER(S) AND ADDRESS:

1. To those employees under supervision of the General Counsel—Deputy General Counsel, NLRB, 1717 Pennsylvania Avenue, NW., Washington, DC 20570.

2. To those employees under supervision of the Board—Deputy Executive Secretary, NLRB, 1717 Pennsylvania Avenue, NW., Washington, DC 20570.

NOTIFICATION PROCEDURE:

1. Inquiries from current NLRB employees on whether this system contains records on such individuals should be directed to their supervisors.

2. Inquiries from individuals other than current NLRB employees as to whether this system contains records on such individuals should be directed to the appropriate System Manager specified above.

RECORD ACCESS PROCEDURES:

A current NLRB employee seeking to gain access to records in this system pertaining to such employee should contact his or her supervisor.

An individual other then a current NLRB employee seeking to gain access to records in this system pertaining to such individual should contact the appropriate System Manager specified above.

CONTESTING RECORD PROCEDURES:

A current NLRB employee seeking to contest records in this system pertaining to such employee should contact his or her supervisor.

An individual other than a current NLRB employee seeking to contest records in this system pertaining to such individual should contact the appropriate System Manager specified above.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from the individual to whom the record pertains; Agency officials; affidavits, statements, and record testimony of individuals; and other documents and memoranda relating to the grievance, appeal, or complaint.

NLRB–15

SYSTEM NAME:

Employee Counseling Services Program Records.

SYSTEM LOCATION:

Personnel Branch, NLRB, 1717 Pennsylvania Avenue, NW., Washington, DC 20570.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former NLRB employees who have been counseled or otherwise treated for alcohol or drug abuse or for personal or emotional health problems.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system include documentation of visits to employee counselors, psychologists, and physicians (Federal, State, local government, or private) and the assessment, diagnosis, recommended treatment, results of treatment, and other notes or records of discussions held with the employee, as well as family members of the employee, which may be made by the counselor. Additionally, records in this system may include documentation of treatment by a private therapist or a therapist at a Federal, State, local government, or private institution.

PURPOSE:

These records are used to document the nature of the individual's problem and progress and to record an individual's participation in and the results of community or private sector treatment or rehabilitation programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be disclosed:

1. To the Department of Justice for use in litigation when either: (a) The Agency, or any component thereof; or (b) any employee of the Agency in his or her official capacity; or (c) any employee of the Agency in his or her individual capacity where the Department of Justice has agreed to represent the employee; or (d) the United States, where the Agency determines that litigation is likely to affect the Agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the Agency to be relevant and necessary to the litigation, provided that in each case the Agency determines that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

2. In a proceeding before a court or other adjudicative body before which the Agency is authorized to appear, when either: (a) The Agency, or any component thereof; or (b) any employee of the Agency in his or her official capacity; or (c) any employee of the Agency in his or her individual capacity, where the Agency has agreed to represent the employee; or (d) the United States, where the Agency determines that litigation is likely to affect the Agency or any of its components, is a party to litigation or has an interest in such litigation, and the Agency determines that use of such records is relevant and necessary to the litigation, provided that in each case the Agency determines that disclosure of the records to a court or other adjudicative body is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

3. To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient identities in any manner. When such records are provided to qualified researchers employed or contracted by the Agency, all patient identifying information shall be removed.

Note.—Disclosure of these records beyond officials of the Agency having a bona fide need for them or to the person to whom they pertain, is rarely made as disclosures of information pertaining to an individual with a history of alcohol or drug abuse must be limited in compliance with the restriction of confidentiality of Alcohol and Drug Abuse Patient Records regulations, 42 CFR, Part 2. Records pertaining to the physical and mental fitness of employees are, as a matter of Agency policy, afforded the same degree of confidentiality and are generally not disclosed.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are retrieved by the name of the individual on whom they are maintained.

SAFEGUARDS:

These records are maintained in locked file cabinets labeled confidential with access strictly limited to employees directly involved in the Agency's Employee Assistance Program.

RETENTION AND DISPOSAL:

Files are destroyed 3 years after termination of couseling. The records are destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Special Programs and Services Unit, Personnel Branch, Room 334, NLRB, 1717 Pennsylvania Avenue, NW., Washington, DC 20570.

NOTIFICATION PROCEDURE:

Agency employees wishing to inquire whether this system of records contains information about them should contact the Agency's Employee Assistance Program Coordinator who arranged for counseling or treatment.

RECORD ACCESS PROCEDURES:

An individual seeking to gain access to records pertaining to him or her should contact the Agency's Employee Assistance Program Coordinator who arranged for counseling and treatment.

CONTESTING RECORD PROCEDURES:

An individual seeking to contest records in this system pertaining to him or her should contact the System Manager specified above.

RECORD SOURCE CATEGORIES

Information in this system of records comes from the individual to whom it applies, the supervisor of the individual if the individual was referred by the supervisor, the Employee Assistance Program Coordinator, or staff member who records the counseling session, and therapists or institutions providing treatment.

[FR Doc. 86-8483 Filed 4-15-86; 8:45 am]

BILLING CODE 7545-01-M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision, or extension: Extension

2. The title of the information collection: Classification Record

3. The form number if applicable: NRC-790

4. How often the collection is required: Occasionally

5. Who will be required or asked to report: Approximately 20 NRC licensees, contractors and other facilities approved to handle NRC classified information.

6. An estimate of the number of responses: 93

7. An estimate of the total number of hours needed to complete the requirement or request: 8

8. An indication of whether section 3504(h), Pub. L. 96-511 applies: Not applicable

9. Abstract: The NRC Form 790 is used by designated authorized classifiers employed by NRC licensees, contractors or other organizations whenever the classifier completes a classification/downgrading/declassification action. Information required on the form includes document identification, type of action and date of action, as well as the identity of the authorized classifier. Completion of the form ensures current and accurate information is available for use by NRC in its reporting responsibility to the Information Security Oversight Office and provides traceability of classification/downgrading/declassification actions during appraisals, inspections or audits.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street NW., Washington, DC 20555.

Comments and questions should be directed to the OMB reviewer Jefferson B. Hill, (202) 395-7340.

The NRC Clearance Officer is R. Stephen Scott, (301) 492-8585.

Dated at Bethesda, Maryland, this ninth day of April 1986.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 86-8455 Filed 4-15-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-289-OLA-1 and 50-289-OLA-2]

GPU Nuclear Corp., et al., Three Mile Island Nuclear Station, Unit No. 1, Steam Generator Plugging Criteria; Hearing on Issuance of Amendments to Facility Operating License

April 10, 1986.

Before Administrative Judges: Sheldon J. Wolfe, Chairman; Frederick J. Shon, Dr. Oscar H. Paris.

On February 28, 1986, at 51 FR 7157, the Nuclear Regulatory Commission published a notice captioned "Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing." [1] This notice stated that the Commission was considering issuance of an amendment to Three Mile Island Nuclear Station, Unit No. 1 (TMI-1) Facility Operating License No. DPR-50. Among other things, the notice stated that:

> In accordance with the licensee's application dated February 4, 1986, the proposed amendment would modify the Once Through Steam Generator (OTSG) tube repair criteria for TMI-1. The present TMI-1 Technical Specifications (TSs) require that defects extending greater than 40% of the tube wall thickness shall be repaired. Defects penetrating less than 40% of the tube wall thickness are acceptable regardless of their length. The licensee proposes to change the repair criteria to allow not repairing the tube, under certain circumstances, if it has a defect up to 50% tube wall penetration.

The notice also provided that, by March 31, 1986, and person whose interest might be affected by this proceeding and who wished to participate as a party must file a written petition for leave to intervene in accordance with the Commission's "Rules of Practice" in 10 CFR Part 2. On March 14, 1986, an Atomic Safety and Licensing Board was established to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered. The Board's Administrative Judges are Frederick J. Shon, Oscar H. Paris, and Sheldon J. Wolfe, who will serve as Chairman of the Board.

Only Three Mile Island Alert, Inc. (TMIA) filed a petition for leave to intervene in this case—OLA-2. TMIA submitted five proposed contentions which were identical to those submitted

[1] To date, the Commission has not made a final determination on the issue of no significant hazards consideration.

by it in case OLA–1 [2] and moved for consolidation of both cases. During the 10 CFR 2.751a special prehearing conference held on March 27, 1986, in each case, the Board granted TMIA's petitions for leave to intervene, and admitted three of TMIA's contentions. The Board also granted the motion to consolidate the two cases.

Accordingly, the instant Notice of Hearing is issued to notify all concerned that a hearing will beheld and that, after certain prehearing procedures have been completed, the Board will issue a written order setting forth the time, place and date of the hearing in the consolidated cases. At the beginning of the hearing, an opportunity will be provided for any person who wishes to make an oral or written statement in this proceeding but who has not filed a petition for leave to intervene. Subject to the conditions which will be set forth in the Order scheduling the hearing, any person may request permission to make a limited appearance in order to set forth his or her position on the issues pursuant to provisions of 10 CFR 2.715 of the Commission's "Rules of Practice". Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dated at Bethesda, Maryland, this 10th day of April, 1986.

It is so ORDERED.

The Atomic Safety and Licensing Board.

Sheldon J. Wolfe,

Chairman, Administrative Judge.

Frederick J. Shon,

Administrative Judge.

Dr. Oscar H. Paris,

Administrative Judge.

[FR Doc. 86–8489 Filed 4–15–86; 8:45 am]

BILLING CODE 7590–01–M

[2] In *Metropolitan Edison Company, et al.* (Three Mile Island Nuclear Station, Unit No. 1), Docket No. 50–289–OLA–1, the Licensee had applied for an amendment to the steam generator tube technical specifications which would maintain the 40% throughwall limit on the secondary side of tubes but would replace the 40% limit on the primary side of tubes with a sliding scale which goes from 40% to 70% throughwall depending on the size of the defect. TMIA was the sole petitioner for leave to intervene. In a Notice of Hearing, 51 Federal Register 6054 (February 19, 1986), this Board provisionally granted TMIA's petition for leave to intervene and provisionally ordered a hearing. Said Notice of Hearing was provisional in nature because, *inter alia*, the Board had not determined at that time whether TMIA had submitted at least one admissible contention.

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

Meeting Change

Notice is hereby given of a change in the time and place of the meeting of the Subcommittee on Hospital Productivity and Cost-Effectiveness. The meeting will convene on May 12, 1986 at 10 o'clock a.m. in the Grand Ballroom, Salon C, of the Twin Bridges Marriott Hotel in Washington, D.C. The meeting will be open to the public. The Subcommittee also welcomes written comments concerning the prospective payment system and Propac's future activities. Comments may be sent to Ms. Lisa Potetz, 300 7th Street, SW., Suite 301B, Washington, DC 20024.

Donald A. Young,

Executive Director.

[FR Doc. 86–8522 Filed 4–15–86; 8:45 am]

BILLING CODE 6820–BW–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 22–14774]

Application and Opportunity for Hearing; Chrysler Financial Corp.

April 9, 1986.

Notice is hereby given that Chrysler Financial Corporation (the "Company") has filed an application pursuant to clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Commission that the trusteeship of Bankers Trust Company ("Bankers") under an indenture dated as of August 1, 1984 and supplemental indenture thereto (the "1984 Indenture") between the Company and Bankers which was heretofore qualified under the Act, and the trusteeship by Bankers under the indenture date as of January 29, 1986 (the "New Indenture"), between Bankers, as trustee, and the Company, as issuer, which has not been qualified under the Act, are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Bankers from acting as trustee under the 1984 Indenture or under the New Indenture.

Section 310(b) of the Act, which is included in section 608 of the 1984 Indenture, provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall within ninety days after ascertaining that it has such conflicting interest either eliminate such conflicting interest or resign. Subsection: (1) Of this section of the Act provides, with certain exceptions stated therein, that an indenture trustee shall be deemed to have a conflicting interest if a trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of the Company are outstanding.

The present application, filed pursuant to clause (ii) of section 310(b)(1) of the Act (as set forth in section 608 of the 1984 Indenture), seeks to exclude the New Indenture from the operation of section 310(b)(1) of the Act.

The effect of the proviso contained in clause (ii) of section 310(b)(1) of the Act on the matter of the present application is such that the New Indenture may be excluded from the operation of section 310(b)(1) of the Act (as set forth in section 608 of the 1984 Indenture) if the company shall have sustained the burden of proving by this application to the Commission that the trusteeship of Bankers under the 1984 Indenture and under the New Indenture does not make it necessary in the public interest or for the protection of investors to disqualify Bankers from acting as trustee under one of these identures.

The Company alleges that:

(1) As of January 29, 1986, the Company had outstanding $200,000,000 of its Subordinated Exchangeable Variable Rate Notes due 1994 (the "1994 Notes") and $100,000,000 of its 12–1/8% Subordinated Notes Due February 15, 1990 (the "1990 Notes") under the 1984 Indenture. The 1994 Notes and the 1990 Notes were registered under the Securities Act and the 1984 Indenture was qualified under the Act.

(2) On January 29, 1986 the Company issued, and there are presently outstanding, Canadian $75,000,000 aggregate principal amount of its 11% Subordinated Notes Due 1993 (the "1993 Bonds"), under the New Indenture. The 1993 Bonds are unsecured obligations of the Company and are subordinate and junior in right of payment to the Company's obligations to holders of senior debt.

(3) In addition, the Company issued, and there are presently outstanding, Australian $55,000,000 aggregate principal amount of its 13–5/8% Subordinated Bonds, Due 1992 under an Indenture dates as of July 1, 1985 (the "Australian Indenture"), ECU 75,000,000 aggregate principal amount of its 9% Subordinated Bonds Due 1992 under an indenture dated as of August 15, 1985 (the "ECU Indenture") and New Zealand $65,000,000 aggregate principal amount of its 17% Subordinated Note Due August 22, 1985 and August 28, 1985 (the

New Zealand Indenture), respectively. The Australian Indenture, the ECU Indenture and the New Zealand Indenture are hereinafter collectively called the "Eurodollar Indentures". The securities issued under the Eurodollar Indentures are hereinafter collectively called the "Bonds". The Bonds are unsecured obligations of the Company and are subordinate and junior in right of payment to the Company's obligations to holders of senior debt. On October 1, 1985 the Commission declared by Order that the trusteeships of Bankers under the 1984 Indenture and the Eurodollar Indentures did not involve a material conflict so as to make it necessary for the protection of investors to disqualify Bankers from acting as trustee under either of such indentures.

(4) The Company's obligations under the 1984 Indenture and the New Indenture are wholly unsecured and all such obligations rank *pari passu*.

(5) The Company is not in default under the 1984 Indenture, the Eurodollar Indentures, the New Indenture, the 1994 Notes, the 1990 Notes, the Bonds or the 1993 Bonds.

(6) Such differences as exist between the 1984 Indenture and the New Indenture are not so likely to involve Bankers in a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Bankers from acting as trustee under one of such indentures.

The Company has waived notice of hearing, hearing and any and all rights to specify procedures under the Rules of Practice of the Securities and Exchange Comission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, File No. 22–14774, which is on file in the offices of the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549.

Notice is further given that an order granting the application may be issued by the Commission at any time on or after May 6, 1986, unless prior thereto a hearing upon the application is ordered by the Commission. Any interested person may, not later than May 5, 1986 at 5:30 p.m., Eastern Time, in writing, request that a hearing be held on this matter or submit to the Commission his views of any additional facts bearing upon this application. Any such communication or request should be addresed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[Fr Doc. 86–8517 Filed 4–15–86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC–15046; 812–6336]

MacKay-Shields MainStay Series Fund, et al.; Application To Permit Monthly Distribution of Long-Term Capital Gains and Certain Affiliated Transactions Involving Investment Company Shares

April 18, 1986.

Notice is hereby given that MacKay-Shields MainStay Series Fund ("Series Fund"), MacKay-Shields MainStay Tax Free Bond Fund ("Bond Fund", collectively with the Series Fund, the "Funds") and New York Life Securities Corp. ("NYLSEC", collectively with the Funds, "Applicants"), 51 Madison Avenue, New York, NY 10010, filed an application on April 2, 1986, and an amendment thereto on April 8, 1986, for an order: (1) Pursuant to sections 6(c) and 17(b) of the Investment Company Act of 1940 ("Act") granting exemptions from certain provisions of the Act, and (2) pursuant to section 17(d) of the Act and rule 17d–1 thereunder, permitting a joint arrangement. Applicants also request that such order extend to subsequently created series of the Funds and future investment companies which issue and sell shares on substantially the same basis as the Funds, and in connection therewith, Applicants undertake that such prospective relief will be availed of only upon the terms and conditions set forth in the application. 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 the rules thereunder for the text of the applicable provisions.

According to the application, the Series Fund and the Bond Fund are registered under the Act as open-end, diversified, management investment companies. Applicants state that the Funds' principal underwriter and distributor is NYLSEC and that their investment adviser is MacKay-Shields Financial Corporation ("Adviser"). Applicants state further that the Series Fund and the Bond Fund are series funds currently consisting of six and one series, respectively.

Pursuant to section 19(b) of the Act and Rule 19b–1 thereunder, Applicants may distribute long-term capital gains only once per fiscal year. Applicants state, however, that the Funds may be required to recognize long-term capital gains or losses in connection with transactions in options, futures and options on futures because gains and losses from such transactions may be arbitrarily characterized as long-term under the Internal Revenue Code ("Code"). Applicants represent that under the Code, gains or losses incurred on such transactions are treated as 60% long-term and 40% short-term for federal income tax purposes ("60/40 treatment"). Applicants note that the Code permits taxpayers to elect out of 60/40 treatment but that they have not yet decided whether to do so. Applicants state that 60/40 treatment may be more favorable to their tax-paying shareholders than treating 100% of gains and losses from these transactions as short-term.

Applicants assert that if the Funds are not permitted to distribute long-term gains from options and futures transactions more often than once per fiscal year, a portion of gains and losses from these transactions would be reported and distributed periodically to shareholders while the remainder of such gains and losses would be reported and distributed annually. Applicants believe that this practice would give shareholders a distorted and confusing picture of the return earned on the Funds' investments because the source and character of the 60% of gains and losses treated as long-term would be no different than the source and character of the 40% of gains and losses treated as short-term.

Applicants state that the concerns which led to the adoption of section 19(b) of the Act and Rule 19b–1 thereunder are inapplicable to Applicants' proposed procedure for distributing long-term capital gains from options and future transactions more often than annually. In response to the Commission's concern that shareholders would be misled by mixing dividends and short-term capital gains distributions with long-term capital gains distributions, Applicants assert that such mixing has become unavoidable due to the Code's arbitrary characterization of gains and losses from options and futures transactions under 60/40 treatment. Applicants proposes to minimize potential confusion by providing statements to shareholders that itemize the amount

and percentage of dividends and distributions attributable to each type of transaction. Applicants also state that there will no improper pressure to realize long-term capital gains on options and futures transactions because such gains are artifically created by the 60/40 treatment, rather than by investment decisions. Applicants represent that all other long-term capital gains will be distributed in accordance with section 19(b) of the Act and Rule 19b–1 thereunder.

Applicants also request an order pursuant to sections 6(c), 17(b) and 17(d) of the Act, and Rule 17d–1 thereunder, to permit the MacKay-Shields Money Market Fund ("Money Market Fund"), a series of the Series Fund, to sell to and redeem its shares from other series of the Funds and to permit NYLSEC, as principal underwriter, to effect purchases and sales of shares of the Money Market Fund by other series of the Funds. Because the Money Market Fund may be deemed an affiliated person of each Funds' series, the issuance by the Money Market Fund of its shares to series of the other Funds may be deemed a sale to a registered investment company by an affiliated person of such company in violation of section 17(a)(1) of the Act. Conversely, the redemption by Money Market Fund of its share may be deemed a purchase by Money Market Fund, from an affiliated person of a registered investment company, in violation of section 17(a)(2). Moreover, pursuant to section 12(d)(1) of the Act, the sale to or redemption from other series of the Funds may be unlawful if certain percentage limitations are exceeded, and, section 12(d)(1)(B) specifically prohibits NYLSEC, as principal underwriter, from effecting such transactions. Finally, pursuant to section 17(d) of the Act and Rule 17d–1 thereunder, the contemplated transactions may be deemed a joint arrangement requiring prior Commission approval under Rule 17d–1.

Applicants represent that the Money Market Fund invests solely in U.S. dollar denominated securities determined to be of high quality with minimal credit risk and that it is designed as a cash reserve investment vehicle. Applicants further represent that the other series of the Funds may have cash reserves emanating from a variety of sources, including dividends or interest received on portfolio securities, unsettled or "failed" securities transactions, reserves held for investment strategy purposes, cash arising from the liquidation of investment securities to meet anticipated redemptions and cash dividend payments, and new monies received from investors.

Applicants state that the Adviser will be in the best position to know at any given moment the cash reserves held by the Funds, to know the purpose and need for these reserves, and to make and implement decisions with respect to the investment of these reserves. Applicants further state that the Adviser could immediately invest the Funds' uninvested monies into the Money Market Fund while considering the purchase of appropriate portfolio securities for the Funds. Applicants asert that if each Fund were required to invest cash balances directly in money market instruments rather than purchasing shares of the Money Market Fund, each Fund is likely to be adversely affected by increased transaction costs and reduced and lost investment opportunities.

Applicants contend that none of the abuses that section 12(d)(1) was designed to prevent arise from their proposal. Applicants represent that no layering of sales charges, advisory fees or administrative expenses will result, and that the Adviser will receive no additional advisory fee based on the proposed investments in the Money Market Fund because such investments will be removed form the base upon which the advisory fee for the Money Market Fund is calculated. Applicants further represent the NYLSEC will receive no additional administrative fee based on the proposed investments in the Money Market Fund because such investments will be removed from the base upon which the administrative fee for the Money Market Fund is calculated. Applicants also note that the Money Market Fund does not impose a fee pursuant to a Rule 12b–1 plan.

According to the application, the Adviser is aware of the short-term (frequently overnight) nature of the Funds' cash reserves and has no reason or incentive to manage the Money Market Fund in a manner contrary to the needs of the other series of the Funds. Applicants state that the Adviser will not be susceptible to undue influence from threatened redemptions in its management of the Money Market Fund because it derives its compensation from assets managed in all of the Funds, whether the assets are in the Money Market Fund or another series of the Funds. Applicants further state that control through voting will not lead to abuse, because the Funds will vote their Money Market Fund shares in the same proportion as the vote of all other Money Market Fund shareholders.

Applicants state that because the Money Fund will value its portfolio pursuant to the amortized cost method, its shares will be bought by and sold to the Funds' series and other shareholders at their fair market value and on the same basis, and therefore, no overreaching will occur. The cash reserves of each series of the Funds will be invested and recorded on an individual basis and there will be no pooled custodial account. Applicants assert that because the Funds' series retain the freedom to invest their cash reserves directly in money market instruments, and would do so to enhance their total return and to thereby obtain a favorable evaluation, there exists an independent check upon the investment of the Funds' assets in an investment which produces a non-competitive rate of return. Conversely, the Money Market Fund reserves the right to discontinue selling shares to the other series of the Funds if such sales adversely affect the portfolio management and operations of the Money Market Fund.

Applicants also contend that their proposal provides no basis on which to predict that any series of a Fund would receive greater benefits than another. Applicants represent that the Funds' series will participate in the proposal on the same basis, and thus, that none will participate in a transaction on a basis "different or less advantageous" than that of other participants. Applicants note that although the Adviser may experience nominal cost savings and administrative convenience, the most significant benefit is the elimination of the need to invest relatively small sums of money in cash instruments. Finally, Applicants contend that no "conflicts of interest" exists between or among the series of the Funds, and that no inherent bias exists to favor one series over another.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than April 29, 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 Applicant(s) 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. 86-8454 Filed 4-15-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-24063]

Filings Under the Public Utility Holding Company Act of 1935 ("Act"); Mississippi Power Co. et al.

April 10, 1986.

Notice is hereby given that the following filing(s) has been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) thereto are are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by May 5, 1986, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the addresses specified below. Proof of service (by affidavit, or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Mississippi Power Company (70-7204)

Mississippi Power Company ("Mississippi"), 2992 West Beach Boulevard, Gulfport, Mississippi 39501, an electric utility subsidiary of The Southern Company, a registered holding company, has filed a declaration with this Commission subject to sections 6(a), 7, and 12(c) of the Act and Rules 42 and 50 thereunder.

Mississippi proposes, on or prior to March 31, 1988, to issue and sell up to $75 million aggregate principal amount of first mortgage bonds ("Bonds") by competitive bidding, in one or more series, having a maturity of not less than five nor more than 30 years. Mississippi also proposes to issue and sell up to $10,000,000 of new preferred stock, by competitive bidding, in one or more series from time to time not later than March 31, 1988. Mississippi may determine to use such proceeds to redeem outstanding first mortgage bonds and/or preferred stock.

Alabama Power Company (70-7205)

Alabama Power Company ("Alabama") 600 North 18th Street, Birmingham, Alabama 35291, an electric utility subsidiary of The Southern Company, a registered holding company, has filed an application-declaration with the Commission pursuant to Sections 6(b), 9(a), 10 and 12(c) of the Act and Rules 42 and 50 thereunder.

Alabama proposes the financing and refinancing of certain pollution control facilities at one or more of its electric generating plants located in or near various municipalities in the state of Alabama in an amount up to $125,000,000, pursuant to installment sales agreements.

In addition, Alabama also proposes to issue and sell its first mortgage bonds by competitive bidding, with a term of from five to thirty years in one or more series from time to time not later than March 31, 1986 in the aggregate principal amount of up to $650,000,000. Alabama also proposes to issue and sell up to $110,000,000 of Class A Preferred Stock, $1 par value, with a state capital of up to $100 per share by competitive bidding, in one or more series from time to time not later than March 31, 1988. Alabama may use the proceeds to redeem outstanding first mortgage bonds and/or preferred stock.

West Texas Utilities (70-7244)

West Texas Utilities Company ("WTU"), 301 Cypress, Abilene, Texas 79601, an electric utility subsidiary of Central and South West Corporation, a registered holding company, has filed an application-declaration with this Commission pursuant to sections 6(b), 7, 9(a), 10 and 12(c) of the Act and Rules 42 and 50 thereunder.

WTU proposes to repurchase for cash all of the outstanding shares of its 10.16% Preferred Stock ("Preferred Stock") through a tender offer to the holders thereof. In order to fund the repurchase of the Preferred Stock, and depending upon the number of shares of Preferred Stock tendered and the price paid for the shares of Preferred Stock tendered, WTU proposes to issue through December 31, 1986 by competitive bidding up to 300,000 shares of its preferred stock, par value $100 per share. The net proceeds not used for the repurchase of the Preferred Stock will be used for the payment of outstanding short-term borrowings incurred and expected to be incurred to finance construction expenditures and other corporate purposes.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-8516 Filed 4-15-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15048; File No. 812-6278]

Application and Opportunity for a Hearing; Provident Mutual Life Insurance Company of Philadelphia et al.

April 10, 1986.

Notice is hereby given that Provident Mutual Life Insurance Company of Philadelphia ("PMLIC"); Provident Mutual Variable Growth Separate Account ("Separate Account I"), Provident Mutual Variable Money Market Separate Account ("Separate Account II"), Provident Mutual Variable Bond Separate Account ("Separate Account III"), Provident Variable Managed Separate Account ("Separate Account IV"), Provident Mutual Variable Zero Coupon Bond Separate Account ("Separate Account V"), (collectively "The PMLIC Separate Accounts"), which are registered as a unit investment trust under the Investment Company Act of 1940 ("Act"); and PML Securities Company, as principal underwriter for the PMLC contracts described below (collectively, "Applicants"), 1600 Market Street, Philadelphia, Pennsylvania 19103, filed an application on January 9, 1986, and an amendent thereto on March 18, 1986 for an order pursuant to section 6(c) of the Act exempting Applicants from the provisions of sections 2(a)(32), 2(a)(35), 12(d)(1), 22(c), 26(a), 27(c)(1), 27(c)(2), 27(d) and 27(f) of the Act and certain provisons of Rules 6e-2 and 22c-1 thereunder, to the extent necessary to permit the investment by the PMLIC Separate Accounts of premiums from certain single premium and modified premium variable life insurance contracts issued by PMLIC, and from substantially similar contracts to be issued by PMLIC in the future, in an underlying unit investment trust and to permit the issuance of a Single Premium Variable Life Insurance Contract (the "Single Premium Contract") by PMLC

containing a contingent deferred sales load. Applicants also are requesting such exemptions to the extent necessary to permit a charge against the assets of the PMLIC Separate Accounts for the cost of insurance protection and to permit the PMLIC Separate Accounts to hold investment securities in book-entry from without acting as a formal trustee. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below, and are referred to the Act and rules thereunder for statement of the relevant provisions.

Sections 12(d)(1), 26(a)(2) and 27(c)(2)

Applicants state that under both the Single Premium and Modified Premium Contracts, PMLIC contractowners may allocate net premiums to Separate Account V, which will invest at net asset value in units issued by The Provident Mutual Series of Stripped ("Zero") U.S. Treasury Securities Fund ("Zero Coupon Trust"). Separate Account V has three subaccounts that in turn each purchase units of one of three corresponding trusts ("Trust") of the Zero Coupon Trust. Each Trust will be comprised primarily of debt obligations of the United States Treasury with a single maturity date that have been stripped of their unmatured interest coupons, interest coupons that have been stripped from these debt obligations, and receipts and certificates for such stripped obligations and stripped coupons ("Zero Coupon Bonds"). The Zero Coupon Trust was established by its sponsor, Merrill Lynch, Pierce Fenner & Smith, Inc., ("Merrill Lynch") and registered under the Act as a unit investment trust.

Applicants explain that by purchasing Zero Coupon Bonds a Trust may "lock-in" an approximate yield. Zero Coupon Bonds do not make periodic payments of interest but rather are purchased at a deep discount. Thus, provided that the Zero Coupon Bonds are held to maturity and expenses of the Trust occur as estimated, an estimated yield for the Trust may be calculated based upon the difference between the purchase price of the bonds and their face value and the time remaining until maturity. Applicants maintain that this arrangement will provide contractowners an oppportunity to allocate a portion or all of the account or cash value of their Contract to an investment vehicle that will have a relatively fixed yield for a specified period of time. Applicants assert that this arrangement does not run afoul of the limitations imposed on one registered investment company acquiring the securities of another investment company acquiring the securities of another investment company because there is no layering of control or duplication of charges in the proposed structure. The two-tier structure, Applicants state, provides a benefit to the investors in Separate Account V by allowing greater flexibility in investment opportunities, without creating the abuses targetted by section 12 of the Act. Moreover Applicants assert that this proposed structure does not raise legal or policy issues materially different from the common separate account structure in which a unit investment trust invests solely in shares of an underlying open-end management investment company, which Applicants also assert is permitted by section 12(d)(1)(E) of the Act. Accordingly, Applicants request exemption from the provisions of section 12(d)(1) to the extent necessary to permit the investment in the Zero Coupon Trust.

Applicants explain that Separate Account V will purchase units of each Trust based upon net transactions by contractowners. Applicants state that the units of each Trust will be sold, both in the primary and secondary market for placement in Separate Account V at a total offering price which includes a "transaction charge." At the time of purchase, Separate Account V will pay that portion of the total price of the units equal to their "net asset value." PMLIC will pay out of its general assets, directly to Merrill Lynch, the "transaction charge" (limited by agreement to an amount not to exceed a specified percentage of the offering price of the Trust units.) Thereafter PMLIC will seek to be reimbursed for the amounts advanced by assessing a charge on the assets of Separate Account V. Applicants represent that this charge is designed to reflect actual costs and will initially be set at an effective annual rate of .25% of average daily net assets. Applicants further represent that if experience proves different than anticipated, the amount may vary to reflect actual costs but in no event will exceed .5% of the daily average net assets of each subaccount. Applicants also represent that the charge will remain cost-based and contains no anticipated element of profit for PMLIC. Actual costs include an element of interest compensating PMLIC for the delay in recouping amounts advanced. Applicants state that the rate of interest will be based on the current yield for U.S. Treasury bonds having a maturity equal to the weighted average maturity of the bonds held in the Zero Coupon Trust.

In this manner, Applicants believe that PMLIC will compensate the sponsor of the Trust directly through the payment of the transaction charge and will recover that amount over a period of years from the contractowners as an asset charge rather than as an immediate expense thereby avoiding inequitable results to contractowners. According to the Applicants, if the acquisition cost of trust units is paid directly by the subaccounts, contractowners investing in the sub-account during a period when the subaccount is making large net purchases of the Trust would subsidize the purchases by contractowners during a period when subaccount is making either small purchases or net redemptions. Moreover, the yield to contractowners would fluctuate as this acquisition cost varied. Consequently, Applicants conclude because this administrative charge is being instituted to cover the expense of obtaining the investment securities for the benefit of many contractowners over time, they should distribute the cost to contractowners over the life of the Trust.

Applicants claim that the compensation received by Merrill Lynch is necessary to induce Merrill Lynch to create the Zero Coupon Trust, to implement the operational procedures for this Trust and to maintain a secondary market in units of the Zero Coupon Trust, and, thus, is a necessary acquisition cost. In this connection Applicants note that the secondary market is necessary in order to maintain a stabilized rate of return on the assets of the subaccounts of Separate Account V. Applicants also represent that this compensation will reimburse Merrill Lynch for operational and overhead expenses, and legal, accounting and evaluator's fees, and that none of this compensation is designed as reimbursement of distribution expenses or compensation for sales efforts. Applicants also believe that the proposed asset charge is a reasonable and proper charge designed to cover expenses that are properly viewed as a cost of operating and administering Separate Account V. Moreover, Applicants point out that Merrill Lynch is neither an affiliated person nor a principal underwriter for Separate Account V; therefore negotiations between Merrill Lynch and the Applicants in setting the amount of this compensation were at arm's length and must be presumed to have yielded fair values as well as being competitive with

fees which might have been charged under similar arrangements with other parties.

Applicants assert that it is appropriate to recover costs through deduction of the proposed asset charge. PMLIC expects to advance large amounts during the early years in connection with the purchase of units of interest in the Zero Coupon Trust, but considerably less in later years because purchases of units (and transaction charges) will diminish since later purchases by contractowners will be offet by redemptions. Because the asset charge will be designed to recover these charges over the life of each of the Trusts (thus spreading the costs among contractowners purchasing early in the life of each Trust and those purchasing later), Applicants represent that a significant portion of the cost to PMLIC is the loss of interest on monies advanced caused by the delay in recovery. Given that PMLIC anticipates recovery of the transaction costs over the life of each Trust, Applicants believe that a rate of interest associated with the weighted average maturity of the bonds held by the Trust is the fair and reasonable measure of the time value of the monies advanced by PMLIC. Applicants represent that as to each subaccount of Separate Account V, the rate of interest will be applied to the amounts by which the transaction charges for the subaccount for each quarter exceed the asset charges collected as reimbursement for such charges, plus any amounts (including interest) that were unrecovered at the end of the prior quarter. Applicants further represent that PMLIC will monitor the cumulative amounts collected and will not charge any such subaccount more than the actual costs attributed to it.

Accordingly, Applicants request exemption from the provisions of sections 26(a)(2) and 27(c)(2) to the extent necessary to permit the asset charge as described above.

Sections 2(a)(32), 2(a)(35), 22(c), 26(a)(2)(C), 27(c)(1), 27(c)(2), 27(d), 27(f) and Rules 6e-2(b)(1), 6e-2(b)(12), 6e-2(b)(13)(iii), 6e-2(b)(13)(iv), 6e-2(c)(4) and 22c-1

Applicants request exemption from sections 2(a)(32), 2(a)(35), 22(c), 26(a)(2)(C), 27(c)(1), 27(c)(2), 27(d), and 27(f) of the Act and Rules 6e-2(b)(1), 6e-2(b)(12), 6e-2(b)(13)(iii), 6e-2(b)(13)(iv), 6e-2(c)(4) and 22c-1 in order to impose a "contingent deferred sales load" with respect to the Single Premium Contract ("Contract"). Applicants state, under the Contract, if the owner surrenders the Contract before its ninth anniversary, a surrender charge is deducted from the Account Value in determining the net cash value payable. The net cash value payable upon surrender also reflects a deduction of the cost of insurance since the previous anniversary and of any outstanding loans and loan interest. Applicants assert that this surrender charge is "contingent deferred sales load" designed to compensate PMLIC for expenses incurred in connection with the distribution of the Contract. This contingent deferred sales load results in a charge of 9% of the account value in year one, 8% in year two, declining by 1% per year until it reaches 0% in the tenth year. Applicants represent that the charge is also limited so that it will never exceed 9% of the single premium. The contingent deferred sales load, however, will not be imposed in connection with a cancellation of the Contract pursuant to the "free-look" privilege, a transfer of amounts provided for investment under the Contract between Accounts or payment of the death benefit.

Applicants submit that imposition of the sales load charge in the form of a contingent deferred charge is much more favorable to the contractowner than a charge that is deducted from premiums. First, under a deferred sales load the amount of investors' money available for investment is not reduced as in the case of a front-end sales load. Second, Applicants argue that the total amount of sales load charged to any contractowner under Applicants' proposed sales load structure is no higher than that permitted by Rule 6e-2(b)(13) and, for contractowners who do not surrender during the early policy years, the charge is lower than it would be if the sales load charges were taken as front-end deductions from premium payments. Contractowners who surrender prior to the ninth contract anniversary pay no more dollars in sales load than they would if the load were deducted from premiums. Applicants state that all contractowners, including those who surrender during the first nine contract years, will benefit because the cost of insurance charges deducted from the amounts credited to the PMLIC Separate Accounts will be lower than they would have been had all sales load charges been deducted from premium payments, because a deferred sales load results in a decrease in the net amount at risk and therefore lower cost of insurance charges.

Applicants state that the "contingent deferred sales load" will be imposed, if at all, at the time a contractowner surrenders or converts his or her Contract. They assert that the mere fact that the timing of Applicants' contingent deferred sales load may not fall within the literal pattern of section 2(a)(35) and Rule 6e-2(c)(4) does not change its essential nature. The contingent deferred sales load will cover expenses associated with the offer and sale of the Contract, including commissions paid to sales personnel, promotional expenses and sales administration expenses, just as other forms of sales loads do.

On the basis of the foregoing, Applicants believe that a contingent deferred sales load is consistent with the definition of "sales load" set out in Rule 6e-2(c)(4). However, in order to avoid any question concerning full compliance with the Act and rules thereunder, Applicants request exemption from section 2(a)(35) and Rule 6e-2, paragraphs (b)(1) and (c)(4), to the extent necessary, to be deemed to contemplate the "contingent deferred sales load" under Applicants' Contract.

Applicants state that, although sections 2(a)(32) and 27(c)(1) do not specifically contemplate the imposition of a sales charge at the time of redemption, such a charge is not necessarily inconsistent with the definition of redeemable security. Applicants submit that Rule 6e-2, paragraphs (b)(12) and (13)(iv) adapt the Act's concept of redeemable security in recognition of the insurance nature of variable life insurance. On the basis of the foregoing, Applicants believe that a contract providing for a contingent deferred sales load is consistent with the definition of redeemable security within the meaning of sections 2(a)(32) and 27(c)(1), as adapted for variable life insurance by Rule 6e-2, paragraphs (b)(12) and (13)(iv). However, in order to avoid any question concerning full compliance with the Act and rules thereunder, Applicants request exemption from such sections and rules, to the extent deemed necessary, to permit the "contingent deferred sales load" under the Contract.

Applicants also request exemption from section 22(c) and from Rules 6e-2(b)(12) and 22c-1 to the extent deemed necessary to permit the contingent deferred sales load under the Contract. Applicants argue that Rule 6e-2(b)(12) was intended to afford exemptive relief from 22c-1 with respect to redemption procedures in the context of variable life insurance, including surrender and exchange procedures, but that Rule 6e-2(b)(12) could be read as not recognizing

such a deferred sales load. Applicants maintain that Rule 22c–1 was intended to minimize dilution of interests and unfair speculative trading and that their contingent deferred sales load will not have a dilutive effect.

Sections 26(a)(2) and 27(c)(2) and Rule 6e–2

Applicants intend to impose with respect to the Single Premium Contract a charge for the cost of insurance protection, which is reflected in the cash value daily and in the amount provided for investment (the Account Value) annually. This charge compensates PMLIC for the anticipated cost of paying death benefits to the beneficiaries of those persons who die during that period. The amount of the charge is computed based upon the amount of insurance provided during the year, the Commissioners' 1958 Standard Ordinary Mortality Table, and the insured's attained age and sex.

Applicants assert that the plain language of Rule 6e–2(b)(13)(iii) provides a complete exemption for the deduction of insurance charges from sections 26(a) and 27(c)(2) provided, inter alia, that the life insurer limits these insurance charges to amounts that are reasonable in relation to services rendered and expenses incurred. However, to avoid any question concerning full compliance with the Act and the rules thereunder, Applicants, while not conceding the applicability of sections 26 or 27 to the insurance deductions under the Contract, request an exemption from sections 26(a)(2) and 27(c)(2), and Rule 6e–2(b)(13)(iii) to the extent necessary to permit the deduction of these insurance charges.

Sections 26(a)(2) and 27(c)(2) and Rule 6e–2(b)(13)(iii)

Finally, Applicants request an exemption from section 26(a) and 27(c)(2) of the Act and Rule 6e–2(b)(13)(iii) to the extent necessary to permit the PMLIC Separate Account to hold shares of the Market Street Fund, Inc., the Zero Coupon Trust and shares of any other investment vehicle in which the PMLIC Separate Accounts may invest under an open account arrangement without the use of stock certificates and without PMLIC acting as trustee pursuant to a trust indenture. The Commission has proposed to amend rule 6e–2(b)(13)(iii) [1] to permit the relief requested, subject to certain conditions. Applicants represent that they will meet the conditions of the proposed amendments, i.e., that the life insurer complies with all other applicable provisions of section 26 as if it were a trustee, depositor or custodian for the separate account; files with the insurance regulatory authority of a state or territory of the United States or of the District of Columbia an annual statement of its financial condition in the form prescribed by the National Association of Insurance Commissioners, which most recent statement indicates that it has a combined capital and surplus, if a stock company, of an unassigned surplus, if a mutual company, of not less than $1,000,000; and is examined from time to time by the insurance regulatory authority of such state, territory or District of Columbia as to its financial condition and other affairs and is subject to supervision and inspection with respect to its separate account operations. Applicants further submit that since the PMLIC Separate Accounts will not have physical possession of stock certificates, there is no need for a custodian.

Section 6(c) of the Act, in pertinent part, provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants submit, for all of the reasons stated herein, that their exemptive requests meet the standards set out in section 6(c) and should therefore, be granted.

Notice Is Further Given that any interested person wishing to request a hearing on the application may, not later than May 6, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his or her interest, the reasons for his or her 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 shall 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. 86–8514 Filed 4–15–86; 8:45 am]

BILLING CODE 8010–01–M

[1] *See* Investment Company Act Rel. No. 14421, March 15, 1985.

[Release No. 34–23117; Filed No. SR–CBOE–85–40]

Self-Regulatory Organizations; Amendment No. 1 to Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Position Limits (Treasury Bonds and Notes)

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 4, 1986, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission Amendment No. 1 to a proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of the Proposed Rule Change

The proposed rule change would allow for an increase position limits on options on Treasury Bonds and Notes under Exchange Rule 21.3. The current rule allows for a position limit of options covering $100 million principal amount of underlying treasury securities where the initial or reopened public issuance is $1 billion to less than $2 billion, and $4 billion, and $400 million principal amount of underlying securities where the issuance is $4 billion or more. The original proposed rule change would have increased these limits to $600 million in principal amount where the issuance is between $6 billion and $8 billion, $800 million in principal amount when the issuance is between $8 billion and $10 billion, and $1 billion in principal amount where the issuance is $10 billion or more. Notice of the original proposal was published in Securities Exchange Act Release No. 22456 (September 25, 1985), 50 FR 40093 (October 1, 1985).

The amended rule change would fix the position limit at no greater than 10 percent of the value of the intial or reopened public issuance, rounded to the next lower $100 million interval. The amended proposed rule change would also take into account the separate trading of registered interest and principal of securities (referred to as "strips"). New subpart (b) of Rule 21.3

will provide for the maintenance of the initially established position limit unless, based upon a monthly government report, the existing position limit exceeds 12 percent of the non-stripped underlying securities. In that event, the position limit would be adjusted to no greater than 12 percent of the non-stripped underlying securities. The revisions to the position limits would become effective the Monday following notice. Unless exempted under Rule 4.11, persons whose positions exceed the revised position limits may only engage in liquidating transactions until their positions are lower than the revised position limits.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The Text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The statement of purpose and statutory basis for the proposed rule change were set forth in the original proposed rule change filing with the Securities and Exchange Commission. The amended proposed rule change is consistent therewith.

This proposal would allow a slight increase in the initial establishment of position limits, in keeping with a position limit of not in excess of 10% of the underlying issue. The amended rule change simplifies the establishment of Government security position limits, while giving the Exchange somewhat greater flexibility in keeping the position limit in the range of 10% of the underlying securities.

In addition, the proposed rule change has a new subpart, (b), to provide for the maintenance of position limits. This subpart addresses the issue of stripping of Treasury securities. Particularly in the area of Treasury bonds, there has been stripping during the past several years. Although the stripping has involved varying percentages of Treasury bonds issues, the proposed amended rule change would provide for uniform treatment of stripping. If the initially established position limit should come to exceed twelve percent of the non-stripped underlying securities, the position limit would be readjusted so that it does not exceed twelve percent of the non-stripped underlying securities.

Because the bulk of stripping activity is now reported in a United States Government Report entitled Monthly Statement of the Public Debt of the United States Government, the proposed rule change accepts this report as definitive as to the amount of stripping. Because the United States Government may alter its reporting or some other means for obtaining the information may become necessary or appropriate, the rule provides for the Exchange to select an alternative report or other compilation.

Finally, absent an exemption granted under Exchange Rule 4.11, market participants whose positions exceed a reestablished position limit will only be able to engage in liquidating transactions until they are below the new position limit. The rule does not require market participants to engage in forced liquidation trades to reduce positions immediately below the newly established position limit. Rather, they will be able to hold those positions until expiration if they choose to do so.

The statement of statutory purpose for this proposed rule change remains as stated in the initial filing.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that this proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, 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. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 7, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 10, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-8515 Filed 4-15-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23105; File No. SR-NASD-86-7]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to the Meaning of an Existing Rule

Pursuant to section 19(b) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 28, 1986 the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed amendment to Schedule C to the Association's By-Laws establishes a clear meaning to an

existing rule by declaring that a refusal to remove restrictions is subject to review by the Board of Governors and the SEC upon application of the member.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and statutory basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries set forth in sections (A), (B), and (C) below of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

The purpose of the proposed amendment to Schedule C is to make it clear that a refusal to remove restrictions imposed at a Premembership Interview is subject to review by the Board of Governors and the SEC upon application of the member filed within ten days of the refusal.

This amendment to Schedule C is consistent with and in furtherance of the provisions of section 15(A)(b)(8) and 15A(h)(2) of the Securities Exchange Act which deal with a fair procedure for the prohibition of limitation of persons by the Association under the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Association does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Securities Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received with respect to the proposed amendment contained in this filing.

III. Date of Effectiveness of Proposed Rule Change and Timing for Commission Action

The proposed rule change is effective on filing pursuant to section 19(b)(3)(A)(i) of the Securities Exchange Act in that it clarifies the meaning of an existing rule.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Copies of the submissions, 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 5th Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 7, 1986.

For the Commission, by the Division of Market Regulation, pursuant to delegated Authority.

Dated: April 8, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-8453 Filed 4-15-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23107; File No. SR-OCC-86-5]

Self-Regulatory Organizations; Options Clearing Corporation; Notice of Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 19, 1986, the Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission a proposed rule change to permit OCC margin credits from equity options or non-equity options ("NEO") to offset, in part, margin requirements for NEO or equity option positions. OCC requested in its filing that the Commission approve the proposal on an accelerated basis at the same time it approves File No. SR-OCC-85-21.[1] The Commission is publishing this notice to solicit comment on the proposed rule change.

I. Description

Under OCC's present OCC margin system for equity options, except for segregated long positions in customer and firm non-lien accounts,[2] Clearing Members receive margin credit for 70% of the long value in a class of equity options to be applied against short positions in the same class. Any excess long value for the class is reduced by 50% and then applied against any OCC margin requirements for other equity options classes.

Similarly, under OCC's proposed NEO margin system, OCC would credit NEO Clearing Members for the long value within a NEO class group,[3] again except for segregated long positions in customer and firm non-lien accounts, which would be assigned a value of zero. Class groups that exhibit close price correlation would be organized into "product groups." Within product groups and class groups that are not part of product groups, a NEO Clearing Member's long positions would be credited against short positions at 100% of their value. Then, if any classes or product groups have excess long value, *i.e.*, excess OCC margin credit, that credit would be reduced by 50% and applied against the Clearing Member's margin requirements for other NEO classes and product groups. Currently, OCC calculates separately Clearing Member's equity options and NEO margin requirements. Thus, net margin credits generated from one system cannot be offset against margin requirements in the other system. The proposed rule change will, for the first time, enable OCC Clearing Members to cross-over OCC margin credits.[4]

II. OCC's Rationale

OCC's states in its filing that, because its equity option and NEO margin systems have been separate and thus Clearing Member margin credits in one system cannot be applied against requirements in the other, OCC often

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[1] On March 31, 1986, OCC amended the proposed rule change to incorporate the proposal into its proposed NEO margin system rather than its current NEO margin system. The Commission expects to consider the proposed NEO margin system shortly. Notice of the proposed NEO margin system was published in the **Federal Register** on February 3, 1986. *See* Securities Exchange Act Release No. 22844 (January 28, 1986), FR 4257 (File No. SR-OCC-85-21).

[2] These accounts are not subject to OCC's lien.

[3] OCC plans to organize all classes of options (*i.e.*, puts and calls, and European and American-style options) on the same underlying asset into a "class group."

[4] OCC states in its filing that it had not permitted this cross-over margin credit because previous equity option and NEO margin systems could not accommodate it. OCC further stated that it has since redesigned those systems in connection with the proposed NEO margin system to accomplish such cross-over margin credits.

holds large sums of unused margin collateral in the form of "excess long value." OCC believes that if OCC could allow Clearing Members to apply that excess long value against OCC margin requirements, Clearing Members' margin collateral requirements would be reduced and Clearing Member capital would be freed up for more economically productive purposes. OCC additionally believes that this situation is further complicated in a rising market because the value of the idle long positions increases and the Member's need to utilize the added value also increases. While one solution could be for market-maker Clearing Members to pledge options through OCC's market-maker pledge program, OCC believes it is appropriate to offer all Clearing Members some financial benefit from maintaining excess long value in their OCC margin accounts.

OCC believes that the proposed rule change is consistent with section 17A of the Act in that the proposal ensures the safeguarding of securities and funds which are in the custody or control of OCC or for which it is responsible. OCC stated that the proposed rule change would not reduce OCC's comprehensive safeguarding scheme against financial exposure from Clearing Member default. Indeed, OCC represents that the long options positions that comprise "excess long value" offer OCC greater protection in a rising market and present minimal increased risk to OCC in a falling market because under the proposal only 50 percent of any excess long value in one system could be applied against margin requirements in the other system. Moreover, because Clearing Members are encouraged to maintain their long positions in an OCC margin account, OCC's ability to meet its financial obligations in the event of Clearing Member insolvency would be enhanced.

III. Request for Comments

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it funds such longer period to be appropriate and publishes it reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will by order approve such proposed change or institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons can submit written comments about the proposal by filing six copies of their comments with the Secretary, securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the filing, 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 the filing also will be available for inspection and copying at OCC's principal office. All comments should refer to the file number in the caption above and should be submitted by May 7, 1986.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: April 8, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-8452 Filed 4-15-86; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Region VI Advisory Council Meeting; Public Meeting; Change of Time and Location

The U.S. Small Business Administration, Region VI, located in the geographical area of New Orleans, has changed the time and location of its public meeting from 1:00 p.m. to 1:30–3:30 p.m. on Thursday, April 24, 1986, at the Louisiana Public Facilities Authority, Four United Plaza Suite 100, 8555 United Plaza Boulevard, Baton Rouge, Louisiana 70809. The meeting will be held to discuss such matters as may be presented by members, staff of the Small Business Administration and others attending.

For further information, write or call Robert J. Crocket, District Director, U.S. Small Business Administration, 1661 Canal Street, Suite 2000, New Orleans, Louisiana 70112–2890, (504) 589–2744.

April 8, 1986.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 86-8471 Filed 4-15-86; 8:45 am]

BILLING CODE 8025-01-M

Region IV Advisory Council Meeting; Public Meeting

The U.S. Small Business Administration, Region IV, located in the geographical area of Jackson, Mississippi, will hold a public meeting from 1:00 p.m. to 5:00 p.m. on Monday, April 28, 1986, in the Jackson District Office of the U.S. Small Business Administration, Jackson, Mississippi, to discuss such matters as may be presented by members, staff of the Small Business Administration and others attending.

For further information, write or call Jack Spradling, District Director, U.S. Small Business Administration, 100 W. Capitol St., Suite 322, Jackson, MS 39269–0396, (601) 965–4363.

April 8, 1986.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 86-8472 Filed 4-15-86; 8:45 am]

BILLING CODE 8025-01-M

Region V Advisory Council Meeting; Public Meeting; Change of Date

The U.S. Small Business Administration, Region V, located in the geographical area of Columbus, Ohio, has changed its public meeting date of Thursday, April 24, 1986 to Monday, April 28, 1986 at 9:00 a.m. at the U.S. Federal Courthouse, located at 85 Marconi Boulevard, Conference Room 446 (Fourth Floor), Columbus, Ohio 43215. The meeting will be held to discuss such matters as may be presented by members, staff of the Small Business Administration and others attending.

For further information, write or call Frank D. Ray, District Director, U.S. Small Business Administration, 85 Marconi Boulevard, Fifth Floor, Columbus, Ohio 43215–(614) 469–7310.

April 8, 1986.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 86-8473 Filed 4-15-86; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements: Submittals to OMB March 21, 1986–April 10, 1986

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements imposed upon the public which were transmitted by the Department of Transportation, during the period March 21, 1986–April 10, 1986, to the Office of

Management and Budget (OMB) for its approval in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT: John Chandler of Annette Wilson, Information Requirements Division, M–34, Office of the Secretary of Transportation, 400 Seventh Street, SW., Washington, DC 20590, telephone (202) 426–1887, or Gary Waxman or Sam Fairchild, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, DC 20503, (202) 395–7340.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for initial, approval, or for renewal under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements. OMB approval of an information collection requirement must be renewed at least once every three years.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the **"FOR FURTHER INFORMATION CONTACT"** paragraph set forth above. Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the **"FOR FURTHER INFORMATION CONTACT"** paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 10 days from the date of publication are needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB from March 21, 1986–April 10, 1986.

DOT No: 2719
OMB No: 2130–0509
By: Federal Railroad Administration
Title: State Participation Program
Form(s): FRA–F–6180–5, 5A, 10, 29, 29A, 33, 58, 58A, 59, 59A, 61, 65, 65A, 67, 68, 69, and FRA–F–71.
Frequency: On occasion, Monthly, Semi-Annually, and Annually
Respondents: States
Need/Use: FRA utilizes this information in administration of the grant program and to monitor State participation in investigative and surveillance activities under the Federal safety laws and regulations.

DOT No: 2724
OMB No: 2120–0056
By: Federal Aviation Administration
Title: Report of Inspection Required by Airworthiness Directives, FAR 39
Form(s): None
Frequency: On occasion
Respondents: Individuals, State and Local Governments, Businesses
Need/Use: An AD is issued when an unsafe condition is detected on a specific aircraft type. If the condition is serious enough, those aircraft owner/operators are required to report specific information to the FAA in an effort to correct the unsafe condition.

DOT No: 2725
OMB No: 2127–0039
By: National Highway Traffic Safety Administration
Title: 49 CFR Part 557, Petitions for Hearings
Form(s): None
Frequency: On occasion
Respondents: Individuals/Businesses
Need/Use: This regulation establishes procedures for any person to petition the agency for a hearing to determine whether a manufacturer has met its obligation to notify vehicle owners of a defect or non-compliance and whether the remedy has been satisfactory.

DOT No: 2726
OMB No: 2120–0021
By: Federal Aviation Administration
Title: Certification: Pilots and Flight Instructors-FAR 61
Form(s): FAA Form 8410–2 and FAA Form 8710–1
Frequency: On occasion
Respondents: Individuals
Need/Use: The FAA Act of 1958 authorizes issuance of airman certificates. 14 CFR Part 61 prescribes requirements for ground instructors. Information collected is used to determine compliance and applicant eligibility.

DOT No: 2727
OMB No: 2133–0501
By: Maritime Administration
Title: Records Retention Schedule
Form(s): None
Frequency: Ongoing Recordkeeping
Respondents: U.S. shipping companies receiving operating differential subsidy (ODS) or construction-differential subsidy (CDS)
Need/Use: Information is needed to permit proper audit of pertinent records at the conclusion of an ODS or CDS contract when the contractor was receiving financial assistance from the government.

DOT No: 2728
OMB No: 2133–0005
By: Maritime Administration
Title: Uniform Financial Reporting Requirements
Form(s): MA–172
Frequency: Semi-annually, Annually
Respondents: Purchasers of ships from MARAD on credit, companies chartering ships from MARAD, and companies having Title XI guarantee obligations.
Need/Use: Information is used to determine audit compliance with legal and contractural requirements; evaluate company, industry segment, and industry financial trends; and determine MARAD risk and related guarantee fees under the Title XI program.

Issued in Washington, DC on April 11, 1986.

John E. Turner,
Director of Information Systems and Telecommunications.

[FR Doc. 86–8436 Filed 4–15–86; 8:45 am]
BILLING CODE 4910–62–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review.

Date: April 10, 1986.

The Department of Treasury has submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0025
Form Number: IRS Form 851
Type of Review: Revision
Title: Affiliations Schedule
OMB Number: 1545–0271

Form Number: IRS Form 500–5–56
Type of Review: Extension
Title: Letter to Follow Up on Undelivered Orders
Clearance Officer: Garrick Shear (202) 566–6150, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW. Washington, D C. 20224
OMB Reviewer: Robert Neal (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Joseph F. Maty,
Departmental Reports, Management Office.
[FR Doc. 86–8497 Filed 4–15–86; 8:45 am]
BILLING CODE 4810–25–M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 73
Wednesday, April 16, 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 DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:40 p.m. on Thursday, April 10, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to:

(A) Adopt a resolution making funds available for the payment of insured deposits made in The Peoples Bank of Mercer, Mercer, Missouri, which was closed by the Commissioner of Finance for the State of Missouri on Thursday, April 10, 1986; and

(B)(1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in The National Bank, Dyersville, Iowa, which was closed by the Senior Deputy Comptroller for Bank Supervision, Office of the Comptroller of the Currency, on Thursday, April 10, 1986; (2) accept the bid for the transaction submitted by American Trust & Savings Bank, Dubuque, Iowa, an insured State member bank; and (3) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman L. William Seidman, seconded by Mr. Dean S. Marriott, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), concurred in by Director C.C. Hope, Jr. (Appointive), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuants to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was recessed at 4:43 p.m., and at 6:50 p.m. that same day the meeting was reconvened, by telephone conference call, at which time the Board of Directors: (1) Received bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in The First National Bank of Ruston, Ruston, Louisiana, which was closed by the Senior Deputy Comptroller for Bank Supervision, Office of the Comptroller of the Currency, on Thursday, April 10, 1986; (2) accepted the bid for the transaction submitted by Security First National Bank, Alexandria, Louisiana; and (3) provided such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In reconvening the meeting, the Board determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Mr. Dean S. Marriott, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: April 14, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-8631 Filed 4-11-86; 3:47 pm]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, April 21, 1986, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 46,480–L
United American Bank in Knoxville, Knoxville, Tennessee
Case No. 46,488–L
The First National Bank of Springfield, Springfield, Colorado

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Reports of the Director, Division of Liquidation:
Memorandum re:
Quarterly Report of Actions Approved Under Delegated Authority as of December 31, 1985.
Memorandum re:
Reports Under Delegated Authority Status of Approved Committee Cases.

Discussion Agenda:

Memorandum and resolution re: Final amendment to the Corporation's rules and regulations in the form of new Part 353, entitled "Reports of Apparent Crimes Affecting Insured Nonmember Banks," which requires insured banks to report, on a prescribed form, criminal violations of the United States Code that involve or affect such banks to the appropriate investigatory and prosecuting authorities, as well as to the Corporation.

The meeting will be held in the Board Room on the sixth floor of the FDIC

Building located at 550–17th Street, NW., Washington DC.

Requests for futher information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898–3813.

Dated: April 14, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR. Doc. 86–8632 Filed 4–11–86; 3:47 pm]

BILLING CODE 6714–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, April 21, 1986, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Application for consent to purchase assets and assume liabilities, establish one branch and redesignate main office:

Heritage Oaks Bank, Paso Robles, California, an insured State nonmember bank, for consent to purchase certain assets of and assume the liability to pay deposits made in the Paso Robles Branch of Crocker National Bank, San Francisco, California, for consent to establish that office as a branch of Heritage Oaks Bank, and for consent to redesignate the Paso Robles Branch acquired from Crocker National Bank as the main office location of Heritage Oaks Bank.

Request for rescission of condition imposed in granting Federal deposit insurance:

Merrill Lynch Bank and Trust Company, Plainsboro Township, New Jersey.

Memorandum regarding the Corporation's corporate activities:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Request for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898–3813.

Dated: April 14, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86–8633 Filed 4–11–86; 8:45 am]

BILLING CODE 6714–01–M

4

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of April 14, 1986.

Closed meetings will be held on Tuesday, April 15, 1986, at 2:30 p.m. and on Thursday, April 17, 1986 following the 2:30 p.m. open meeting. An open meeting will be held on Thursday, April 17, 1986, at 2:30 p.m., in Room 1C30.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at closed meetings.

Commissioner Cox, as duty officer, voted to consider the items listed for the closed meetings in a closed session.

The subject matter of the closed meeting scheduled for Tuesday, April 15, 1986, at 2:30 p.m., will be:

Enforcement matter involving a financial institution.

Settlement of injunctive action.

Institution of injunctive actions.

Institution and settlement of administrative proceedings of an enforcement nature.

Formal orders of investigation.

Consideration of *amicus* participation.

Opinion.

The subject matter of the open meeting scheduled for Thursday, April 17, 1986, at 2:30 p.m., will be:

The Commission will hear oral argument on appeals by Rooney Pace, Inc., a registered broker-dealer, Randolph K. Pace, its president, and the Commission's Division of Enforcement, from an administrative law judge's initial decision. For further information, please contact R. Moshe Simon at (202) 272–7400.

The subject matter of the closed meeting scheduled for Thursday, April 17, 1986, following the 2:30 p.m. open meeing, will be:

Post oral argument discussion.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Kathryn Natale at, (202) 272–3195.

Dated: April 10, 1986.

John Wheeler,

Secretary.

[FR Doc. 86–8519 Filed 4–11–86; 4:39 pm]

BILLING CODE 8010–01–M

5

TENNESSEE VALLEY AUTHORITY

(Meeting No. 1366)

TIME AND DATE: 10:00 a.m. (e.s.t.), April 18, 1986.

PLACE: City of Sevierville Community Center, 200 High Street, Sevierville, Tennessee.

STATUS: Open.

Approval of minutes of meeting held on March 27, 1986.

Discussion Items

1. Sevierville Flood Protection Project.

Action Items

A—Budget and Financing

A1. Adoption of supplemental resolution authorizing 1986 Series B power bonds.

A2. Resolution authorizing the Chairman and other executive officers to take further action relating to issuance and sale of 1986 Series B power bonds.

A3. Modification to fiscal year 1986 capital budget financed from power proceeds and borrowings—Extension of the Prompt Notification System for Nuclear Plant Emergency Planing Zones.

B—Purchase Awards

B1. Sales Inquiry VA-443196—Proposed sale of surplus turbine generator components to General Electric for resale to Taiwan Power Company.

B2. Invitation for Bid V6-408367—Proposed sale of scrap ferrous metals.

C—Power Items

C1. Letter agreement amending lease and amendatory agreement TV-27024A with city of Johnson City, Tennessee, to include 13-kV capacitor facilities in existing lease arrangements.

C2. Renewal power contract with Weakley County, Tennessee.

C3. Supplemental arrangements involving cooperative efforts with Tennessee Valley Public Power Association and Distributors Insurance Company.

D—Personnel Items

D1. Employee Loan Agreement with General Electric Company.

D2. Employee Loan Agreement with Bechtel North American Power Corporation.

D3. Personal Services Contract with M. H. Sturdivant and Associates for assistance in the area of development and documentation of nuclear procedures systems associated with the management of the nuclear power program.

D4. Personal Services Contract with Cincinnati Employment, Inc. for assistance in the recruitment of qualified candidates for management and technical areas in the nuclear power program and for assistance with other related activities.

D5. Personal Services Contract with Stone & Webster Engineering Corporation for engineering, construction and operation support services.

E—Real Property Transactions

E1. Resolution designating approximately 27.0 acres of Tims Ford Reservoir Land Located in Franklin County, Tennessee, as surplus and authorizing its sale at public auction by Tennessee Elk River Development Agency as agent of TVA—Tract No. XTMFR-17.

F—Unclassified

F1. Final regulation for the enforcement of Section 504 of the Rehabilitation Act of 1973 in federally conducted programs.

F2. Supplement to Contract No. TV-637204A between TVA and Bicentennial Volunteers, Incorporated, for the administration of a TVA Retiree volunteer program.

F3. Contract No. TV-69212A between TVA and Tennessee Department of Labor providing for training and placement services for displaced workers at the Tennessee Chemical Company's Copper Hill location.

F4. Memorandum of understanding (Contract No. TV-67148A) between TVA and the U.S. Department of Defense covering arrangements to establish and foster coordination and cooperation in environmental and natural resources program and project areas.

F5. Filing condemnation cases.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-800, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245-0101.

Dated: April 11, 1986.

W.F. Willis,

General Manager.

[FR Doc. 86-8534 Filed 4-14-86; 10:16 am]

BILLING CODE 8120-01-M

Federal Register

Wednesday
April 16, 1986

Part II

Department of Labor

Mine Safety and Health Administration

30 CFR Parts 5 et al.

Fees for Testing, Evaluation, and Approval of Mining Products; Proposed Rule

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 5, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 31, 32, 33, 35, 36, 74

Fees for Testing, Evaluation, and Approval of Mining Products

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the Mine Safety and Health Administration's (MSHA) existing system of charging user fees for the testing, evaluation, and approval of products manufactured for use in underground mines. Existing fees would be updated to reflect the current cost to the government of providing these services, and fees would be established for services for which applicants currently are not charged. The proposed rule would implement statutory provisions concerning the recovery of agency costs for services furnished to individual beneficiaries and is part of a government-wide initiative to make services provided to the private sector self-sustaining to the extent possible.

DATE: Written comments must be submitted on or before June 16, 1986.

ADDRESS: Send written comments to the Mine Safety and Health Administration, Office of Standards, Regulations and Variances, Room 631, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203.

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

SUPPLEMENTARY INFORMATION:

I. Background

From its creation by Congress in 1910, MSHA's predecessor, the Bureau of Mines, Department of the Interior (Bureau) had the statutory responsibility to test and evaluate mining equipment and material. Legislation enacted in 1913 and revised in 1932 directed the Bureau to charge a fee sufficient to recover its costs for this testing and evaluation. The amount of the fees were to be in accordance with schedules prepared by the Director of the Bureau and approved by the Secretary of the Interior (30 U.S.C. 7). Under this authority, the Bureau issued a number of schedules over the years prescribing design and performance requirements for various types of equipment and material, including the fees to be charged for the testing and evaluation necessary to issue the approval.

With enactment of the Federal Mine Safety and Health Amendments Act of 1977, Pub. L. 95-164, the authority and responsibility for administering the schedules were transferred to the Secretary of Labor and the schedules were redesignated as MSHA rules (43 FR 12312, March 24, 1978).

In order to address the fee issue on a government-wide basis, in 1952, Congress included a provision in the Independent Offices Appropriation Act (IOAA), 31 U.S.C. 483a (subsequently reenacted as 31 U.S.C. 9701), expressing the intent that each service or thing of value provided to a person (including businesses and other organizations) be self-sustaining to the extent possible. Cases decided by the Supreme Court and the U.S. Court of Appeals for the District of Columbia Circuit have interpreted the IOAA to authorize fees only if a special benefit is given to an individual recipient. The fees must be fair in light of the costs to the agency, the value of the benefit to the individual, and the public policy or interest served. In *National Cable Television* v. *United States*, 415 U.S. 336 (1974), the Supreme Court stated that the fees must be incident to a voluntary act, such as a request, on the part of the applicant. The Court further interpreted the IOAA as authorizing fees only as "specific charges for specific services to specific individuals or companies," *Federal Power Commission* v. *New England Power Co.*, 415 U.S. 345 (1974). In *Electronic Industries Association* v. *F.C.C.*, 554 F.2d 1109 (D.C. Cir. 1976), the Court of Appeals ruled that IOAA and the Supreme Court decisions require a "reasonable particularization" of fees. Thus, agencies must draw lines between categories of applicants and services and not group dissimilar entities together for purposes of allocating costs. In this way, applicants are charged only for services which provide them with a benefit. A consistent theme of these cases, which is articulated as well in the legislative history of the IOAA and in Office of Management and Budget Circular A-25, is that agencies are authorized only to recover the actual costs incurred in providing individual special services; agencies are not authorized to raise revenue through fees. Fees collected by MSHA must go to the General Fund of the U.S. Treasury and are not available for use by the agency.

II. Discussion of Proposed Rule

A. Services for Which Fees Are Charged

Under the Federal Mine Safety and Health Act of 1977 (Mine Act), MSHA is responsible for prescribing requirements and specifications for a number of products used in mines. Most of these are set forth in the approval regulations in 30 CFR Parts 11 through 36. Other requirements appear in 30 CFR Parts 57, 70, 74, and 75, as provisions of standards applicable to underground mines. Approval activities are carried out primarily by the Approval and Certification Center (A&CC), part of MSHA's Directorate of Technical Support. Certain testing and evaluation of explosives under 30 CFR Part 15 is carried out for MSHA by the Bureau of Mines and is addressed in the proposed rule. This proposed rule does not address testing and evaluation of respiratory protective devices under 30 CFR Part 11 done by the National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services.

Approval activities take a number of different forms, depending on the product involved and the specific action requested. For purposes of this discussion, "approval" includes certification, acceptance, the issuance of extensions and other actions resulting from testing or evaluation of products. For example, a piece of mining equipment submitted to A&CC for initial approval may undergo a detailed examination of its drawings and specifications, an analysis of its construction and components, and laboratory tests of its performance, leading to MSHA's issuance of a detailed approval document. By comparison, previously approved equipment for which approval of a minor modification is sought may be subject only to a review of the drawing or specification describing the change. Other equipment, such as longwall mining systems, are evaluated in place in the mine and approval requires that MSHA personnel travel to the site of installation to inspect and evaluate the equipment.

Although some fee schedules were updated in 1972, MSHA has not revised the majority of its fee schedules since 1965. Many of the existing fees are insufficient to recover the cost of the services provided. The proposed rule would add a new Part 5 to 30 CFR to replace the existing fee schedules in Parts 15 through 36. It would set forth a methodology for establishing fees each year, based on the costs of providing services during the previous fiscal year. In this manner, fees would remain commensurate with the costs of the services provided.

In order to allocate costs to the smallest practical unit, the proposed rule

would generally group products according to the applicable regulation, usually the CFR part governing their testing and evaluation. Within each product group, fees would be listed according to the specific actions which can be requested for that product group.

Some activities conducted by A&CC would not be subject to a fee because they are either not in response to a specific request for services to benefit an individual, are in support of MSHA's enforcement program, or are directed primarily toward improving health and safety conditions for the benefit of the miners and industry in general. Fees would not be charged for post-approval product audits conducted as part of MSHA's regular quality assurance program because these audits are primarily for the benefit of the users of the product in the mining industry. However, where MSHA must repeat the audit because of a problem identified with the product, and the subsequent audit also reveals a problem, MSHA believes that these repeat audits primarily benefit the individual approval-holder by identifying corrective action needed to retain the MSHA approval. In these cases, the approval-holder would be charged the actual expenses incurred during the repeat audit including an hourly rate, transportation, and subsistence for the auditor. MSHA requests comments on whether or not fees should be charged for the repeat audit if that audit does not reveal a problem with the product.

Other activities for which a fee would not be charged under the proposed rule include (1) investigations and evaluations carried out as part of A&CC's quality assurance program, except that a fee would be charged for evaluation of quality assurance manuals required by the regulations; (2) technical assistance and consultation provided to MSHA enforcement staff to solve technical problems encountered in the course of administering the Mine Act or provided to generally improve the health and safety conditions and practices in mines; and (3) participation of A&CC staff in MSHA regulatory review activities.

B. Method of Fee Calculation

MSHA's costs in the testing, evaluation and approval of products are incurred as both direct and indirect costs. Accordingly, fees would be charged on the basis of the direct and indirect costs involved with providing these services. Direct costs consist of compensation, including benefits, for the engineers and technicians who review the application, conduct the testing, evaluation and audits, and prepare the decision, as well as consult with product manufacturers and other applicants concerning the processing of an application. Direct costs would also include compensation for support staff including clerical, computer, recordkeeping, and managerial hours directed at processing approval actions.

Indirect costs would consist of (1) A&CC operating costs, including facility operation and maintenance, utilities and other building services, equipment purchase, rental and maintenance, and supplies and materials; (2) depreciation of buildings and equipment; and (3) compensation costs for personnel engaged in management, review, and improvement of the approval process. Only the percentage of these costs directly allocable to the approval activities woud be included. For fiscal year 1985, MSHA estimates that percentage to be 74.5 percent. The remaining A&CC activity is devoted to general technical assistance, regulatory review, and other activities for which fees would not be charged.

Under the proposal, fees would be charged on either a flat-rate or hourly basis. Where there is sufficient historical data on which to figure an average number of hours required for an approval action, MSHA would set a flat fee. The direct cost of the flat fee would be calculated by multiplying the average number of hours of technical staff time by the average hourly compensation cost for the technical staff who work on that action including any necessary travel time. The average number of support staff hours, if any, would be multiplied by the average hourly support staff compensation cost and added to the technical staff cost. To this direct cost, MSHA would add the indirect cost which would be an hourly rate derived by distributing the total indirect costs over total direct labor hours, times the number of direct labor hours for that project. The total of the direct and indirect costs would represent the total flat rate fee.

In many cases, MSHA has insufficient data upon which to base a flat fee. MSHA has not had recent applications for approval actions for some products. In other cases where newly developed or unique products may require an unusual amount of staff time, MSHA has been unable to determine an appropriate average number of hours required. For these circumstances, MSHA proposed to charge an hourly rate. The hourly rate would be based on the average hourly cost for technical and support staff plus the hourly indirect cost rate. The fee charged would be the hourly rate times the actual number of hours required to complete the approval action, including any necessary travel time. If sufficient data becomes available, the hourly rate would be converted to a flat rate.

Where travel by MSHA personnel is required for testing and evaluation of a product, the applicant would be charged on an actual cost basis for transportation and subsistence in accordance with government travel regulations.

The Stamped Notification Acceptance Program (SNAP) allows a manufacturer to submit minimal documentation to describe a single minor change in a product which affects the technical requirements. MSHA would charge a flat fee for each SNAP. Under the Stamped Revision Acceptance (SRA) program, a manufacturer may submit documents describing many minor changes to a product at one time. The changes do not affect the technical requirements. MSHA would charge a flat fee for each application for an SRA accompanied by up to five documents (drawings or specifications). Each set of five documents, or fraction thereof, would constitute a separate SRA and would be charged the flat fee.

For the benefit of commenters, a preliminary fee schedule follows in Table I. The fees presented are based on the proposed methodology and prorated indirect cost data from fiscal year 1985. By January of each year, MSHA would publish in the **Federal Register** a notice that the fee schedule basd on the previous fiscal year's data is available and will be mailed to all manufacturers who have MSHA approvals. The schedule may be adjusted to account for improved efficiency in the approval process, increases in compensation or benefits costs, or improved data on which to base the fees.

The preliminary fee schedule includes an hourly charge for products approved under a proposed new 30 CFR Part 7 which is being developed through a separate rulemaking (51 FR 4686). The hourly rate would be charged for time spent evaluating the application and, where applicable, observing tests (including travel time to and from the test site). The hourly charge would be changed to a flat rate after the Agency has sufficient experience on which to base a flat rate. In addition, when approval requirements for a product are contained exclusively in Part 7, the fee schedule issued under the authority of Part 5 would be revised to reflect this. For example, if the approval requirements for brattice cloth become a final rule under Part 7, the fee for acceptance of brattice cloth under "Other A&CC Services" would be deleted when MSHA no longer performs the testing.

TABLE I.—FEES

CFR part/product group action	Per evaluation	Per test	Full approval (flat rate)	Cancellation [per hour not to exceed (NTE) full cost]
30 CFR Part 7—Product Testing by Applicant or Third Party				
12 Approval—Evaluation-Brattice Cloth and Ventilation Tubing	Per Hour			$40
12 Approval—Evaluation-Battery Assemblies	Per Hour			37
14 Approval—Extension-Brattice Cloth and Ventilation Tubing	Per Hour			40
14 Approval—Extension-Battery Assemblies	Per Hour			36
40 Stamped Notification Acceptance Program (SNAP)			$120	38
30 CFR Part 15—Explosives				
12A Approval—Evaluation	$1,000		*	34
B Approval—Testing:				
1. Physical Examination		$35		
2. Chemical Analysis		790		
3. Air Gap Test		140		
4. Pendulum Friction Test		100		
5. Ballistic Mortar Test		55		
6. Detonation Rate Test		180		
7. Gallery Test 4		1,540		
8. Gallery Test 7		3,340		
9. Bichell Gauge Test		230		
10. Crawshaw-Jones Test		230		
14 Approval Extension			970	37
43A Fume Analysis—Evaluation	1,050	*		38
B Fume Analysis—Testing (May include tests used for 30 CFR Part 15 approvals):				
1. Impact Test		45		
2. Electrostatic Spark Test		30		
3. Thermal Sensitivity Test		45		
4. Suspended Test		55		
5. Gaseous Products Test (Oxides of Nitrogen)		120		
6. Gaseous Products Test (Complete Analysis)		230		
30 CFR Part 18—Electric Motor Driven Equipment and Accessories				
12A Approval—Machine Evaluation	4,740		*	40
B Approval—Machine Testing:				
1. Explosion Test		580		
2. Surface Temperature Test		360		
3. Window/Lens Test		360		
4. Product Flame Test		260		
C Approval—Instruments			5,970	38
14A Approval Extension—Machine Evaluation	2,800		*	40
B Approval Extension—Machine Testing:				
1. Explosion Test		580		
2. Surface Temperature Test		360		
3. Window/Lens Test		360		
4. Product Flame Test		260		
C Approval Extension—Instrument			3,240	37
15A Acceptance—Evaluation	300		*	40
B Acceptance—Testing:				
1. Explosion Test		580		
2. Surface Temperature Test		360		
3. Window/Lens Test		360		
4. Product Flame Test		260		
16A Certification—Evaluation	2,720		*	37
B Certification—Testing:				
1. Explosion Test		580		
2. Surface Temperature Test		360		
3. Window/Lens Test		360		
4. Product Flame Test		260		
18A Certification Extension—Evaluation	1,080		*	36
B Certification Extension—Testing:				
1. Explosion Test		580		
2. Surface Temperature Test		360		
3. Window/Lens Test		360		
4. Product Flame Test		260		
20 Stamped Revision Acceptance (SRA)			90	36
21 Field Modification			350	39
23 Field Approval			110	41
26 Permit			Per Hour	39
30 Intrinsic Safety Determination			6,950	39
40 Stamped Notification Acceptance Program (SNAP)			120	38
41 Longwall Approval			7,960	40
42 Longwall Approval Extension			5,860	40
66 Quality Assurance Manual			Per Hour	39
30 CFR Part 19—Electric Cap Lamps				
12 Approval			Per Hour	39
14 Approval Extension			Per Hour	39
20 Stamped Revision Acceptance (SRA)			90	36
40 Stamped Notification Acceptance Program (SNAP)			120	38
30 CFR Part 20—Electric Mine Lamps				
12 Approval			Per Hour	35

TABLE I.—FEES—Continued

CFR part/product group action	Per evaluation	Per test	Full approval (flat rate)	Cancellation [per hour not to exceed (NTE) full cost]
14 Approval Extension			Per Hour	35
20 Stamped Revision Acceptance (SRA)			90	36
40 Stamped Notification Acceptance Program (SNAP)			120	38
30 CFR Part 21—Flame Safety Lamps				
12 Approval			Per Hour	39
14 Approval Extension			Per Hour	39
20 Stamped Revision Acceptance (SRA)			90	36
40 Stamped Notification Acceptance Program (SNAP)			120	38
30 CFR Part 22—Portable Methane Detectors				
12 Approval			Per Hour	39
14 Approval Extension			Per Hour	39
20 Stamped Revision Acceptance (SRA)			90	36
40 Stamped Notification Acceptance Program (SNAP)			120	38
30 CFR Part 23—Telephone and Signaling Devices				
12 Approval			Per Hour	39
14 Approval Extension			Per Hour	38
20 Stamped Revision Acceptance (SRA)			90	36
40 Stamped Notification Acceptance Program (SNAP)			120	38
30 CFR Part 24—Single-Shot Blasting Units				
12 Approval			Per Hour	39
14 Approval Extension			Per Hour	39
20 Stamped Revision Acceptance (SRA)			90	36
40 Stamped Notification Acceptance Program (SNAP)			120	38
30 CFR Part 25—Multiple-Shot Blasting Units				
12 Approval			Per Hour	39
14 Approval Extension			Per Hour	39
20 Stamped Revision Acceptance (SRA)			90	36
40 Stamped Notification Acceptance Program (SNAP)			120	38
30 CFR Part 26—Lighting Equipment for Illumination				
12 Approval			Per Hour	39
14 Approval Extension			Per Hour	39
20 Stamped Revision Acceptance (SRA)			90	36
40 Stamped Notification Acceptance Program (SNAP)			120	38
30 CFR Part 27—Methane Monitoring Systems				
16 Certification			Per Hour	39
18 Certification Extension			Per Hour	39
20 Stamped Revision Acceptance (SRA)			90	36
40 Stamped Notification Acceptance Program (SNAP)			120	38
30 CFR Part 28—D.C. Current Fuses				
12 Approval			Per Hour	40
14 Approval Extension			Per Hour	40
20 Stamped Revision Acceptance (SRA)			90	36
40 Stamped Notification Acceptance Program (SNAP)			120	38
66 Quality Assurance Manual			Per Hour	39
30 CFR Part 29—Portable Dust Analyzers and Methane Monitors				
12 Approval			per Hour	39
14 Approval Extension			Per Hour	39
20 Stamped Revision Acceptance (SRA)			90	36
40 Stamped Notification Acceptance Program (SNAP)			120	38
66 Quality Assurance Manual			Per Hour	39
30 CFR Part 31—Diesel Mine Locomotives				
12 Approval			Per Hour	41
14 Approval Extension			Per Hour	40
30 CFR Part 32—Mobile Diesel-Powered Equipment for Noncoal Mines				
12 Approval			Per Hour	39
14 Approval Extension			Per Hour	39
16A Certification—Evaluation	2,330		*	38
B Certification—Testing:				
1. Emissions Test		1,530		
2. Pre/Post-Test Preparation		850		
18A Certification Extension—Evaluation	550		*	39
B Certification Extension—Testing:				
1. Emissions Test		1,530		
2. Pre-/Post-Test Preparation		850		
20 Stamped Revision Acceptance (SRA)			90	36
21 Field Modification			350	39
30 CFR Part 33—Dust Collectors				
12A Approval—Evaluation without Certification of Performance (COP)	1,030		*	40
B Approval—Testing: 1. Dust Collector Test			Per Hour	41
14A Approval Extension—Evaluation	610		*	39
B Approval Extension—Testing: 1. Dust Collector Test			Per Hour	41
16A Certification—Evaluation			Per Hour	40
B Certification—Testing: 1. Dust Collector Test			Per Hour	41
18 Certification Extension			Per Hour	39
21 Field Modification			350	39
74 Approval—Evaluation with COP			490	40

TABLE I.—FEES—Continued

CFR part/product group action	Per evaluation	Per test	Full approval (flat rate)	Cancellation [per hour not to exceed (NTE) full cost]
30 CFR Part 35—Fire Resistant Hydraulic Fluids				
12 Approval—Evaluation			3,430	39
66 Quality Assurance Manual			Per Hour	39
30 CFR Part 36—Mobile Diesel Powered Equipment				
12 Approval			8,440	41
14 Approval Extension			3,850	40
16A Certification—Engine Evaluation	2,390		*	39
16B Certification—Engine Testing:				
1. Emission Test		1,610		
2. Explosion Test		1,410		
3. Surface Temperature Test		1,200		
4. Pre-/Post-Test Preparation		890		
18A Certification Extension—Engine Evaluation	550		*	39
B Certification Extension—Engine Testing:				
1. Emission Test		1,610		
2. Explosion Test		1,410		
3. Surface Temperature Test		1,200		
4. Pre-/Post-Test Preparation		890		
20 Stamped Revision Acceptance (SRA)			90	36
21 Field Modification			350	39
40 Stamped Notification Acceptance Program (SNAP)			120	38
70A Certification—Component Evaluation	4,570		*	39
B Certification—Component Testing:				
1. Emission Test		1,610		
2. Explosion Test		1,410		
3. Water Consumption/Cooling Efficiency		700		
4. Surface Temperature Controls		1,200		
5. Pre-/Post-Test Preparation		890		
72A Certification Extension—Component Evaluation	1,920		*	39
B Certification Extension—Component Testing:				
1. Emission Test		1,610		
2. Explosion Test		1,410		
3. Water Consumption/Cooling Efficiency		700		
4. Surface Temperature/Safety Controls		1,200		
5. Pre-/Post-Test Preparation		890		
30 CFR Part 74—Coal Mine Dust Personal Sampler Units				
30 Intrinsic Safety Determination			Per Hour	40
Other A&CC Services				
Brattice Cloth:				
15A Acceptance—Evaluation	595		*	40
B Acceptance—Testing: 1. Product Flame Test		227		
Area Lighting (Longwall): 15 Acceptance			1,460	40
Statement of Tests and Evaluation for Lighting:				
15 Acceptance			120	40
17 Acceptance Extension			120	39
Ground Check Monitors:				
15 Acceptance			6,630	39
17 Acceptance Extension			3,480	39
40 Stamped Notification Acceptance Program (SNAP)			120	38
Interim Criteria (IC):				
37A IC Determination—Evaluation	460		*	40
B IC Determination—Testing: 1. Product Flame Test		110		
Mine-Wide Monitoring Systems:				
50 Evaluation			490	38
52 Barrier Classification			110	38
54 Sensor Classification			170	38
Repeat Product Audits where deficiencies are found				41

* Full approval fee consists of evaluation cost plus applicable testing costs.

Note.—When testing and evaluation is required at locations other than MSHA's premises, the applicant shall reimburse MSHA for traveling, subsistance and incidental expenses of MSHA's representatives in accordance with Standardized Government Travel Regulations. This reimbursement is in addition to the fees charged for testing and evaluation.

C. Administration of Fees

Where a flat fee is established, MSHA would require a check or money order for the fee to accompany each application for approval. Applicants who do not submit the correct fee would be notified by MSHA of the balance due. In cases where hourly rates would be applied, the applicant would be billed for the fee when processing of the application is completed. In these cases, the applicant would be charged an hourly rate based on the direct and indirect costs actually incurred in approving the product. Travel and transportation costs incurred when MSHA personnel are required to travel to the manufacturing site or installation for product testing and evaluation would be billed in all cases when processing of the application is completed. This procedure would be consistent with existing regulations.

Some actions consist of both evaluation and testing. For these actions, MSHA would require the fee for evaluation to accompany the application. After the evaluation is completed, MSHA would notify the applicant which tests will be performed and would require the fees for those tests to be submitted prior to testing.

An application for which the fee was paid in advance that does not result in completion of the action requested would be charged at the hourly rate for services performed, up to the full flat fee. The balance of the paid fee would be refunded to the applicant. Reasons for incomplete actions could include withdrawal by the applicant, cancellation by MSHA for insufficient information or technical problems, or failure to pass a test or evaluation.

D. Effective Date and Existing Fee Schedules

The proposed rule would apply to all applications for approval submitted on or after the effective date of this rule. Applications in process on the effective date of the rule would be charged the existing fee. Existing fee schedules and other fee provisions in 30 CFR Parts 15 through 74 would be revoked as of the effective date of the rule.

E. Organizational Changes

In a separate rulemaking for a new Part 7, Product Testing By Applicant or Third Party, MSHA has proposed to make the following non-substantive organizational changes to Title 30 CFR. The proposed rule for Part 7 would remove the subchapter designations and headings for Subchapters B through E and add a new heading for Subchapter B, entitled "Subchapter B—Testing, Evaluation, and Approval of Mining Products." This new Subchapter would include Parts 5 through 36 of Title 30. In addition, in this rule, MSHA proposes to remove existing references to fees in 30 CFR Parts 15 through 74, and to centralize authority citations at the part level as required by the Office of the Federal Register.

III. Drafting Information

The persons principally responsible for preparing this proposed rule are: Robert W. Dalzell and Mary E. Labie, Office of Technical Support, MSHA; Regina M. Flahie, Office of Standards, Regulations and Variances, MSHA; and David M. Melnick, Office of the Solicitor, Department of Labor.

IV. Executive Order 12291 and Regulatory Flexibility Act

In accordance with Executive Order 12291, MSHA has made an initial determination that this proposed rule is not a major rule. It is anticipated that the fees collected under the proposal would total less than $3 million a year,

would not result in a major increase in costs for the mining industry, nor would they have a significant effect on the ability of United States-based enterprises to compete with foreign-based enterprises. Since the rule does not meet the criteria for a major rule, a Regulatory Impact Analysis is not necessary.

In assessing the potential effect of the proposed rule under guidelines of the Regulatory Flexibility Act, MSHA has concluded that the rule would affect some small businesses, mainly manufacturers of components for mining equipment, and small equipment used in underground mines. However, MSHA believes that the proposed Part 5 may not have a significant economic impact on a substantial number of small businesses based on these preliminary estimates. MSHA requests further data on the number of small businesses that comprise the population of manufacturers and the effect of the increased fees on them.

While some of MSHA's fee schedules were updated in 1972, the majority of the schedules have not been updated since 1965. In this twenty-year period, the costs of the testing, evaluation, and approval program for mining equipment have risen significantly. Most of the existing fees recover only a small portion of the actual costs to the government to provide this service. For this reason, the methodology for determining fees in the proposed rule would result in significant increases in the service fees for many product groups. As a specific example, for five extensions of approval of electric mine lamps for gassy mines, MSHA charged a total of $1,160 during fiscal year 1984. The actual costs of issuing these extensions of approval have increased to about $18,100 which would be recovered under the proposal. This represents a ratio increase of 15.6; on the average, fees would increase seventeen times the current fee rates. In addition, under the proposal, MSHA would begin to charge for some services that are currently provided free of charge. Examples of some of these services are stamped revision acceptances, stamped notification acceptances, and field modifications. MSHA has estimated the economic impact on the manufacturing industries which produce approved equipment. The estimated fees which would be collected under each Part are compared to the estimated industry sales of those products approved under each Part. The result is that in most cases the cost of the fees represents less than 1 percent of sales; in other cases it is more. The most that fees would represent is 4.7% of sales, except in one case where the data is incomplete and fees appear to represent 9.3%. MSHA does not believe that these increases would be a significant burden to most mining product manufacturers. The increases would also not result in major cost increases for the mining industry, since even if all the cost increases were passed through to the mine operator, in most cases this would result in a price increase of less than 1 percent. MSHA specifically solicits comments on the economic impact of this proposal, both as to the manufacturers in general and to the individual manufacturer.

V. Paperwork Reduction Act

This proposed rule does not contain any collection of information provisions subject to the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

List of Subjects in 30 CFR Parts 5, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 31, 32, 33, 35, 36, and 74

Mine safety and health, Underground mining.

Accordingly, it is proposed to amend Chapter I of Title 30, Code of Federal Regulations as set forth below.

Dated: April 9, 1986.

David A. Zegeer,

Assistant Secretary for Mine Safety and Health.

PART 15—[AMENDED]

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

Authority: 30 U.S.C. 3, 7, 957, 961.

§ 15.4 [Removed]

2. Section 15.4 is removed;

§ 15.8 [Amended]

3. Section 15.8 is amended by removing the second and third sentences;

§ 15.24 [Amended]

4. Section 15.24(a) is amended by removing the second sentence and the fee schedule following the colon;

PART 16—[AMENDED]

5. The authority citation for Part 16 is revised to read as follows:

Authority: 30 U.S.C. 3, 7, 957, 961.

§ 16.4 [Removed]

6. Section 16.4 is removed;

§ 16.8 [Amended]

7. Section 16.8 is amended by removing the second sentence;

PART 17—[AMENDED]

8. The authority citation for Part 17 is revised to read as follows:

Authority: 30 U.S.C. 3, 7, 957, 961.

§ 17.4 [Removed]

9. Section 17.4 is removed;

10. Section 17.8 is amended by removing the second sentence;

PART 18—[AMENDED]

11. The authority citation for Part 18 is revised to read as set forth below and the authority citation preceding Subpart E is removed.

Authority: 30 U.S.C. 3, 7, 957, 961.

§ 18.1 [Amended]

12. Section 18.1 is amended by removing the semi-colon following "listing", adding in its place a period and removing "and fees.";

§ 18.7 [Removed]

13. Section 18.7 is removed;

§ 18.15 [Amended]

14. Section 18.15(d) is amended by adding a period following "informally" and removing "without fee.";

§ 18.80 [Amended]

15. In § 18.80, paragraph (d) is removed and paragraphs (e) and (f) are redesignated as paragraphs (d) and (e), respectively.

§ 18.82 [Amended]

16. In § 18.82, paragraph (b) is removed and paragraphs (c) through (h) are redesignated as paragraphs (b) through (g), respectively.

PART 19—[AMENDED]

17. The authority citation for Part 19 is revised to read as follows:

Secs. 19.1(b) and 19.7(a) also issued under 30 U.S.C. 811.

Authority: 30 U.S.C. 3, 7, 957, 961.

§ 19.2 [Removed]

18. Section 19.2 is removed;

§ 19.13 [Amended]

19. Section 19.13(d) is amended by adding a period after "required" and removing "and of the necessary deposit to cover the fee for the test."

PART 20—[AMENDED]

20. The authority citation for Part 20 is revised to read as follows:

Authority: 30 U.S.C. 3, 7, 957, 961.

§ 20.4 [Removed]

21. Section 20.4 is removed;

§ 20.14 [Amended]

22. Section 20.14(d) is amended by adding a period after "required" and removing "and of the necessary deposit to cover the fee for the test."

PART 21—[AMENDED]

23. The authority citation for Part 21 is revised to read as follows:

Authority: 30 U.S.C. 3, 7, 957, 961.

§ 21.3 [Removed]

24. Section 21.3 is removed;

§ 21.10 [Amended]

25. Section 21.10(d) is amended by adding a period after "required" and removing "and of the necessary deposit to cover the fee for the test.";

PART 22—[AMENDED]

26. The authority citation for Part 22 is revised to read as follows:

Authority: 30 U.S.C. 3, 7, 957, 961.

§ 22.3 [Removed]

27. Section 22.3 is removed;

§ 22.11 [Amended]

28. Section 22.11(d) is amended by adding a period after "required" and removing "and of the necessary deposit to cover the fee for the tests.";

PART 23—[AMENDED]

29. The authority citation for Part 23 is revised to read as follows:

Authority: 30 U.S.C. 3, 7, 957, 961.

Sec. 23.2(f) also issued under 30 U.S.C. 811.

§ 23.4 [Removed]

30. Section 23.4 is removed;

§ 23.14 [Amended]

31. Section 23.14(d) is amended by adding a period after "required" in the first sentence and removing "and of the necessary deposit to cover the fee for the tests.";

PART 24—[AMENDED]

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

Authority: 30 U.S.C. 3, 7, 957, 961.

§ 24.1 [Removed]

33. Section 24.1 is removed;

§ 24.9 [Amended]

34. Section 24.9(d) is amended by adding a period after "required" in the first sentence and removing "and of the necessary deposit to cover the fee for the tests.";

PART 25—[AMENDED]

35. The authority citation for Part 25 is revised to read as follows:

Authority: 30 U.S.C. 3, 7, 957, 961.

§ 25.1 [Amended]

36. Section 25.1 is amended by removing the semi-colon following "mines", adding in its place, "and", removing the semi-colon following "certification" the second time it is used and adding a period in its place, and removing "and fees.";

§ 25.4 [Removed]

37. Section 25.4 is removed;

§ 25.12 [Amended]

38. Section 25.12(b) is amended by removing the comma following "required" in the third sentence and adding "and" in its place, removing the comma following "purpose" in the third sentence and adding a period in its place, and removing "and the fee required.";

PART 26—[AMENDED]

39. The authority citation for Part 26 is revised to read as follows:

Authority: 30 U.S.C. 3, 7, 957, 961.

§ 26.1 [Amended]

40. Section 26.1 is amended by removing the semi-colon following "certification" the second time it is used, adding a period in its place and removing "and fees.";

§ 26.6 [Removed]

41. Section 26.6 is removed;

§ 26.19 [Amended]

42. Section 26.19(b) is amended by removing the comma following "required" in the third sentence and adding "and" in its place, removing the comma following "purpose" in the third sentence and adding a period in its place, and deleting "and the fee.";

PART 27—[AMENDED]

43. The authority citation for Part 27 is revised to read follows:

Authority: 30 U.S.C. 3, 7, 957, 961.

§ 27.1 [Amended]

44. Section 27.1 is amended by removing the semi-colon following "workings", adding "and" in its place, removing the semi-colon following "certification" the second time it is used and adding a period in its place, and deleting "and fees.";

§ 27.8 [Removed]

45. Section 27.8 is removed;

§ 27.11 [Amended]

46. Section 27.11(b) is amended by removing the semi-colon following "required" in the second sentence and adding "and" in its place, removing the semi-colon following "purpose" in the third sentence and adding a period in its place, and removing "and the fee for testing.";

PART 28—[AMENDED]

47. The authority citation for Part 28 is revised to read as follows:

Authority: 30 U.S.C. 3, 7, 957, 961.

§ 28.10 [Amended]

48. Section 28.10 (d) is removed and paragraphs (e), (f) and (g) are redesignated as (d), (e) and (f), respectively;

49. Section 28.10 (c) is amended by adding a sentence reading as follows:

* * * * *

(c) * * * The appropriate fee as prescribed in Part 5 of this chapter shall accompany the certified data and results.

PART 29—[AMENDED]

50. The authority citation for Part 29 is revised to read as follows:

Authority: 30 U.S.C. 3, 7, 957, 961.

Subpart C—[Removed]

51. Subpart C of Part 29 is removed;

§ 29.30 [Amended]

52. Section 29.30 (c) is amended by adding a period following "fees" and removing "in accordance with Subpart C of this part.";

§ 29.35 [Amended]

53. Section 29.35 (e) is removed and paragraph (f) is redesignated as paragraph (e);

§ 29.56 [Amended]

54. The title of § 29.56 is revised to read as follows: "§ 29.56 Withdrawal of applications."; The paragraph designation of (a) is removed; and paragraph (b) is removed in its entirety;

PART 31—[AMENDED]

55. The authority citation for Part 31 is revised to read as follows:

Authority: 30 U.S.C. 3, 7, 957, 961.

§ 31.3 [Amended]

56. In § 31.3, paragraph (c) is removed and paragraphs (d) through (j) are redesignated as paragraphs (c) through (i), respectively;

§ 31.8 [Amended]

57. Section 31.8 (d) is amended by removing "the fee and;"

PART 32—[AMENDED]

58. The authority citation for Part 32 is revised to read as follows:

Authority: 30 U.S.C. 3, 7, 957, 961.

§ 32.3 [Amended]

59. In section 32.3, paragraph (c) is removed and paragraphs (d) through (j) are redesignated as paragraphs (c) through (i), respectively;

§ 32.8 [Amended]

60. Section 32.8(c) is amended by removing "the amount of the fee.";

PART 33—[AMENDED]

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

Authority: 30 U.S.C. 3, 7, 957, 961.

§ 33.5 [Removed]

62. Section 33.5 is removed;

§ 33.12 [Amended]

63. Section 33.12(b) is amended by removing the comma following "required" in the third sentence, adding "and" in its place, removing the comma following "purpose" and adding a period in its place, and removing "and the fee.";

PART 35—[AMENDED]

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

Authority: 30 U.S.C. 3, 7, 957, 961.

§ 35.1 [Amended]

65. Section 35.1 is amended by removing the semi-colon following "mines", adding "and" in its place, removing the semi-colon following "certification" the second time it is used and adding a period in its place, and removing "and fees";

§ 35.5 [Removed]

66. Section 35.5 is removed;

§ 35.12 [Amended]

67. Section 35.12(b) is amended by removing the comma following "required" in the third sentence, adding a period in its place, and removing "and the fee.";

PART 36—[AMENDED]

68. The authority citation for Part 36 is revised to read as follows:

Authority: 30 U.S.C. 3, 7, 957, 961.

§ 36.7 [Removed]

69. Section 36.7 is removed;

§ 36.12 [Amended]

70. Section 36.12(b) is amended by removing the colon following "required" in the third sentence, adding "and" in its place, removing the semi-colon following "purpose" in the third sentence and adding a period in its place, and removing "and the fee.";

PART 74—[AMENDED]

71. The authority citation for Part 74 is revised to read as follows:

Authority: 30 U.S.C. 957, 961.

§ 74.6 [Amended]

72. Section 74.6(a) is amended by removing the second sentence.

73. A new Part 5 is added to Chapter I, Subchapter B, Title 30 of the Code of Federal Regulations to read as follows:

PART 5—FEES FOR TESTING, EVALUATION, AND APPROVAL OF MINING PRODUCTS

Subpart A—[Reserved]

Subpart B—Fee Determination

Sec.
5.10 Fees.
5.20 Procedure for payment.
5.30 Refunds.

Authority: 30 U.S.C. 957.

Subpart A—[Reserved]

Subpart B—Fee Determination

§ 5.10 Fees.

(a) MSHA will charge fees for services it provides in testing and evaluating products for which approval or related action is requested.

(b) MSHA will compute fees on the basis of cost to the government to provide these services using the following methodology. For each service provided for a group of related products, MSHA will determine a flat fee to cover the direct and indirect costs. Products are grouped based on function, construction or technology in accordance with approval requirements applicable to the product. Direct costs are based on current compensation costs for technical and support personnel, allocated according to the staff time spent in the previous fiscal year for each service for a product group. Indirect costs include a proportionate share of management personnel compensation costs, other administrative support costs and facility costs for the previous fiscal year, and depreciation of buildings and equipment. For product groups with insufficient data upon which to calculate a fee, MSHA will charge an hourly rate based on the actual technical and support staff time spent on the action plus an appropriate share of indirect costs. Costs related to travel and transportation for approval of products tested or evaluated at the manufacturing or installation site are in addition to these flat or hourly fees and will be charged on an actual cost basis.

(c) MSHA will publish a notice in the **Federal Register** announcing the availability of the current fee schedule by January of each year.

§ 5.20 Procedure for payment.

(a) Applicants must submit a check or money order with their application, payable to the "Mine Safety and Health Administration," in the amount indicated by the annual fee notice unless notified by MSHA that the action requested will be subject to an hourly charge.

(1) When the action requested is subject to an hourly charge, the applicant will be billed for the fee after processing of the application is completed.

(2) Where an action consists of both evaluation and testing, the applicant shall submit only the fee for evaluation with the application. When MSHA notifies the applicant of which tests will be required, the applicant shall submit a check or money order for the fees associated with those tests.

(b) MSHA will bill travel and transportation costs after they are incurred.

§ 5.30 Refunds.

MSHA will refund the applicant the initial fee less an hourly charge for work done if an application for which the fee was paid in advance does not result in issuance of an approval because of rejection or cancellation. If hourly charges exceed the flat fee, the full flat fee will be charged.

74. Chapter I is amended by removing the headings for Subchapters B–E and adding a new Subchapter B—Testing, Evaluation, and Approval of Mining Products, consisting of Parts 5–36.

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Federal Register

Wednesday
April 16, 1986

Part III

Department of the Interior

Bureau of Indian Affairs

List of Indian Estates Affected by Old Age Assistance Claims; Notice of Reimbursement

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

List of Indian Estates Affected by Old Age Assistance Claims; Notice of Reimbursement

April 9, 1986.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

SUMMARY: This notice lists certain trust estates, identified by the Department of the Interior, from which unauthorized payments were made by the Secretary of the Interior to reimburse States and Counties for old age assistance provided to deceased Indians before death. The estates listed were inadvertently excluded from the lists of claims published in the **Federal Register** on April 17 and November 13, 1985, or were mistakenly or incorrectly listed therein. This notice constitutes an addendum to the two previous lists.

FOR FURTHER INFORMATION CONTACT: Chief, Branch of Titles and Research, Bureau of Indian Affairs, Room 4520—Main Interior, Washington, DC 20245. Telephone No. 202–343–5473.

SUPPLEMENTARY INFORMATION: Pursuant to section 4(c) of the Old Age Assistance Claims Settlement Act, Pub. L. 98–500, Indian tribes, groups, and individuals had until October 14, 1985, to submit to the appropriate Area Office additional estates not included on the list of estates published in the **Federal Register** on April 17, 1985 (50 FR 15290). A second list enumerating (1) estates identified after publication of the first list, (2) estates appearing on the first list, corrected and modified, and (3) estates to be deleted from the first list, was published in the **Federal Register** on November 13, 1985 (50 FR 46835). Certain estates in each of these three categories were inadvertently excluded from the list of estates published on November 13, 1985. Therefore, this notice constitutes an addendum to the lists published on April 17 and November 13, 1985.

In the November 13, 1985, listing, Issue No. C52–202–0081 was incorrectly listed as an estate to be deleted. This estate has been listed separately herein as an "Estate Deleted From First List, Reinstated."

Ross O. Swimmer,

Assistant Secretary—Indian Affairs.

BILLING CODE 4310-02-M

ABERDEEN AREA: ESTATES IDENTIFIED SINCE PUBLICATION OF PREVIOUS LISTS.

ISSUE NUMBER	NAME OF DECEDENT	DECEDENT ID	$ ALLOWED	$ PAID
A01-340-0193	EDWARD ON THE TREE	560	1,349.50	UNKNOWN
A01-340-0196	PAUL ALLEN CHASING HAWK	1179	1,488.00	UNKNOWN
A01-340-0197	EDNA SWIFT HORSE	2206	1,312.00	UNKNOWN
A10-302-0187	CRAZY HAWK BARNEY	1145	0	15.61
A14-342-0009	YELLOW BIRD	359	0	100.00
A15-343-0008	FORKED BUTTE SOPHIA	235	0	2,079.00

ABERDEEN AREA: ESTATES ON PREVIOUS LISTS, CORRECTED AND MODIFIED.

ISSUE NUMBER	NAME OF DECEDENT	DECEDENT ID	$ ALLOWED	$ PAID
A01-345-0851	MRS. RICHARD LIPP	1331	40.04	40.04
A04-301-0211	EDWARD BADGER	626	676.42	1,000.00
A04-301-0213	LINCOLN NEWMANN	713	488.70	488.70
A07-345-0854	BRAVE	1597	52.12	52.12
A07-345-0856	GEORGE POOR THUNDER	1624	1,000.00	331.50
A07-345-0857	WILLIAM WHITE HAWK SR.	1788	120.00	120.00
A07-345-0860	MARTHA CLOUDMAN	2257.5	460.03	241.50
A07-345-3165	JAMES LOOKING EAGLE	2858	281.00	281.00
A07-345-3166	SAM RED HORSE	3297	12.00	12.00
A07-345-3167	EAGLE DEER/HOLY OWL	4008.5	561.00	561.00
A07-345-3170	CENTER	5976	948.00	948.00
A09-347-0484	JAMES RENVILLE	64 & 1189	3,879.50	44.18
A10-302-0027	MRS. EDWARD TAKES THE SHIELD	3574	618.00	25.00
A10-302-0035	LEFT HAND VERMUND	850	1,641.50	65.00
A10-302-0330	KATE TIOKEWIN	3040	443.00	443.00
A10-302-1136	LUKE GOOD LEFT HAND	1917	307.84	307.84
A11-304-0076	ROUSSIN EUSTACHE	2515	529.62	475.00
A14-342-0172	HARRIET HIS BATTLE	U-225	326.85	326.85
A14-342-0177	MEDICINE NEST (HOLY NEST)	U-332	200.00	200.00
A14-342-0184	JOHN SIDE HILL	195	385.00	23.39

ABERDEEN AREA: ESTATES DELETED FROM PREVIOUS LISTS.

A01-340-0001	A06-344-1530	A09-347-0486
A01-340-0017	A06-344-1531	A09-347-0487
A01-340-0039	A06-344-1532	A09-347-0488
A01-340-0193	A06-344-1533	A09-347-0489
A01-340-0196	A06-344-1534	A09-347-0490
A01-340-0197	A07-345-0171	A09-347-0491
A01-340-3186	A07-345-0845	A09-347-0492
A06-344-0094	A07-345-0849	A09-347-0494
A06-344-0155	A07-345-0858	A09-347-0497
A06-344-1485	A07-345-0861	A10-302-0006
A06-344-1528	A07-345-3163	A10-302-0046
A06-344-1529	A09-347-0058	A10-302-0056
A10-302-0086	A10-302-0114	A10-302-0271
A10-302-0088	A10-302-0180	A10-302-0281
A10-302-0089	A10-302-0195	A10-302-0292
A10-302-0103	A10-302-0246	A15-343-0099
A10-302-0105	A10-302-0262	

[FR Doc. 86-8456 Filed 4-15-86; 8:45 am]

BILLING CODE 4310-02-C

BILLINGS AREA: ESTATES IDENTIFIED SINCE PUBLICATION OF PREVIOUS LISTS.

ISSUE NUMBER	NAME OF DECEDENT	DECEDENT ID	$ ALLOWED	$ PAID
C51-201-1457	STRIKESFIRST WOLFPLUME	1247	1,368.20	1,368.21
C55-204-0110	CAROLINE MATT JOHN	316	6269.25	3134.97
C55-204-0111	THOMAS BAD ROAD	205	400.00	400.00
C55-204-0112	ELIZABETH BENT	1153	1944.25	1944.25
C55-204-0113	ABRAHAM BULL CHIEF	355	1788.00	1788.00
C55-204-0114	FIRST RAISED	439	808.79	808.79
C55-204-0115	GREY BREATH WOMAN	510	1411.25	1411.25
C55-204-0116	GROWING HAND	759	2113.25	2113.25
C55-204-0117	GROWS FLYING	682	5479.25	650.06
C55-204-0118	LITTLE SHIELD	135	749.25	749.25
C55-204-0119	JAMES SHORTMAN	75	2000.25	2000.25
C55-204-0120	SMALL EARTH	775	1003.25	1003.25
C55-204-0121	TALKS DIFFERENT	481	420.00	420.00
C55-204-0122	THICK	909	1028.50	1028.50
C55-204-0123	SORE HEAD THICK	910	1479.50	1479.50
C55-204-0124	TURTLE DOOR	892	3764.00	2989.45
C55-204-0125	TWO WOMAN (MRS. GROWS FLYING)	683	4324.25	1266.42
C55-204-0126	ANDREW WHITE HORSE	752	3505.00	3505.00
C56-206-0078	CHARLES THOMPSON	942	1,188.90	1,188.90
C56-206-0169	JOHN HUNTER	1863	75.00	75.00
C57-207-0052	ARTHUR BLINDMAN	163	572.00	572.00
C57-207-0139	LENA WHITEBIRD	1282	462.80	462.80

BILLINGS AREA: ESTATE DELETED FROM FIRST LIST, REINSTATED.

ISSUE NUMBER	NAME OF DECEDENT	DECEDENT ID	$ AMOUNT	$ PAID
C52-202-0081	OLD CRANE	1956	422.75	368.46

BILLINGS AREA: ESTATES ON PREVIOUS LISTS, CORRECTED AND MODIFIED.

ISSUE NUMBER:	NAME OF DECEDENT	DECEDENT ID	$ AMOUNT	$ PAID
C55-204-0107	AUGUST KILLEAGLE	887	5,202.00	5,202.00
C56-206-0128	TWO BONNETS (HIGH BACK)	2805	4,343.00	4,343.00
C56-206-0140	ANDREW SHIELDS	856	4,991.00	49.86

BILLINGS AREA: ESTATES DELETED FROM PREVIOUS LISTS.

C51-201-1498
C52-202-0082

MINNEAPOLIS AREA: ESTATE ON PREVIOUS LISTS, CORRECTED AND MODIFIED.

ISSUE NUMBER	NAME OF DECEDENT	DECEDENT ID	$ ALLOWED	$ PAID
F53-407-0249	JOHN WHITECLOUD	1519	1,122.00	1,122.00

MINNEAPOLIS AREA: ESTATE DELETED FROM PREVIOUS LISTS.

F53-407-0253

federal register

Wednesday
April 16, 1986

Part IV

Administrative Conference of the United States

1 CFR Ch. III

Agencies' Use of Alternative Dispute Resolution Techniques; Public Hearing

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1 CFR Ch. III

Agencies' Use of Alternative Dispute Resolution Techniques

AGENCY: Administrative Conference of the United States.

ACTION: Notice of public hearing.

SUMMARY: The Administrative Conference has invited approximately a dozen public figures and dispute resolution experts to participate in a hearing on potential federal agency uses for alternative dispute resolution methods. On April 8, 1986, the Conference requested comments on draft recommendations calling for legislative and administrative changes to encourage agency use of arbitration, minitrials, mediation, factfinding and other alternatives to litigation. (51 FR 11928) Conference. The hearing is intended to obtain informed comment on this proposed guidance, and to help plan further Conference research into the potential, and problems, in agencies' use of ADR methods. Chairman Marshall J. Breger will chair the public hearing, which will be held on Friday, May 2 at the U.S. Claims Court.

Brief initial statements of views or experiences will be followed by opportunities for questioning by the Chairman and Conference members in attendance, and, time permitting, for witnesses to exchange views and reactions. Question on which information and advice are sought include these:

1. Should federal agencies generally, or selected departments, be encouraged to make greater use of alternative dispute resolution (ADR) techniques?

2. How fair and effective have federal, state or local agencies' arbitration or other ADR procedures proved to date?

3. What practical advice do you have for an agency official seeking to initiate an arbitration program or make enhanced use of ADR?

4. Are there particular functions (e.g., handling tort claims, licensing, resolving contract or audit disputes, enforcement activities), regulatory schemes or situations where the potential for using ADR methods merits closer inquiry? Where ADR methods would be inappropriate?

5. What legal or procedural issues that affect agency resort to arbitration, mediation or mini-trials need closer attention?

6. How should the costs of employing arbitrators be borne by the government or other parties?

7. Of the various ADR devices, which ones appear most, or least, likely to be useful to federal agencies engaged in deciding disputes or otherwise involved in controversies?

8. Do present agency structures (e.g., multiple layers of review, uncertain settlement authority) or policies discourage outside parties from negotiating settlements with the government? Would changes be useful?

9. What should be the standard of judicial review for agency-related arbitration?

10. Are there areas where agencies should consider deferring to a private dispute resolution mechanism as an alternative to other kinds of regulation?

A few additional witnesses may be allowed to present a brief statement of views or experiences, if time permits. Persons wishing to testify should apply to the Conference outlining their proposed testimony, relevant experience, or other interest. They must also be prepared to make written submissions of testimony at least three days before the hearing.

DATE: May 2, 1986; 10 a.m.

Location: U.S. Claims Court, Courtroom 10, 717 Madison Place, NW., Washington, DC 20005.

ADDRESSES: Information requests and applications to testify should be submitted to Charles Pou, Jr., Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Charles Pou, Jr., Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, DC 20037. Telephone: 202–254–7065.

Richard K. Berg,

General Counsel.

[FR Doc. 86–8665 Filed 4–15–86; 11:02 am]

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Federal Register

Vol. 51, No. 73

Wednesday, April 16, 1986

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Code of Federal Regulations

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Laws 523-5230

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FEDERAL REGISTER PAGES AND DATES, APRIL

CFR PARTS AFFECTED DURING APRIL

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.

14 CFR
39..... 11300, 11301, 11704–11714, 12123, 12506, 12507, 12509, 12511, 12684, 12690 12836
71..... 11426, 11564, 11715, 11886, 12512, 12693, 12837
73..... 12512
95..... 12694
97..... 11564, 12513

Proposed Rules:
Ch. I..... 12163
21..... 11933
23..... 11933
39..... 11321, 11322, 11748–11750, 12870
71..... 11454, 11455, 11585, 11752, 12524
75..... 12871
91..... 11942

15 CFR
368..... 12837
370..... 12838, 12840
371..... 12838
372..... 12838
373..... 12838
375..... 12838
376..... 12838
377..... 12838
379..... 12838
386..... 12838
399..... 12838, 12840
806..... 11012

Proposed Rules:
917..... 12525

16 CFR
13..... 11904

Proposed Rules:
13..... 12629

17 CFR
32..... 12698
33..... 11905
230..... 12842
239..... 11907, 12842
240..... 11907, 12124
249..... 11907
259..... 11907
269..... 11907
274..... 11907

Proposed Rules:
30..... 12104

18 CFR
2..... 11566, 11716
3..... 12137
157..... 11566–11569, 11716
284..... 11566–11569, 11716
389..... 11716

19 CFR
18..... 11012
24..... 11012
101..... 11013, 12843
112..... 11012
113..... 11012
141..... 11012
144..... 11012
146..... 11012
178..... 11012
191..... 11012

Proposed Rules:
101..... 12339
175..... 12712

20 CFR
295..... 12844
404..... 11717, 11910, 12600
416..... 11717, 12600

Proposed Rules:
655..... 11942, 12872

21 CFR
5..... 11427, 11429
73..... 11430, 11432, 11435, 12607
74..... 11014
82..... 11014
145..... 11433
160..... 11434
173..... 11719
178..... 12607
193..... 11437
430..... 11571
436..... 11571
441..... 11571
510..... 11437–11439
520..... 11439
522..... 11437
529..... 11438, 11440
555..... 11441
558..... 11014, 11438, 11439, 12137
561..... 12138
720..... 11441
882..... 12100

Proposed Rules:
74..... 11054
150..... 11054
163..... 12631, 12632
172..... 12163, 12632
175..... 12163, 12632
176..... 12163, 12632
177..... 12163, 12632
179..... 12163, 12632
181..... 12163, 12632
501..... 11456
812..... 11266, 12713
868..... 11516

22 CFR
501..... 11014
503..... 11014
504..... 11016
505..... 11016
506..... 11014
511..... 11014
516..... 11014
525..... 11014

23 CFR
140..... 11576
1325..... 11445

Proposed Rules:
645..... 11055

24 CFR
42..... 12848
43..... 12848
58..... 12848
115..... 11577
200..... 11198
215..... 11198
235..... 11198
236..... 11198
247..... 11198
280..... 12848
511..... 12700
571..... 12848
812..... 11198
850..... 12848
880..... 11198, 12848
881..... 11198, 12848
882..... 11198, 12848
883..... 11198, 12848
884..... 11198
885..... 12308
886..... 11198
912..... 11198
941..... 12848

26 CFR
1..... 11016, 11302
35a..... 11447
48..... 12515
602..... 11016, 12515

Proposed Rules:
1..... 11323, 11324, 11753, 12022, 12340–12341
3..... 12022
5f..... 12022
6a..... 12022
25..... 12022
31..... 12341
514..... 12022

27 CFR
9..... 11912

Proposed Rules:
4..... 11944
5..... 12342
9..... 11753, 12876

28 CFR
0..... 12848
2..... 11017

29 CFR
4..... 12264
5..... 12264
1602..... 11017
2201..... 11578
2610..... 12488
2616..... 12489, 12491, 12701
2617..... 12489, 12491, 12701
2619..... 12701
2623..... 12489, 12491, 12701

Proposed Rules:
1910..... 12526
1926..... 11945

30 CFR
870..... 11720
917..... 11579, 12138
935..... 12141

Proposed Rules:
Ch. II..... 12163
5..... 12966
7..... 11586
15..... 12966
16..... 12966
17..... 12966
18..... 12966
19..... 12966
20..... 12966
21..... 12966
22..... 12966
23..... 12966
24..... 12966
25..... 12966
26..... 12966
27..... 12966
28..... 12966
29..... 12966
31..... 12966
32..... 12966
33..... 12966
35..... 12966
36..... 12966
74..... 12966
250..... 11324
773..... 12879
778..... 12879
904..... 12713
918..... 11586
935..... 11055, 11588, 11589
944..... 12166

31 CFR
Proposed Rules:
51..... 11056

32 CFR
291a..... 12312
552..... 11722
701..... 11018
706..... 11303–11305, 12142–12144, 12515, 12516, 12850, 12851
834..... 12313

33 CFR
3..... 11914
66..... 11447
110..... 11726, 12313, 12314
117..... 12318–12320
146..... 11580
162..... 12314
165..... 11019, 11448, 11727
175..... 11580
181..... 11580

Proposed Rule:
100..... 11590
117..... 12342
166..... 11755

34 CFR
682..... 12764

Proposed Rules:
692..... 12480

38 CFR
18..... 12702
18a..... 12702
18b..... 12702
21..... 12321, 12852

39 CFR
Proposed Rule:
10..... 12343
111..... 11324

40 CFR
51..... 11414
52..... 11019, 11305, 12321–12323, 12517, 12853
60..... 11021, 11727, 12144, 12324
61..... 11021, 12144
131..... 11580
141..... 11396
142..... 11396
143..... 11396
166..... 11306
180..... 11306–11308, 11448, 12145, 12146, 12854
261..... 12148
799..... 11728

Proposed Rules:
50..... 11058
52..... 11756, 12882, 12884
180..... 12168, 12885–12887 12889
440..... 12344
721..... 11591
763..... 11947
766..... 12344
799..... 11756, 12344

41 CFR
50–201..... 12264
101–20..... 11022
101–38..... 11684
101–39..... 11022

42 CFR
57..... 11029, 12608
400..... 11581
405..... 11142, 11582
435..... 12325, 12855

Proposed Rules:
405..... 12714

43 CFR
2200..... 12609

Proposed Rules:
4..... 12168
431..... 12678

44 CFR
64..... 12152, 12612
65..... 12153, 12154
67..... 12155
302..... 12518

Proposed Rules:
61..... 12348
67..... 12175, 12890

45 CFR
Proposed Rules:
1178..... 11597

46 CFR
Proposed Rules:
381..... 12176
383..... 12176

47 CFR
0..... 12157, 12614

1 ..... 12157, 12614
2 12614
15 12614
18 12614
43 12157
65 11033
67 ..... 11035, 12702
68 12614
73 ..... 11037–11040, 11583, 11914–11917, 12159, 12160, 12614, 12616, 12703

Proposed Rules:

2 12897
64 11948
69 11328
73 ..... 11058, 11072, 11598–11600, 11950–11956, 12176–12179, 12722, 12898, 12899
76 11073
90 11075
97 11759

48 CFR

1 12296
8 12292
22 12292
31 12296
52 12292
53 12292
242 12330
513 12704
553 12704
706 11449
716 11449
725 11449
752 ..... 11449, 12706

Proposed Rules:

31 12676
203 11760
209 11602
252 ..... 11602, 11760
904 11457
952 11457
970 ..... 11457, 11701
1401 11075
1405 11075
1406 11075
1408 11075
1414 11075
1415 11075
1419 11075
1420 11075
1428 11075
1437 11075
1452 11075
1453 11075

49 CFR

1 ..... 12617, 12618
301 12619
388 12619
389 12619
390 12619
391 12619
394 12619
395 12619
501 12706
531 12855
541 11919
565 11309
571 ..... 11309, 11310, 12856
1023 12710

Proposed Rules:

172 12529
173 12529
571 ..... 11957, 12900
1042 12530
1312 11536

50 CFR

228 11737
619 11921
642 ..... 11041, 11310, 12857
650 ..... 11041, 11927
655 ..... 11451, 11742
663 12622
671 ..... 11041, 12857

Proposed Rules:

17 ..... 11761, 11874, 11880, 12180, 12184, 12444–12460
23 ..... 11328, 12350
611 12632
630 12632
683 12531

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 April 14, 1986.

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