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Federal Register

Friday
May 30, 1986

Briefings on How To Use the Federal Register—
For information on briefings in Seattle, WA, and San Francisco, CA, 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.

SEATTLE, WA

WHEN: July 22; at 1:30 pm.

WHERE: North Auditorium, Fourth Floor, Federal Building, 915 2nd Avenue, Seattle, WA.

RESERVATIONS: Call the Portland Federal Information Center on the following local numbers:
Seattle 206-442-0570
Tacoma 206-383-5230
Portland 503-221-2222

SAN FRANCISCO, CA

WHEN: July 24; at 1:30 pm.

WHERE: Room 2007, Federal Building, 450 Golden Gate Avenue, San Francisco, CA.

RESERVATIONS: Call the San Francisco Federal Information Center, 415-556-6600

Contents

Federal Register

Vol. 51, No. 104

Friday, May 30, 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.

Federal Register
Vol. 51, No. 104
Friday, May 30, 1986

Presidential Documents

Title 3—

The President

Proclamation 5494 of May 25, 1986

Critical Care Week, 1986

By the President of the United States of America

A Proclamation

Critical care medicine is a newly defined term that describes a category of medical treatments for patients who are in life-threatening situations and require immediate care. Coronary, respiratory, neonatal, trauma, and intensive care units are elements of critical care medicine. Patients may need such critical care after auto or boat accidents, heart attack, stroke, industrial injuries, or as a result of premature birth.

Critical care units, where they are available, often serve as many as 15 percent of a hospital's in-patients. Approximately 4,300 critical care units have already been established in the United States.

Public awareness of the special medical needs of the critically ill is important if America is to maintain its preeminence in the development and spread of medical advances in the area of critical care. Patients such as trauma and burn victims, AIDS victims, and postoperative patients with complications need critical care units within hospitals, and America needs the progress in treatment strategies these units and the professionals who staff them accomplish. The Society of Critical Care Medicine and its members throughout the United States are dedicated to improving the care of critically ill patients through research and education.

In order to increase public awareness of the importance of critical care medicine, the Congress, by House Joint Resolution 526, has designated the week beginning May 25 through May 31, 1986, as "Critical Care Week" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning May 25 through May 31, 1986, as Critical Care Week. I call upon the people of the United States to observe this event with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 25th day of May, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and tenth.

Ronald Reagan

[FR Doc. 86-12349
Filed 5-29-86; 10:34 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 5495 of May 28, 1986

National Child Safety Month, 1986

By the President of the United States of America

A Proclamation

The future of our Nation is in the hands of our children. The effects of the loving support, the nurturing, and the instruction we give them now will be felt and magnified a thousandfold in the generations to come.

Sadly, not all of our children live in a warm, loving family environment. In every part of America there are children who are abused, exploited, or abandoned, or who run away from an intolerable home situation to endure worse depravity on the streets of our cities. Unfortunately, this mistreatment may also be a legacy passed on to future generations.

I believe that the American people can accomplish miracles when they are aware of the gravity of a situation. Fortunately, evidence that this awareness is growing is available in community after community across the country, as well as in the increasing involvement of voluntary associations and the private sector in developing programs to protect our children. We are recognizing anew our responsibility as neighbors and friends to extend a helping hand to families and children in trouble. We are examining once again the root causes of the various stresses that families face today, and we are acquiring a stronger sense of society's task to shield families, and especially children, from influences that undermine their sense of harmony, security, and well-being. We have begun to see more clearly than ever the importance of values to happiness and stability in the home. These are the best preventives at our disposal.

Where problems in the family have exhausted its resources to cope, much can be done now in the way of treatment and counseling. Communities can contribute by working together to provide safe shelters for runaways and to find adoptive parents for children in need of a loving home.

The Congress, by Senate Joint Resolution 293, has designated the month of May 1986 as "Child Safety Month" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the month of May 1986 as Child Safety Month. I urge all Americans and governmental and private entities to observe this month with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of May, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and tenth.

Ronald Reagan

[FR Doc. 86-12350
Filed 5-29-86; 10:35 am]
Billing code 3195-01-M

Presidential Documents

Letter of May 23, 1986

Letter to the Honorable John S. Herrington, Secretary of Energy

Dear Mr. Secretary:

You are hereby authorized to perform the notification function vested in the President pursuant to Section 112(c)(1) of the Nuclear Waste Policy Act of 1982, 42 U.S.C. § 10132(c)(1).

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

Sincerely,

Ronald Reagan

THE WHITE HOUSE,
Washington, May 28, 1986.

[FR Doc. 86-12351
Filed 5-29-86; 10:36 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 51, No. 104
Friday, May 30, 1986

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Amendment of Grade and Size Requirements for Certain Grapefruit and Oranges

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule relaxes the minimum external grade requirements for shipments of domestic, export, and imported seedless grapefruit from Improved No. 2 to U.S. No. 2 Russet and the minimum size requirements for interstate shipments of Temple oranges from size 125 (2$^{9}/_{16}$ inches) to size 163 (2$^{4}/_{16}$ inches). The relaxations for seedless grapefruit and Temple oranges are effective from May 19, 1986, through August 17, 1986. This rule also relaxes the minimum external grade requirements for interstate shipments of Valencia oranges from U.S. No. 1 to U.S. No. 2 Russet. The relaxation for Valencia oranges is effective from June 16, 1986, through September 28, 1986. These relaxations in the grade and size requirements for Florida Citrus recognize the grade and size composition of the remaining available citrus crop and the current and prospective demand conditions for this fruit.

EFFECTIVE DATE: Seedless grapefruit and Temple oranges for the period May 19, 1986 to August 17, 1986; Valencia oranges for the period June 16, 1986 to September 28, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250; telephone: (202) 447-5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1521-1 and Executive Order 12291 and has been designated as a "non-major" rule.

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

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

It is estimated that about 95 handlers of Florida citrus are currently subject to regulation under the marketing order for Florida oranges, grapefruit, tangerines, and tangelos and that approximately 26 importers of grapefruit will be subject to this action under the grapefruit import regulation during the course of the current season and that the great majority of these groups may be classified as small entities. While regulations issued under this order and corresponding import requirements impose some costs on affected handlers and importers and the number of such persons may be substantial, the added burden on small entities because of this relaxation, if present at all, is not significant.

This rule is issued under the marketing agreement and Order No. 905 (7 CFR Part 905), both as amended, regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). These actions were recommended unanimously by the Citrus Administrative Committee at its May 13, 1986, meeting. The committee works with USDA in administering the marketing agreement and order program.

Florida Citrus Regulation 6 was issued on a continuing basis subject to modification, suspension, or termination upon recommendation by the committee and approval by the Secretary. The committee meets prior to and during each season to consider recommendations for modifications, suspension, or termination of the regulatory requirements for Florida oranges, grapefruit, tangerines, and tangelos. Prior to making any such recommendations, the committee submits to the Secretary a marketing policy for the season including an analysis of supply and demand factors having a bearing on the marketing of the crop. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department reviews committee recommendations and information submitted by the committee and other available information, and determines whether modifications, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the Act.

The minimum grade and size requirements, specified herein, reflect the committee's and the Department's appraisal of the need to relax the grade requirements applicable to domestic, export, and import shipments of seedless grapefruit and domestic and export shipments of Valencia oranges and the minimum size requirements for domestic shipments of Temple oranges. This rule recognizes current and prospective supply and demand for such fruit and is necessary to permit handlers to ship the remaining supply of marketable fruit to meet market needs. The Florida citrus shipping season is coming to a close and no problems with fruit quality, maturity, and size are expected in the marketplace because of the relaxations.

This rule temporarily lowers the minimum external grade requirement for domestic, export, and import shipments of seedless grapefruit from Improved No. 2 to U.S. No. 2 Russet while the minimum internal requirement remains U.S. No. 1 and the minimum size requirements for domestic shipments of Temple oranges from size 125 (2$^{9}/_{16}$) to size 163 (2$^{4}/_{16}$) during the period from May 19, 1986, through August 17, 1986. This amendment also lowers the minimum external grade requirements for domestic and export shipments of

Valencia oranges from U.S. No. 1 to U.S. No. 2 Russet while the minimum internal grade requirement will remain U.S. No. 1 during the period from June 16, 1986, through September 28, 1986. These relaxations in minimum grade and size requirements for such citrus recognize the grade and size composition of the available citrus supply, and current and prospective demand conditions for this citrus.

Under section 8e of the act (7 U.S.C. 608e–1), whenever specified commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity. Thus, the grade requirement for imported seedless grapefruit (7 CFR 944.106) also must be relaxed to conform to the grade requirement for domestic shipments of Florida seedless grapefruit during the period specified. Under the terms of the import regulation prescribed in § 944.106(a) the grade requirement for imported seedless grapefruit automatically changes to conform to the relaxed grade requirement for domestic shipments of seedless grapefruit.

Based upon the recommendation and information submitted by the committee, and upon other available information, it is hereby found that regulation of domestic, export, and imported seedless grapefruit, domestic and export Valencia oranges, and domestic Temple oranges, as hereinafter provided, will tend to effectuate the declared policy of the Act.

It is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which these relaxations are based and the effective date necessary to effectuate the declared purposes of the Act. This rule relieves restrictions on shipments of Florida citrus and must be taken promptly to enable handlers to take advantage of the relaxed requirements. Also, handlers are aware of the relaxations and the effective dates and require no additional time to comply therewith.

List of Subjects in 7 CFR Part 905

Marketing agreements and orders, Florida, Grapefruit, Oranges, Tangelos, Tangerines.

PART 905—[AMENDED]

1. The authority citation for 7 CFR Part 905 continues to read as follows:

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

2. The provisions of § 905.306 are amended by revising the following entry in Table I, paragraph (a), applicable to domestic shipments, and Table II, paragraph (b), applicable to export shipments, to read as follows:

§ 905.306 Orange, Grapefruit, Tangerine and Tangelo Regulation 6, Amendment 38.

(a) * * *

TABLE I

Variety	Regulation period	Minimum grade	Minimum diameter (inch)
(1)	(2)	(3)	(4)
*	*	* * *	
Grapefruit: Seedless, white.	5/19/86–8/17/86.	U.S. No. 2, Russet (External), U.S. No. 1 (Internal).	3 3/16
	On or after 8/18/86.	Improved No. 2 (External U.S. No. 1 (Internal).	3 3/16
Grapefruit: Seedless, pink.	5/19/86–8/17/86.	U.S. No. 2, Russet (External), U.S. No. 1 (Internal).	3 3/16
	On or after 8/18/86.	Improved No. 2, Russet (External), U.S. No. 1 (Internal).	3 3/16
Oranges: Valencia and other late types.	6/16/86–9/28/86.	U.S. No. 2, Russet (External), U.S. No. 1 (Internal).	2 5/16
	On or after 9/29/86.	U.S. No. 1	2 5/16
Oranges: Temple	5/19/86–8/17/86.	U.S. No. 1,	2 1/16
	On or after 8/18/86.	U.S. No. 1	2 5/16
*	*	* * *	

TABLE II

Variety	Regulation period	Minimum grade	Minimum diameter (inch)
(1)	(2)	(3)	(4)
*	*	* * *	
Grapefruit: Seedless, white.	5/19/86–8/17/86.	U.S. No. 2, Russet (External), U.S. No. 1 (Internal).	3 3/16
	On or after 8/18/86.	Improved No. 2 (External U.S. No. 1 (Internal).	3 3/16
Grapefruit: Seedless, pink.	5/19/86–8/17/86.	U.S. No. 2, Russet (External), U.S. No. 1 (Internal).	3 3/16
	On or after 8/18/86.	Improved No. 2, (External), U.S. No. 1 (Internal).	3 3/16
Oranges: Valencia and other late types.	6/16/86–9/28/86.	U.S. No. 2, Russet (External), U.S. No. 1 (Internal).	2 5/16

TABLE II—Continued

Variety	Regulation period	Minimum grade	Minimum diameter (inch)
(1)	(2)	(3)	(4)
	On or after 9/29/86.	U.S. No. 1	2 5/16
*	*	* * *	

* * * * *

Dated: May 22, 1986.

Joseph A. Gribbin,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86–12166 Filed 5–29–86; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 908

[Valencia Orange Regulation 364, Amdt. 1]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This Amendment of Regulation 364 increases the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period May 23–29, 1986. The amendment is needed to provide for orderly marketing of fresh Valencia oranges for the period specified due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: Regulation 364, Amendment 1 (§ 908.664) is effective for the period May 23–29, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, telephone: 202/447–5697.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule.

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

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act

and rules issued thereunder are unique in that they are brought about through group action of essentially small entities for their own benefit. Thus, both statutes have small entity orientation and compatibility.

It is estimated that approximately 123 handlers of Valencia oranges are subject to regulation under the marketing order and that the great majority of these handlers may be classified as small entities. While regulations issued may impose some costs on affected handlers and the number of such firms may be substantial, the added burden on small entities, if present at all, is not significant.

This amendment is issued under Marketing Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The actions are based upon the recommendation and information submitted by the Valencia Orange Administrative Committee (VOAC) and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This amendment is consistent with the marketing policy for 1985–86. The committee members were contacted by telephone on May 23, 1986, to consider the current and prospective conditions of supply and demand and recommended an increase in the quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports that the demand for Valencia oranges is improving.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because there is insufficient time between the date when information upon which this regulation is based became available and the effective date necessary to effectuate the declared policy of the act. To effectuate the declared policy of the act, it is necessary to make the regulatory provisions effective as specified, and handlers have been notified of the amendment and the effective date.

List of Subjects in 7 CFR Part 908

Agricultural Marketing Service, Marketing Agreements and Orders, California, Arizona, Oranges, Valencias.

1. The authority citation for 7 CFR Part 908 continues to read:

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

2. Section 908.664 is revised to read as follows:

§ 908.664 Valencia Orange Regulation 364.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period May 23, 1986, through May 29, 1986, are established as follows:

(a) District 1: 480,000 cartons;

(b) District 2: 520,000 cartons;

(c) District 3: Unlimited cartons.

Dated: May 23, 1986.

Thomas R. Clark,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86–12122 Filed 5–29–86; 8:45 am]

BILLING CODE 3410–02–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

Criteria for Reopening Records in Formal Licensing Proceedings

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to codify and refine NRC case law criteria for reopening a closed evidentiary record in a formal licensing proceeding. Codification of these criteria will ensure that no uncertainty exists about what Commission regulations require for a motion to reopen a record. This amendment will facilitate proper and timely consideration of motions to reopen by the adjudicatory boards while maintaining fairness to all parties to a proceeding.

EFFECTIVE DATE: June 30, 1986.

FOR FURTHER INFORMATION CONTACT: Carole F. Kagan, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (202) 634–1493.

SUPPLEMENTARY INFORMATION:

I. Background

On December 27, 1984, the Commission published in the Federal Register (49 FR 50189) a notice of proposed rulemaking which would codify and refine established NRC case law decision criteria under which the evidentiary record in a close formal license proceeding conducted in conformance with Subpart G of 10 CFR Part 2 may be reopened to admit new evidence. As detailed in the notice of proposed rulemaking, the Commission believes that, while the existing decision criteria have proved to be generally adequate, there is a need for further specification of the manner and degree of documentation required to support a motion to reopen a record. Some motions filed before an Atomic Safety and Licensing Board or Appeal Board were accompanied by voluminous, unorganized or poorly organized materials, with little evidence of any systematic effort by the movant to delete irrelevant or immaterial information. The task of sorting out the relevant evidence fell to the Boards. Not only does this situation result in delay in considering the merits of the motion, but it also carries the risk that some piece of evidence that the proponents consider especially crucial to their allegations might be overlooked.

To ensure timely and proper consideration of motions to reopen, the Commission is requiring that motions to reopen be accompanied by affidavits setting forth with particularity the bases for the movant's claim. It is required that each issue be identified separately. Allegations stemming from information provided by anonymous informants will be acceptable only if the informant is identified to the presiding officer and a request for an appropriate protective order is filed.

Thirteen comments were received on the proposed rulemaking. Nine of those comments came from electric utilities, their representatives, contractors and suppliers. Of these, four generally supported the rule and five did not because, in their view, it failed to impose a sufficient burden on proponents of motions to reopen. Two comments were received from environmental public interest groups which opposed portions of the rule as imposing too great a burden on proponents. The remaining two comments came from private citizens. One supported the proposed rule; the other was found to relate to a different proceeding and was rerouted to the proper docket.

II. Analysis of Public Comment

Comment: One commenter felt that the new rule should be labeled under 10 CFR 2.757, (Authority of a Presiding Officer to Regulate Procedures in a Hearing) rather than § 2.743a (Evidence).

Response: The Commission has decided that the rule should more accurately be renumbered as § 2.734. The sections numbered under § 2.730 set forth rules regarding motions. The standards for a motion to reopen a

record should therefore be set forth under this part. All further reference to this rule will be to § 2.734.

Comment: The Commission should further define the requirement in § 2.734(a)(1) which requires that a motion be "timely."

One commenter suggested that the timeliness standard should be changed to conform to that used in federal practice and stated in 6A J. Moore, *Moore's Federal Practice*, ¶¶ 59.04[13], 59.08[3] (2d ed. 1976). The commenter suggests that § 2.734(a)(1) read as follows:

> The motion must be based upon evidence discovered since the record was closed that could not, with reasonable diligence, have been discovered by the moving party before the record was closed.

Another commenter recommended a 30-day cutoff for timeliness "like those found in 10 CFR 2.760, 62 and 71" for appeals.

Response: The Commission believes that there is no need to further define what is meant by "timely." There appears to be no confusion as to what the term means. It has been amply defined both in federal practice (as in the definition suggested by the commenter) and in NRC case law. *See, e.g., Vermont Yankee Nuclear Power Corporation* (Vermont Yankee Nuclear Generating Station), ALAB–138, 6 AEC 520, 523 (1973) (whether the issues sought to be presented could have been raised at an earlier stage). The Commission also sees no reason to impose an arbitrary cutoff point.

Comment: Several comments were received which questioned the advisability of including the portion of § 2.734(a)(1) which provides an exception to the timeliness requirement for "exceptionally grave issues." One commenter stated that this exception was not in accord with NRC case law; another said that it was in accord with NRC case law, but should be eliminated.

Response: The exception to the timeliness requirement for "exceptionally grave issues" is founded in NRC case law. *Vermont Yankee Nuclear Power Corporation* (Vermont Yankee Nuclear Power Station), ALAB–124, 6 AEC 358, 365 n.10 (1973) (". . . a newly discovered but insignificant matter might not justify a reopening. The converse is not necessarily true, however, for if the problem raised presents a sufficiently grave threat to public safety, a board should reopen the record to consider it even if it is not newly discovered and could have been raised in timely fashion.")

No pressing reason, other than the avoidance of delay, has been advanced for eliminating that exception. The Commission believes that the public interest is better served if this narrow exception is retained. It must be understood that the Commission anticipates that this exception will be granted rarely and only in truly extraordinary circumstances.

Comment: One commenter has suggested that § 2.734(a)(1) be amended to add language to the effect that the "exceptionally grave issue" exception to the timeliness requirement should only be allowed "provided all other requirements of this section have been met."

Response: The Commission believes that this wording is unnecessary, because that requirement is already contained in the rule. The requirement of timeliness in only one of the requirements of § 2.734, and the exception for "exceptionally grave issues" goes only to fulfilling that requirement. It does not exempt the movant from any other requirement of that section.

Comment: One commenter suggested that the standard contained in proposed § 2.734(a)(3), which requires that a different result might be or might have been reached had the newly proffered evidence been considered initially, should further require that the new result be *materially* different.

Response: The Commission, while believing it to be implicitly understood that a closed record should not be reopened to consider peripheral issues, is adopting this suggestion. This change does not alter current requirements, but merely states explicitly a requirement that has always been understood to exist.

Comment: There were several comments on the criterion set forth in proposed § 2.734(a)(3), which requires that a motion to reopen demonstrates that a different result "*might be* or might have been reached had the newly proffered evidence been considered initially" (emphasis added). The commenters questioned whether the inclusion of this wording meant that the "different result" criterion would apply to the time period between the closing of the record and issuance of the Initial Decision.

Response: The words "might be" were added to address the situation where a motion to reopen is filed after the record is closed but before an Initial Decision is issued. As one commenter has intimated, this change was added to clarify a situation in which some licensing boards have assumed that the "different result" criterion is only applicable after the issuance of the Initial Decision. *See, e.g., Consumers Power Company* (Midland Plant, Units 1 and 2), LBP–83–50; 18 NRC 242, 248 (1983). However, as that commenter pointed out, a licensing board should be able to determine whether the information supplied by a movant could affect its decision even before that decision is reached. The final rule has been modified slightly to clarify this point.

Comment: Some commenters noted a discrepancy between the standard of proposed § 2.734(a)(3), which required that the motion demonstrate that a different result "might be or might have been reached had the newly proffered evidence been considered initially," (incorporating the "might have been reached" standard of *Pacific Gas and Electric Company* (Diablo Canyon Nuclear Power Plant, Units 1 and 2), ALAB–598, 11 NRC 876, 879 (1980)) and the "would have been reached" standard found in other NRC case law and cited by the D.C. Circuit in *San Luis Obispo Mothers for Peace* v. *NRC*, 751 F.2d 1287, 1316 (D.C. Cir. 1984). The commenters argued that the "might have been reached" standards is vague and that the D.C. Circuit has endorsed the more stringent standard.

Response: Some conclusion may have been created by the NRC case law in this area. The Commission has, at various times, endorsed both standards without differentiating between them. In *Metropolitan Edison Company* (Three Mile Island Nuclear Station, Unit 1), CLI–84–18, 20 NRC 808, 809 (1984), the Commission stated that, in making its determination whether new information requires reopening of the record, it would use "the traditional standards for reopening," citing as an example ALAB–598, which was cited in the proposed rule as using the "might have been reached" standard. In using this standard, however, ALAB–598 cites to *Kansas Gas and Electric Company* (Wolf Creek Station, Unit 1), ALAB–462, 7 NRC 320, 338 (1978). This case, which was the case cited by the D.C. Circuit in *San Luis Obispo Mothers for Peace* v. *NRC*, 751 F.2d at 1318, uses the "would have been reached" standard. To further complicate matters, the Commission used the "would have been reached" standard in *Pacific Gas and Electric Company* (Diablo Canyon Nuclear Power Plant, Units 1 and 2), CLI–81–5, 13 NRC 361, 365 (1981).

The "different result" criterion was first imposed in *Northern Indiana Public Service Company* (Bailly Generating Station, Unit 1), ALAB–227, 8 AEC 416, 418 (1974). This decision used the "would have been reached" standard. It is this case which was cited by both the

D.C. Circuit and the Appeal Board in ALAB-598 (which cited it as using the "might have been reached" standard).

The actual inquiry to be performed falls between the two standards. The "would" standard may be read to imply that an ultimate conclusion must be reached before all evidence is considered. The "might" standard implies that reopening could be ordered even where a board is uncertain whether or not the new evidence is important. The inquiry should be, and has been, the *likelihood* that a different result will be reached if the information is considered. *See, e.g., Union Electric Company* (Callaway Plant, Unit 1), ALAB-750, 18 NRC 1205, 1209 (1983). Accordingly, the Commission is modifying the standard of § 2.734(a)(3) to require that a materially different result would be or would have been *likely* had the newly proffered evidence been considered initially.

Comment: Several commenters addressed the proposed standard of § 2.734(b), which required that motions to reopen be accompanied by affidavits setting forth the factual and/or technical bases for the claim that the reopening criteria have been satisfied. The comments reflect confusion about the standard to be applied to judge the competence of affiants. As one commenter noted, NRC case law sets forth a standard for the competence of affiants in motions to reopen. Affidavits "must be given by competent individuals with knowledge of the facts or experts in the disciplines appropriate to the issues raised." *Pacific Gas and Electric Company* (Diablo Canyon Nuclear Power Plant, Units 1 and 3), ALAB-775, 19 NRC 1361, 1367 n.18 (1984). However, the commenter believed that affidavits based on "information and belief," rather than personal knowledge, should be unacceptable under this standard. Another commenter took a similar tack, saying that affidavits of lawyers repeating allegations of undisclosed principals should not be sufficient. A third commenter suggested that evidence contained in affidavits should be required to meet the Commission's evidentiary standards as set forth in 10 CFR 2.743(c).

Response: The present rule is not, except where noted, intended to wipe out NRC case law concerning motions to reopen. Thus, the criteria for affidavits in motions to reopen set forth in *Diablo Canyon* continue in effect whether specifically adopted in this rule or not. Nevertheless, to avoid confusion, the Commission is specifically adopting the NRC case law requirement that affidavits be given by competent individuals with knowledge of the facts or experts in the disciplines appropriate to the issues raised. The Commission is also modifying the proposed rule to reflect that evidence contained in affidavits must meet the requirements of 10 CFR 2.743(c).

Comment: One commenter believed that a movant should be required under § 2.734(b) to specify each issue it wishes to litigate, not each allegation.

Response: This requirement was already incorporated into proposed § 2.734(b), which provided in pertinent part that "where multiple allegations are involved, the movant must identify with particularity each *issue* it seeks to litigate. . . ." (emphasis added). The real point of this comment seems to be the commenter's assertion that use of the term "allegations" in the remainder of this section could be read to imply that allegations without factual or technical bases could be put forth to satisfy this criterion. It is the Commission's intention that the requirement of a showing of the factual and/or technical bases for each issue be addressed separately. So that there will be no confusion on this matter, the Commission has changed the final rule to reflect that not only allegations, but the factual and/or technical bases for them must be separately stated for each issue.

Comment: Several commenters took issue with proposed § 2.734(c), which required that the identity of a confidential informant be revealed to the presiding officer and that a protective order be requested. The commenters argued that the requirement to identify informants to the presiding officer would have a chilling effect on individuals who might wish to come forward with information and that effective discovery would be precluded if the identities of informants were not known.

Response: These competing interests are precisely the considerations the Commission balanced in formulating the proposed rule. The Commission agrees that forced public disclosure of confidential informants could prevent persons from coming forward with information that would have an impact on the public health and safety. It is also aware that the credentials of allegers should be subject to some scrutiny to allow the presiding officer to assess the proper weight to be given to the alleger's testimony. The D.C. Circuit has upheld a Licensing Board's refusal to consider anonymous affidavits because "the competence of unidentified individuals is impossible to determine." *San Luis Obispo Mothers for Peace* v. *NRC*, 751 F.2d 1321, n.203. The Court emphasized availability of protective orders for such situations. *Id.* For these reasons, the Commission has decided to retain this portion of the rule as originally proposed. Anonymous allegations are not favored, but will be allowed if the alleger is identified to the presiding officer. The presiding officer may then handle requests for disclosure.

Comment: One commenter questioned the need for a "formal" protective order, believing that the presiding officer could simply grant confidentiality.

Response: A protective order is the means by which confidentiality is assured by law, and the Commission believes that this "formality" is necessary to grant the full measure of legal assurance to those whose identities it agrees to protect.

Comment: One commenter thought that proposed § 2.734(d), which required that the criteria set forth in § 2.714(a)(1) for non-timely filings be applied to motions to reopen, should apply with respect to proposed new contentions.

Response: This has always been a Commission requirement. *See, e.g., Pacific Gas and Electric Company* (Diablo Canyon Nuclear Power Plant, Units 1 and 2), CLI-82-39, 16 NRC 1712, 1714-15 (1982). To clarify this existing Commission requirement, in the final version of § 2.734(d) the word "amended" has been changed to the word "nontimely."

Comment: One commenter suggested that the imposition of the requirement to fulfill the criteria of 10 CFR 2.714(a)(1) (i-v) when movants seek to reopen a record to introduce new issues is of little practical use. The commenter claimed that the criteria were redundant of the criteria used for any motion to reopen.

Response: The criteria of 10 CFR 2.714(a)(1) (i-v) are:

(i) Good cause, if any, for failure to file on time.

(ii) The availability of other means whereby the petitioner's interest will be protected.

(iii) The extent to which the petitioner's participation may reasonably be expected to assist in developing a sound record.

(iv) The extent to which the petitioner's interest will be represented by existing parties.

(v) The extent to which the petitioner's participation will broaden the issues or delay the proceeding.

The Commission disagrees with the commenter's analysis. These criteria, which apply where new issues are sought to be admitted, are not so redundant of the criteria for reopening

that they are of no additional use. Licensing boards have applied these criteria along with the reopening criteria in the context of motions to reopen records to admit new contentions. *See, e.g., Arizona Public Service Company* (Palo Verde Nuclear Generating Station, Units 1 and 2), LBP–82–117B, 16 NRC 2024 (1982). This requirement has also been imposed by the Commission. *See, e.g., Pacific Gas and Electric Company* (Diablo Canyon Nuclear Power Plant, Units 1 and 2), CLI–81–5, 13 NRC 361, 364 (1981).

While the first of the five criteria, a showing of good cause for failure to file on time, overlaps the timeliness requirement already present, the overall criteria have greater relevance in the reopening context than is ascribed to them by the commenter. The second criterion is not necessarily satisfied, as the commenter suggests, by the availability of a petition under 10 CFR 2.206, because the availability of the § 2.206 procedure is not to be equated with the ability to litigate issues in an adjudicatory setting and a right to appeal. *Washington Public Power Supply System* (WPPSS Nuclear Project No. 3), 18 NRC 1167, 1175–76 (1983). The § 2.206 procedure relates more properly to the initiation of new proceedings than to reopening one which is pending. The commenter does not dispute the relevance of the third and fifth criteria. The fourth criterion, which the commenter suggests has no meaning in a closed proceeding, would be relevant at least where the petitioner's interests were represented by existing parties who had raised or are raising similar issues.

For the above reasons, the Commission is retaining the requirement that a contention filed in the context of a motion to reopen meet the standards of 10 CFR 2.714 (a)(1) (i–v).

Comment: Two commenters alluded to the possibility of using the remedy of requesting a proceeding pursuant to 10 CFR 2.206, which allows any person to request the NRC staff to modify, suspend or revoke a license or take other proper action, rather than allowing motions to reopen. One commenter argued that "the NRC does not require a hearing to effectively address significant safety or environmental issues." Thus, according to the commenters, staff resolution of issues is an adequate remedy for contentions filed after a record has been closed but before a license is issued.

Response: A petition filed under 10 CFR 2.206 stems from a different concept that does a motion to reopen. The former is addressed in an informal proceeding and generally goes to the need for the institution of a separate formal matter. A motion to reopen goes to the need for further hearings in a formal matter which is pending before the Commission. Therefore, a motion to reopen is necessarily analogous to a petition under 10 CFR 2.206. Moreover, a rule whereby the Commission could refuse to entertain *any* motions to reopen is not considered by the Commission to be fairly within the scope of this rulemaking, which presumed that motions to reopen would be granted in at least some circumstances, and sought to refine and codify law on when such motions should be granted.

For this reason, the commenter's suggestion will not be considered further in this rulemaking. In any event, the commenter cited no law to support the proposition that an agency may refuse to entertain *any* motions to reopen, and the Commission would need more support for the suggestion before it could be pursued further.

Comment: The same commenter suggested that the proponent of a motion to reopen should be required to make a showing like that required under 10 CFR 2.788 for a motion to stay the effectiveness of a licensing board decision.

Response: The criteria for a stay motion were developed to address an entirely different situation from those for a motion to reopen. The former involve withholding a license where a facility has been found ready to be licensed, while the latter go to the need for further hearings whether or not the license should be withheld.

Comment: Several commenters suggested that the Commission emphasize that a motion to reopen is an "extraordinary action," and that a heavy burden is put on proponents.

Response: In light of the requirements imposed, the Commission believes this fact to be self-evident. The Commission has often emphasized the heavy burden involved. *See, e.g., Kansas Gas and Electric Company* (Wolf Creek Generating Station, Unit No. 1), ALAB–462, 7 NRC 320, 338 (1978), and the D.C. Circuit has characterized those requirements as "high" and "stringent" in *San Luis Obispo Mothers for Peace* v. *NRC*, 751 F.2d at 1316. Reopening will only be allowed where the proponent presents material, probative evidence which either could not have been discovered before or could have been discovered but is so grave that, in the judgment of the presiding officer, it must be considered anyway. No change in the requirements is necessary to emphasize this fact.

Comment: One commenter questioned whether the newly-codified criteria would apply in situations where a record is closed as to certain contentions, but open as to others, and a movant seeks to reopen the record with respect to a contention for which all the evidence has been heard.

Response: The criteria are intended to apply when a record is closed with respect to a particular contention. The motion should be filed with the body having jurisdiction under NRC case law.

Comment: One commenter suggested that a motion to reopen be styled as a "petition," rather than a motion, in order to emphasize the heavy burden imposed and to denote a closed proceeding.

Response: In NRC practice, as in federal practice, a motion to reopen has always been characterized as a motion. The Commission believes this to be the proper terminology until the initial decision is issued. This in no way changes or lessens the burden placed on proponents.

Comments: One commenter has suggested that a distinction be made between an intervenor's motion to reopen and an applicant's attempt to supplement the record.

Response: At least one licensing board has intimated that such a distinction should be made. *Texas Utilities Electric Company, et al.* (Comanche Peak Steam Electric Station, Units 1 and 2), LBP–84–10, 19 NRC 509, 530 (1984) (". . . it does not seem . . . logical or proper to close down a multi-billion dollar nuclear plant because of a deficiency of proof."). The Commission, however, is unpersuaded. Principles of finality should attach equally to applicants and to intervenors. There is no reason not to subject all movants to the requirements of timeliness, materiality and effect on the decision. If a deficiency of proof is serious enough to threaten the operation of a facility, and the applicant possesses sufficient information to overcome that deficiency, surely these requirements will be satisfied.

Comment: One commenter felt that the standards of § 2.734 should only apply to a motion to offer additional evidence on an issue already considered. A motion to offer additional contentions should not be construed as a motion to reopen, in the commenter's view, but should only have to fulfill the criteria of 10 CFR 2.714(a)(1) for late-filed contentions.

Response: The Commission disagrees. A motion to reopen must be filed whenever a proponent seeks to add new information to a closed record, whether the information concerns a new

contention or one which has already been heard.

Comment: Another commenter argued that it is improper for the NRC to close a record to avoid licensing delays caused by last minute allegations, and that delay in licensing is actually proper whenever there are unresolved safety questions.

Response: It goes without saying that the Commission agrees with the commenter that a nuclear facility must meet all safety standards before a license can be granted. The purpose of this rule is not to foreclose the raising of important safety issues, but to ensure that, once a record has been closed and all timely-raised issues have been resolved, finality will attach to the hearing process. Otherwise, it is doubtful whether a proceeding could ever be completed. As the Third Circuit said in upholding a Commission decision not to reopen the record on certain issues involving restart of the Three Mile Island, Unit 1 reactor, "at some point . . . proceedings must terminate in outcomes." *In re Three Mile Island Alert, Inc.* v. *NRC*, 771 F. 2d 720, 740 (D.C. Cir. 1985).

It is for this reason as well as others that the Commission has felt it necessary to establish by rule the standards to be applied to motions to reopen. The Supreme Court has repeatedly said that reopening should not be automatic and is necessarily within the discretion of the agency:

> Administrative consideration of evidence always creates a gap between the time the record is closed and the time the administrative decision is promulgated. This is especially true if the issues are difficult, the evidence intricate, and the consideration of the case deliberate and careful. If upon the coming down of the order litigants might demand rehearings as a matter of law because some new circumstance has arisen, some new trend has been observed; or some new fact discovered, there would be little hope that the administrative process could ever be consummated in an order that would not be subject to reopening. It has been almost a rule of necessity that rehearings were not matters of right, but were pleas to discretion.

ICC v. *Jersey City*, 322 U.S. 503, 514–515 (1944); *accord, Bowman Transportation* v. *Arkansas-Best Freight*, 419 U.S. 281, 294–295 (1974).

Paperwork Reduction Act Statement

The collection of information this proposed rule contains is exempt from the requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. 3518(c)(1)(B).

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), and NRC size standards published on December 9, 1985 (50 FR 50241), the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities. The final rule imposes the additional requirement that a movant, to reopen a closed evidentiary record, file affidavits setting forth the movant's claim before the record will be reopened. Significant additional resources are not required by the rule.

List of Subjects in 10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalty, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of Title 5 of the United States Code, the NRC is adopting the following amendments to 10 CFR Parts 2 and 50.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

1. The authority citation for Part 2 continues to read as follows:

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200–2.206 also issued under secs. 186, 234, 68 Stat. 955, 83 Stat. 444, as amended (42 U.S.C. 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Sections 2.300–2.309 also issued under Pub. L. 97–415, 96 Stat. 2071 (42 U.S.C. 2133). Sections 2.600–2.606 also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770 also issued under 5 U.S.C. 557. Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553 and sec. 29 Pub. L. 85–256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Appendix A also issued under sec. 6, Pub. L. 91–580, 84 Stat. 1437 (42 U.S.C. 2135).

2. A new § 2.734 is added to read as follows:

§ 2.734 Motions to Reopen.

(a) A motion to reopen a closed record to consider additional evidence will not be granted unless the following criteria are satisfied:

(1) The motion must be timely, except that an exceptionally grave issue may be considered in the discretion of the presiding officer even if untimely presented.

(2) The motion must address a significant safety or environmental issue.

(3) The motion must demonstrate that a materially different result would be or would have been likely had the newly proffered evidence been considered initially.

(b) The motion must be accompanied by one or more affidavits which set forth the factual and/or technical bases for the movant's claim that the criteria of paragraph (a) of this section have been satisfied. Affidavits must be given by competent individuals with knowledge of the facts alleged, or by experts in the disciplines appropriate to the issues raised. Evidence contained in affidavits must meet the admissibility standards set forth in § 2.743(c). Each of the criteria must be separately addressed, with a specific explanation of why it has been met. Where multiple allegations are involved, the movant must identify with particularly each issue it seeks to litigate and specify the factual and/or technical bases which it believes support the claim that this issue meets the criteria in paragraph (a) of this section.

(c) A motion predicated in whole or in part on the allegations of a confidential informant must identify to the presiding officer the source of the allegations and must request the issuance of an appropriate protective order.

(d) A motion to reopen which relates to a contention not previously in controversy among the parties must also satisfy the requirements for nontimely contentions in § 2.714(a)(1)(i–v).

Dated at Washington, DC this 27th day of May 1986.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 86–12152 Filed 5–29–86; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. NM-18; Special Conditions No. 25-ANM-9]

Special Conditions; British Aerospace Model 748 ATP Series Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued pursuant to §§ 21.16 and 21.17 of the Federal Aviation Regulations (FAR) to British Aerospace, Cheshire England, for a type certificate for the 748 ATP series airplane. The 748 ATP airplane will have novel or unusual design features associated with an automatic takeoff power control system (ATPCS) for which the applicable airworthiness regulations do not contain adequate or appropriate safety standards. The ATPCS will allow the airplane to takeoff with less than maximum takeoff thrust approved for the airplane; and, if an engine fails, the system will automatically provide maximum takeoff thrust on the operating engine. These special conditions contain safety standards which the Administrator finds necessary to establish a level of safety equivalent to the provided by the regulations applicable to the 748 ATP series airplane because of the novel or unusual features.

EFFECTIVE DATE: June 30, 1986.

FOR FURTHER INFORMATION CONTACT: James Walker, Policy and Procedures Branch, Transport Standards Staff, ANM-110 FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; Telephone (206) 431-2116.

SUPPLEMENTARY INFORMATION:

Background

On March 26, 1982, British Aerospace, Chester Road, Woodford, Bramhall, Stockport, Cheshire SK7 1QR, England, applied for a United States Import Type Certificate for its BAe 748 ATP airplane.

The BAe 748 ATP is a low wing, twin-engine, pressurized transport category airplane having a maximum takeoff weight of 49,500 pounds. The airplane is equipped with two Pratt and Whitney PW-124 turbopropeller engines, each producing 2,400 shaft horsepower. The airplane has a maximum seating capacity for 72 persons, plus the crew, and a maximum permissible altitude of 25,000 feet.

The type design of the 748 ATP series airplane with the automatic system installed contains a number of novel or unusual design features for which the applicable airworthiness requirements do not contain adequate or appropriate safety standards. Special conditions are necessary to provide a level of safety equal to that generally intended by the established certification basis and to support a finding by the Administrator that no feature or characteristic of the airplane with the automatic system installed makes it unsafe for the category in which certification is requested. These special conditions specify limits on the maximum power increments which may be applied to the operating engines by the ATPCS, prescribe system reliability and status monitoring requirements, require provisions for manual selection of the maximum takeoff power approved for the airplane under existing conditions, prohibit approval of the system if the automatic or manual application of approved maximum takeoff power would result in an engine operating limit being exceeded, and require the installation of an independent engine failure warning system if the inherent characteristics of the airplane do not provide clear warning to the crew.

The design covered under the type certificate is the installation of an ATPCS. Automatic takeoff power control system special conditions issued to date for other airplanes require the ATPCS be designed to permit manual decrease or increase in power up to the maximum takeoff power approved for the airplane under existing conditions through the use of power levers. The ATPCS system installed on the engines of the 748 ATP airplane contains an electronic fuel controller (EFC), which provides an automatic fixed speed increment increase in the event of an engine failure during takeoff. In the even of an engine failure, a signal from the ATPCS is transmitted to the EFC which up-trims the operating engine to the approved takeoff power. In the event of an ATPCS failure concurrent with engine failure, the crew would be required to advance the power lever to obtain the maximum power.

Discussion of Comments

Notice of proposed special conditions No. SC-85-3-NM for the 748 ATP series airplane was published in the **Federal Register** on December 19, 1985 (50 FR 51704).

Two parties submitted comments. One was the applicant who noted that the airplane passenger capacity was incorrectly stated, that the maximum approval altitude was incorrectly stated, and that the ATPCS operating characteristics were in error. The correct passenger capacity, the altitude and the ATPCS operation have been incorporated in the final special conditions.

There were also misspelled words in paragraphs D2 and E2 (b) of the notice, as well as an omission of the word "power" in paragraph D2 after the word "or." The word "lever" should replace "level" in paragraphs D2 and E2(b), and in paragraph E2(b) the word "decrease" was spelled "decerase." These editorial corrections have been made in the final special conditions.

There was an omission in the illustration on page 51706 of the notice. The engine and ATPCS failure point was omitted, the flight path of the ATPCS and engine failure configuration from the failure point to the 400 feet intersection point with the actual flight path, was missing. The labeling of the altitude at the intersection of the two paths, (i.e., 400 feet) the actual flight path and the ATPCS and engine failed flight path was missing. These omissions were corrected in the final special conditions.

The second commenter was Aerospace Industries Association of America (AIA) and the following is a discussion of their comments:

Aerospace Industries Association of America does not agree that the BAe 748 ATP should not have the option to provide an ATPCS with reduced reliability if a specific level of minimum performance is available. They state there is no justification provided by the FAA for this statement. Also in AIA's opinion, the FAA is formulating arbitrary rules, more stringent than in the past, in the form of a special condition. They state that previous airplanes with ATPCS installed have been certified with a system that does not require performance limits to comply with the current requirements of § 25.1309(b)(2) without compromising safety. They present a position and justification for the above comments in their response to NPRM 84-4, Standards for Approval of an Automatic Takeoff Thrust Control System.

The FAA does not agree that these special conditions are arbitrary as applied to the BAe 748 ATP airplane. The BAe 748, on the basis of its certification rules, is required to comply with § 25.1309, as amended by Amendment 25-23. Therefore, the option to use the alternate lowered ATPCS system reliability and performance criteria was not presented. The applicants, whose airplane certification basis did not require compliance with § 25.1309, Amendment 25-23, were allowed the choice of either of the

performance and ATPCS reliability criteria options. However, no applicants selected the lower system reliability and performance option for their airplanes, which include the Boeing 727, 737 and Douglas DC-9 models. All have demonstrated to the improbable level for their automatic systems reliabilities. The current § 25.1309 requires a higher level of airplane system reliability than that in the older version of § 25.1309; therefore, the option to provide an ATPCS with a lower level of reliability than that required by the applicable rules is not acceptable. The first airplane to be assessed on this basis was the CASA C212 (46 FR 16270; March 12, 1981).

Aerospace Industries Association of America further suggested a change in the BAe 748 ATP proposed special conditions to permit use of the ATPCS for other operations besides takeoff and suggested corresponding changes in the proposed requirements to reflect this expansion of its utility and recommended additional revisions to the proposed requirements which AIA classified as arbitrary, inappropriate, and overlapping requirements.

The FAA does not concur with the recommendation to expand the scope of the BAe 748 ATP proposed special conditions beyond takeoff operations for several reasons. Since the use of an ATPCS increases the reliability of the engines thereby enhancing airworthiness, the FAA developed these special rules to maintain the same level of safety currently inherent in the applicable regulations. To do this, several factors and requirements were imposed to assure the same takeoff safety. The major factors are the specification of an acceptable probability of failure for the system, as well as a combined engine and system failure probability during a critical (takeoff) time interval, system availability information for the pilot, and a pilot override control feature. The FAA considers the takeoff the most cost beneficial and does not agree that the commenter's proposed change to allow use of the ATPCS in combination with a "reduced thrust" operation or for go-around maneuvers provides an equivalent level of safety in light of the added workload complexity that would be required. The use of the system for go-around is a less well defined operation than takeoff because of the varied circumstances associated with the approach and landing power levels and the pilot would be required to use different procedures for a number of different situations.

Type Certification Basis

The type certification basis for the British Aerospace 748 ATP series airplane with the ATPCS installed, to be incorporated in the type certificate, is Part 25 of the FAR, including Amendements 25-1 through 25-54; Part 36 of the FAR, including Amendments 36-1 through current amendment; § 21.29 of the FAR; SFAR 27, dated December 12, 1973, including Amendments 27-1 through current amendment; and the special conditions for an ATPCS contained herein.

The applicable airworthiness standards for import products are those regulations designated in accordance with § 21.29 and are known as the "type certification basis" for the airplane design. Special conditions may be issued and amended, as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.17(a)(1) do not contain adequate or appropriate safety standards because of novel or unusual design features of the airplane. Special conditions, as appropriate, are now issued after public notice in accordance with §§ 11.28 and 11.29(b), efffective October 14, 1980, and become part of the type certification basis in accordance with § 21.17(a)(2).

Conclusion

This action affects only unusual or novel design features on one model series of airplanes. It not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 21

Air transportation, Aircraft, Aviation safety.

1. The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C 1857f-10, 4321 et seq.; E.O. 11514; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983).

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued to British Aerospace for the 748 ATP series airplane equipped with an automatic takeoff power control system (ATPCS):

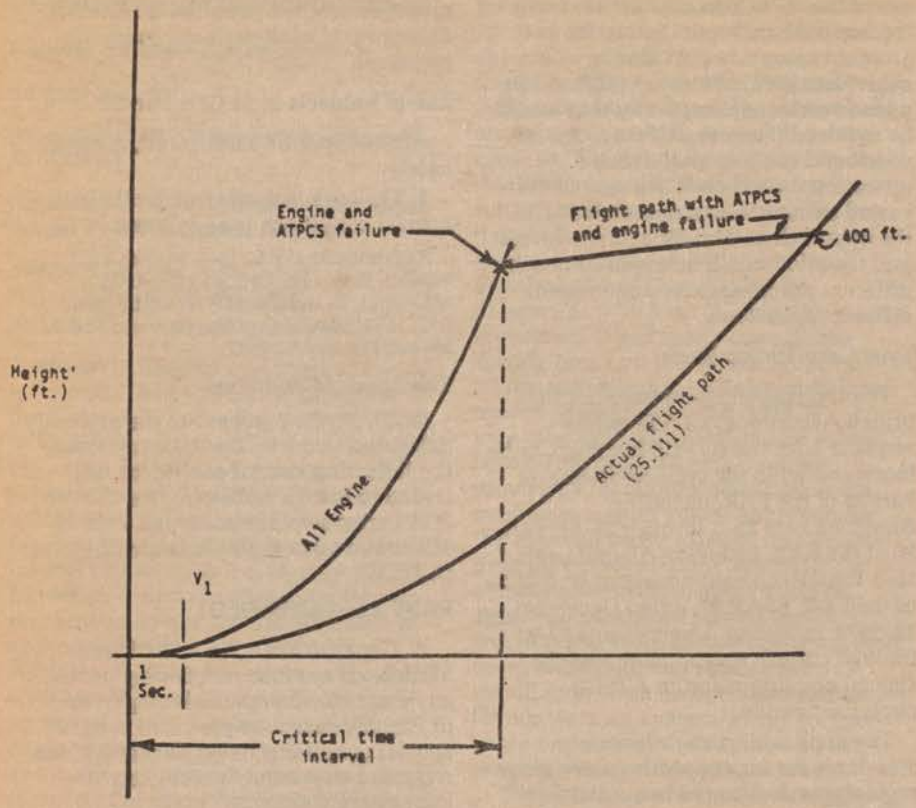
PART 21—[AMENDED]

A. *General.* With the ATPCS and associated systems functioning normally as designed, all applicable requirements of Part 25, except as provided in these special conditions, must be met without requiring any action by the crew to increase power.

B. *Definitions.* 1. *Automatic Takeoff Power Control System (ATPCS).* An ATPCS is defined as the entire automatic system used on takeoff, including all devices, both mechanical and electrical, that sense engine failure, transmit signals, actuate fuel controls or power levers on operating engines to achieve scheduled power increase, and furnish cockpit information on system operation.

2. *Critical Time Interval.* When conducting an ATPCS takeoff, the critical time interval is between V_1 minus 1 second and a point on the minimum performance, all-engine flight path where, assuming a simultaneous engine and ATPCS failure, the resulting minimum flight path thereafter intersects the Part 25 required gross flight path at not less than 400 feet from the takeoff surface.

This definition is shown in the following graph.



3. *Takeoff Power.* Notwithstanding the definition of "takeoff power" in Part 1 of the FAR, "takeoff power" means the horsepower obtained from each initial power setting approved for takeoff under these special conditions.

C. *Performance Requirements.* The applicant must comply with the following performance and reliability requirements.

1. An ATPCS system failure during the critical time interval must be shown to be improbable.

2. The concurrent existence of an ATPCS failure and an engine failure during the critical time interval must be shown to be extremely improbable.

3. All applicable performance requirements of Part 25 must be met with an engine failure occurring at the most critical point during takeoff with the ATPCS system functioning.

D. *Power Setting.* The initial takeoff power set on each engine at the beginning of the takeoff roll may not be less than:

1. Ninety percent (90%) of the power level set by the ATPCS (the maximum takeoff power approved for the airplane under existing conditions);

2. That required to permit normal operation of all safety related systems and equipment dependent upon engine power or power lever position; or

3. That shown to be free of hazardous engine response characteristics when power is advanced from the initial takeoff power level to the maximum approved takeoff power.

E. *Powerplant Controls.* 1. In addition to the requirements of § 25.1141, no single failure or malfunction, or probable combination thereof, of the ATPCS system, including associated systems, may cause the failure of any powerplant function necessary for safety.

2. The ATPCS must be designed to:

a. Apply power on the operating engine, following an engine failure during takeoff, to achieve the selected takeoff power without exceeding engine operating limits;

b. Permit manual decrease or increase in power up to the maximum takeoff power approved for the airplane under existing conditions through the use of the power lever. For aircraft equipped with limiters that automatically prevent engine operating limits from being exceeded under existing conditions, other means may be used to increase the maximum level of power controlled by the power levers in the event of an ATPCS failure, provided the means:

(1) Is located on or forward of the power levers;

(2) Is easily identified and operated under all operating conditions by a single action of either pilot with the hand that is normally used to actuate the power levers; and

(3) Meets the requirements of § 25.777, paragraphs (a), (b), and (c);

c. Provide a means to verify to the flightcrew prior to takeoff that the ATPCS is in a condition to operate; and

d. Provide a means for the flightcrew to deactivate the automatic function. This means must be designed to prevent inadvertent deactivation

F. *Powerplant Instruments.* In addition to the requirements of § 25.1305:

1. A means must be provided to indicate when the ATPCS is in the armed or ready condition; and

2. If the inherent flight characteristics of the airplane do not provide adequate warning that an engine has failed, a warning system that is independent of the ATPCS must be provided to give the pilot a clear warning of any engine failure during takeoff.

Issued in Seattle, Washington, on May 19, 1986.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 86-11935 Filed 5-29-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 385

[Docket No. 60463-6063]

Soviet Oil and Gas; Technical Data License Applications

AGENCY: Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Departments of Commerce and State have agreed to an adjustment in the existing licensing policies for exports of oil and gas exploration and production data to the Union of Soviet Socialist Republics. Current policy to deny export license applications for oil and gas exploration and production-related technical data is being changed to reflect consideration of such applications on a case-by-case basis. This implements a revision in foreign policy export controls that was contained in the Secretary's Annual Report to Congress on Foreign Policy

Controls of January 17, 1986. Accordingly, the Export Administration Regulations (15 CFR Parts 368–399) are being amended to reflect the new policy.

EFFECTIVE DATE: May 30, 1986.

FOR FURTHER INFORMATION CONTACT: Robert Spruell, Country Policy, Strategic Planning and Policy Division, Export Administration, Department of Commerce, Washington, DC 20230 (Telephone (202) 377–3205).

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

1. Because this rule concerns a foreign 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 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, 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 a collection of information subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Applicants for the validated export license required by this rule must complete and submit Form ITA–622P. This collection of information has been approved by the Office of Management and Budget under control number 0625–0001.

List of Subjects in 15 CFR Part 385

Communist countries, Exports, Union of Soviet Socialist Republics.

PART 385—[AMENDED]

Accordingly, Part 385 of the Export Administration Regulations (15 CFR Parts 368–399) is amended as follows:

1. The authority citation for 15 CFR Part 385 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).

2. Section 385.2 is amended by revising the last sentence in paragraph (c) to read as follows:

§ 385.2 Country Group Q, W, and Y: U.S.S.R., other Warsaw Pact Countries, Albania, Mongolian People's Republic, and Laos.

* * * * *

(c) * * * License applications for technical data for oil and gas exploration and production will be reviewed on a case-by-case basis.

* * * * *

Dated: May 27, 1986.

Walter J. Olson,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 86–12199 Filed 5–29–86; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 73

[Docket No. 83C–0051]

Listing of Color Additive for Coloring Contact Lenses; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date of May 6, 1986, for the final rule that amended the color additive regulations to provide for the safe use of an orange dye, 6-ethoxy-2-(6-ethoxy-3-oxobenzo[*b*]thien-2-(3*H*)-ylidene)benzo[*b*]thiophen-3(2*H*)-one, for coloring contact lenses. This action responds to a petition filed by Custom Tint Laboratories, Inc.

DATE: Effective date confirmed: May 6, 1986.

FOR FURTHER INFORMATION CONTACT: Rudolph Harris, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a final rule published in the **Federal Register** of April 3, 1986 (51 FR 11435), FDA amended the color additive regulations to provide for the safe use of an orange dye for coloring contact lenses.

In the final rule, FDA gave interested parties until May 5, 1986, to file objections. The agency received no objections or requests for a hearing on the final rule. Therefore, FDA has concluded that the final rule published in the **Federal Register** of April 3, 1986, for the safe use of an orange dye, 6-ethoxy-2-(6-ethoxy-3-oxobenzo[*b*]thien-2(3*H*)-ylidene)benzo[*b*]thiophen-3(2*H*)-one for coloring contact lenses should be confirmed.

List of Subjects in 21 CFR Part 73

Color additives, Cosmetics, Drugs, Medical devices.

PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701, 706, 52 Stat. 1055–1056 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371, 376)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), notice is given that no objections or requests for a hearing were filed in response to the April 3, 1986, final rule. Accordingly, the amendments promulgated thereby became effective May 6, 1986.

Dated: May 23, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86–12089 Filed 5–29–86; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 172 and 178

[Docket No. 85F–0430]

Food Additives; Petroleum Wax

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the

food additive regulations to provide for the safe use of polyalkyl (C_{16}–C_{22}) acrylate polymer as a processing aid in the manufacture of petroleum wax used in food and in nonfood articles in contact with food. This action responds to a petition filed by Shell Oil Co.

DATES: Effective May 30, 1986; objections by June 30, 1986. The Director of the Office of the Federal Register approves the incorporation by reference of certain publications in 21 CFR 172.886 effective May 30, 1986.

ADDRESS: Written objections may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lester Borodinsky, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–426–8950.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of October 8, 1985 (50 FR 41026), FDA announced that a petition (FAP 5A3885) has been filed by Shell Oil Co., Suite 200, 1025 Connecticut Ave. NW., Washington, DC 20036, proposing that the food additive regulations be amended to provide for the safe use of polyalkyl (C_{16}–C_{22}) acrylate polymer as a processing aid in the manufacture of petroleum wax used in food and in nonfood articles in contact with food. This processing aid is currently regulated under § 172.886(c)(2) for use in the manufacture of petroleum wax used in chewing gum base only.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed uses of the food additive are safe, and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. FDA's regulations implementing the National Environmental Policy Act (21 CFR Part 25) have been replaced by a rule published in the **Federal Register** of April 26, 1985 (50 FR 16636, effective July 25, 1985). Under the new rule, an action of this type would require an environmental assessment under 21 CFR 25.31a(a).

Any person who will be adversely affected by this regulation may at any time on or before June 30, 1986 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 172

Food additives, Incorporation by reference.

21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, Parts 172 and 178 are amended as follows:

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR Part 172 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. In § 172.886 by revising paragraph (c)(2) to read as follows:

§ 172.886 Petroleum wax.

* * * * *

(c) * * *

(2) Poly(alkylacrylate) (CAS Reg. No. 27029–57–8), made from long chain (C_{16}–C_{22}) alcohols and acrylic acid, having: (i) A number average molecular weight between 40,000 and 100,000; (ii) a weight average molecular weight (MW_w) to number average molecular weight (MW_n) ratio (MW_w/MW_n) of not less than 3; and (iii) unreacted alkylacrylate monomer content not in excess of 14 percent, as determined by a method entitled, "Method for Determining Weight-Average and Number-Average Molecular Weight and for Determining Alkylacrylate Monomer Content of Poly(alkylacrylate) used as Processing Aid in Manufacture of Petroleum Wax," which is incorporated by reference (copies are available from the Division of Food and Color Additives, Center for Food Safety and Applied Nutrition (HFF–330), 200 C St. SW., Washington, DC 20204, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408). Petroleum wax shall contain not more than 1,050 parts per million of poly(alkylacrylate) residues as determined by a method entitled, "Method for Determining Residual Level of Poly(alkylacrylate) in Petroleum Wax," which is incorporated by reference. Copies are available from the address cited in this paragraph (c)(2).

* * * * *

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

3. The authority citation for 21 CFR Part 178 is revised to read as follows and the authority citations following the sections in Part 178 are removed:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

4. In § 178.3710 by adding new paragraph (f) to read as follows:

§ 178.3710 Petroleum wax.

* * * * *

(f) Petroleum wax may contain poly(alkylacrylate) (CAS Reg. No. 27029-57-8), as described in § 172.886(c)(2) of this chapter, as a processing aid in the manufacture of petroleum wax.

Dated: May 22, 1986.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86-12091 Filed 5-29-86; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 175

[Docket No. 85F-0165]

Indirect Food Additives: Adhesives and Components of Coatings

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of 2-bromo-2-nitro-1,3-propanediol as a preservative in adhesives for food-packaging applications. This action responds to a petition filed by the Boots Co. PLC.

DATES: Effective May 30, 1986; objections by June 30, 1986.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of May 22, 1985 (50 FR 21141), FDA announced that a petition (FAP 5B3836) had been filed by the Boots Co. PLC, 1 Thane Rd., Bldg. D6 Beeston, Nottingham NG2 3AA, England, proposing that § 175.105 *Adhesives* (21 CFR 175.105) be amended to provide for the safe use of 2-bromo-2-nitropropane-1,3-diol as a preservative in adhesives for food-packaging applications.

Following publication of the filing notice in the Federal Register, FDA determined that the more precise chemical name for the additive is 2-bromo-2-nitro-1,3-propanediol. This name identifies the additive in the regulation set forth below.

FDA has evaluated the data in the petition and other relevant material. The agency concludes that the proposed food additive use is safe, and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. FDA's regulations implementing the National Environmental Policy Act (21 CFR Part 25) have been replaced by a rule published in the Federal Register of April 26, 1985 (50 FR 16636, effective July 25, 1985). Under the new rule, an action of this type would require an abbreviated environmental assessment under 21 CFR 25.31a(b)(1).

Any person who will be adversely affected by this regulation may at any time on or before June 30, 1986, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 175

Adhesive, Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, Part 175 is amended as follows:

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVES AND COMPONENTS OF COATINGS

1. The authority citation for 21 CFR Part 175 is revised to read as follows and the authority citations following the sections in Part 175 are removed:

Authority: Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C 321(s), 348); 21 CFR 5.10 and 5.61.

2. In § 175.105(c)(5) by alphabetically inserting a new item in the list of substances, to read as follows:

§ 175.105 Adhesives.

* * * * *

(c) * * *

(5) * * *

Substances	Limitations
* * *	* *
2-Bromo-2-nitro-1, 3-propanediol (CAS Reg. No. 52-51-7).	For use only as an antibacterial preservative.
* * *	* *

Dated: May 22, 1986.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86-12090 Filed 5-29-86; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Gentamicin Sulfate Injection

Correction

In FR Doc. 86-9267, appearing on page 15606, in the issue of Friday, April 25, 1986, make the following corrections:

1. In the first column, in the second line of the subject heading of this document, "From" should read "Form" as corrected above.

2. In the second column, in the second line of the Part 522 heading, "From" should read "Form".

BILLING CODE 1505-01-M

21 CFR Part 548

Certifiable Peptide Antibiotic Drugs for Animal Use; Bacitracin, Neomycin, Polymyxin B Ophthalmic Ointment (With or Without Hydrocortisone)

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of several supplemental new animal drug applications (NADA's) providing for use of ophthalmic ointments containing bacitracin, neomycin, and polymyxin B (with or without hydrocortisone) for treating dogs and cats. The supplements provide for a change in polymyxin B concentration from 5,000 units to 10,000 units.

EFFECTIVE DATE: May 30, 1986.

FOR FURTHER INFORMATION CONTACT: John R. Markus, Center for Veterinary Medicine (HFV–142), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3442.

SUPPLEMENTARY INFORMATION: Several NADA's providing for use of a bacitracin, neomycin, and polymyxin B ophthalmic ointment (with or without hydrocortisone) for treating dogs and cats have been amended to provide for use of 10,000 units of polymyxin B in lieu of the previously approved 5,000 units. The NADA's are:

NADA 65–015: Bacitracin, polymyxin B, neomycin, and hydrocortisone ophthalmic ointment, Pharmaderm Division of Atlanta Inc., 60 Baylis Rd., Melville, NY 11747.

NADA 65–016: Bacitracin, polymyxin B, and neomycin opthalmic ointment, Pharmaderm Division of Atlanta Inc.

NADA 65–114: Bacitracin, neomycin, and polymyxin B (Mycitracin), The Upjohn Co., Kalamazoo, MI 49001.

NADA 65–476: Polymyxin B, bacitracin, neomycin, and hydrocortisone (Cortisporin), Coopers Animal Health, Inc., Kansas City, MO 64108.

NADA 65–485: Neomycin, polymyxin B, and bacitracin (Neosporin), Coopers Animal Health, Inc.

The supplements are approved and the corresponding regulations are amended accordingly. Approval is based on the decision of the Center for Drugs and Biologics that a minimum of 10,000 units per milliliter or units per gram of polymyxin B is required to provide reliable adequate activity against gram-negative organisms, especially *Pseudomonas* (see 47 FR 23440, May 28 1982).

Approvals of this type do not require a freedom of information summary as provided by Part 20 (21 CFR Part 20) and § 514.11(e) (21 CFR 514.11(e)). However, a summary of the basis for this approval, and for those NADA's approved after July 1, 1975, a summary of safety and effectiveness data, and information supporting approval of the original applications may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

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

List of Subjects in 21 CFR Part 548

Animal drugs; Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 548 is amended as follows:

PART 548—CERTIFIABLE PEPTIDE ANTIBIOTIC DRUGS FOR ANIMAL USE

1. The authority citation for 21 CFR Part 548 continues to read as follows:

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

§ 548.314a [Amended]

2. Section 548.314a *Bacitracin, bacitracin zinc-neomycin sulfate-polymyxin B sulfate ophthalmic ointment* is amended in paragraphs (a)(1) (i) and (ii) and (c)(2) (i) and (ii) by revising the phrase "5,000 units of polymyxin B" to read "10,000 units of polymyxin B".

§ 548.314b [Amended]

3. Section 548.314b *Bacitracin zinc-polymyxin B sulfate-neomycin sulfate-hydrocortisone, hydrocortisone acetate ophthalmic ointment* is amended in paragraph (a) (1) and (2) by revising the phrase "5,000 units of polymyxin B" to read "10,000 units of polymyxin B".

Dated: May 22, 1986.

Marvin A. Norcross,

Associate Director for New Drug Evaluation.

[FR Doc. 86–12087 Filed 5–29–86; 8:45 am]

BILLING CODE 4160–01–M

21 CFR PART 558

New Animal Drugs For Use in Animal Feeds; Hygromycin B

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the new animal drug regulations to reflect approval of a new animal drug application (NADA) filed for Arkansas Micro Specialties, Inc., providing for making 0.6- and 1.6-grams-per-pound hygromycin B Type A medicated articles from 2.4- and 8-grams-per-pound hygromycin B Type A medicated articles. The hygromycin B Type A medicated articles subject to this approval are for making hygromycin B Type C medicated feeds for use in swine for control of infestations of large roundworms, nodular worms, and whipworms, and for use in chickens for control of large roundworms, cecal worms, and capillary worms.

EFFECTIVE DATE: May 30, 1986.

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

SUPPLEMENTARY INFORMATION: Arkansas Micro Specialties, Inc., P.O. Box 308, Hwy. 71 North, Lowell, AR 72745, is the sponsor of NADA 140–443 submitted on its behalf by Elanco Products Co. The NADA provides for the use of 2.4- and 8-grams-per-pound hygromycin B Type A medicated articles to make 0.6- and 1.6-grams-per-pound hygromycin B Type A medicated articles. The hygromycin B Type A medicated articles subject to this approval are for making Type C medicated feeds for use in swine for control of infestations of large roundworms (*Ascaris suis*), nodular worms (*Oesophagostomum dentatum*), and whipworms (*Trichuris suis*), and for use in chickens for the control of infestations of large roundworms (*Ascaris galli*), cecal worms (*Heterakis gallinae*), and capillary worms (*Capillaria obsignata*). The NADA is approved and the regulations are amended to reflect the approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug

Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

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

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

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

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

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

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

2. Part 558 is amended in § 558.274 by adding, in numerical sequence, drug labeler code "047863" to the "Sponsor" column in paragraph (c)(1)(i) and (ii), and by adding new paragraph (a)(8), to read as follows:

§ 558.274 Hygromycin B

(a) * * *

(8) 0.6 and 1.6 grams per pound granted to 047863 in § 510.600(c) of this chapter for use in chickens as in paragraph (c)(1)(i) and in swine as in paragraph (c)(1)(ii) of this section.

* * * * *

Dated: May 23, 1986.

Gerald B. Guest,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 86–12088 Filed 5–29–86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 906

Approval of Amendment to the Colorado Permanent Program

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

ACTION: Final rule.

SUMMARY: This document amends 30 CFR Part 906 by approving an amendment to the Colorado permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment pertains to the State's procedures for suspending or revoking permits. This rule is being made effective immediately in order to expedite the State program amendment process and to encourage the State to conform its program to the Federal standards without undue delay; consistency of the State and Federal standards is required by SMCRA.

EFFECTIVE DATE: May 30, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, DC 20240; Telephone: (202) 343–5351.

SUPPLEMENTARY INFORMATION:

I. Background on the Colorado Program Submission

On February 29, 1980, OSMRE received a proposed regulatory program from the State of Colorado. On December 15, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved the program subject to the correction of 45 minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the December 15, 1980, **Federal Register** (45 FR 82173–82214). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 906.15 and 906.16.

II. Submission of Program Amendment and Public Comments

On January 23, 1986, Colorado submitted an amendment to the Colorado program for OSMRE's review and approval. The amendment revises section 2CCR 407-2, 5.03.3(2)(b) of the Colorado regulations pertaining to the suspension or revocation of permits. On February 27, 1986, OSMRE announced receipt of the amendment in the **Federal Register** and invited comment on the adequacy of the proposed revised rule in satisfying the criteria for approval of State program amendments at 30 CFR 732.15 and 732.17 (51 FR 6920). The comment period closed March 31, 1986. No comments were received by OSMRE.

III. Secretary's Findings and Decision

After thoroughly reviewing the revised regulation submitted by the State, OSMRE has determined that it is consistent with the Federal regulation at 30 CFR 843.13(a)(3). Colorado has deleted the existing language at Rule 5.03.0(2)(b) which provides that "The Division shall determine that a pattern of violations exists if it finds that there were violations of the same or related requirements of the Act, these Rules, or the permit during three or more inspections of the permit area within any 12-month period." In place of this language Colorado has inserted the following text: "The Administrator shall promptly review the history of violations of any permittee who has been cited for violations of the act, these rules, or the permit during three or more inspections of the permit area within any 12-month period to determine if a pattern of violations exists or has existed." The State's revised regulatory language is virtually identical to the language contained in the Federal regulation of 30 CFR 843.13(a)(3). Accordingly, the Director has determined that Colorado's amendment provision incorporates sanctions no less stringent than those set forth under SMCRA and OSMRE's regulations and contains the same or similar procedural requirements relating there to. Therefore, the Director is approving the State's amendment.

IV. Additional Determinations

1. Compliance With the National Environmental Policy Act

The Secretary has determined that pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared for this rulemaking.

2. Compliance With the Regulatory Flexibility Act

The Secretary hereby determines that this proposed rule will not have a significant economic impact on small entities within the meaning of the Regulatory Flexibility Act, U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. Compliance With Executive Order No. 12291

On August 28, 1981, the Office of Management and Budget (OMB) granted the OSMRE an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for all actions taken to approve, or conditionally approve, State regulatory programs, actions, or amendments. Therefore, a Regulatory Impact Analysis and regulatory review by OMB is not needed for this program amendment.

4. Paperwork Reduction Act

This rule does not contain information collection requirements which require

approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 906

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

Dated: May 27, 1986.

Arthur W. Abbs,

Acting Deputy Director, Operations and Technical Services.

PART 906—COLORADO

Part 906 of Title 30 is amended as follows:

1. The authority citation for Part 906 continues to read as follows:

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

2. Section 906.15 is amended by adding a new paragraph (f) to read as follows:

§ 906.15 Approval of amendments to State regulatory programs.

* * * * *

(f) The following amendment is approved effective May 30, 1986. Revised regulation 2CCR 407–2, 5.03.3(2)(b) submitted to OSMRE by the Colorado Mined Land Reclamation Board on January 23, 1986.

[FR Doc. 86–12149 Filed 5–29–86; 8:45 am]

BILLING CODE 4310–05–M

POSTAL SERVICE

39 CFR Part 111

Domestic Mail Manual; Plant-Load Operations

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This rule establishes final regulations amending the Domestic Mail Manual (DMM) to implement uniform and comprehensive regulations governing plant-load operations, whereby the Postal Service transports mail from a mailer's plant to a postal processing facility in order to bypass postal handlings that otherwise would be required. These final regulations, which replace previous interim regulations, reflect the restructuring of the Postal Service's field organizations.

EFFECTIVE DATE: June 7, 1986.

FOR FURTHER INFORMATION CONTACT: James E. Orlando, Director, Office of Transportation & International Services, Mail Processing Department, 475 L'Enfant Plaza W., SW., Washington, DC 20260–7130, 202–268–4360.

SUPPLEMENTARY INFORMATION: A detailed explanation of the nature and background of the proposed rule, including the reasons for its proposed adoption and a detailed discussion of the provisions of the proposed rule, accompanied its publication in the **Federal Register** on December 24, 1985 (50 FR 52534).

A detailed explanation of the nature and background of the interim rules, including the comments of interested persons, the Postal Service's responses, and minor and editorial revisions to the proposed rule, accompanied its publication in the **Federal Register** on May 8, 1986 (51 FR 17019).

The Postal Service has now finalized the restructuring of its field organizations above the post office level, which will be effective June 7, 1986. Responsibility for plant load operations is assigned to the newly created Field Division General Manager/Postmaster. An application for plant load operations will be approved by the Management Sectional Center (MSC) Manager/Postmaster if the minimum volume and the maximum mileage criteria set forth in section 154.313a or 154.323a are met and, in coordination with the transportation management office (TMO) manager, it is determined that transportation equipment is available. If these criteria are not met, the application will be reviewed and acted on by the Field Division General Manager/Postmaster. The application will be granted if it meets the criteria set forth in sections 154.313b, or 154.323b, or 154.323c for determining whether the plant load will result in a cost savings to the Postal Service by (1) the Field Division Manager, if the application is for an intra-Division service area plant load or (2), if the application is for an inter-Division service area plant load, by the origin and destination Field Division Managers and the serving TMO Managers, because coordination is required between the origin and destination Field Divisions and TMOs.

The following summarizes the revisions to sections 154.2 and 154.3 of the interim regulations which are being made in light of the restructuring of the Postal Service's field organizations:

1. Revise section 154.21 to provide that the local postmaster will review an application for plant load operations for completeness and forward it to the appropriate MSC manager.

2. Replace section 154.22 to set forth the review made by the MSC Manager of an application for plant-load operations.

3. Replace section 154.23 to set forth the review made by the Field Division Managers and TMO Managers of an application for plant-load operations.

4. Replace the first sentence of 154.24 with section 154.27 to provide that a mailer may appeal the denial of an application for plant-load operations to the National Plant-Load Committee. In the appeal, the mailer must specify the reasons why the application should be approved. Revise the second sentence of section 154.24 to provide that the MSC Manager will notify the mailer of any action taken on its application for plant-load operations.

5. Revise section 154.25 to provide that plant-load operations may commence as soon as an application for plant-load operations is approved and the mailer enters into a plant-load agreement with the Postal Service.

6. Add a new 154.26 to provide that the Field Division Manager will be notified if, at any time, a mailer fails to meet the requirements of this part for two consecutive postal accounting periods. In such event, the Field Division Manager will reevaluate the plant-load authorization.

7. Revise 154.323c to provide that the Field Division Manager will determine whether the local origin postal facility is operating at or near its mail processing capacity for the type of mail plant loaded.

For the reasons given and after careful consideration, the Postal Service hereby (1) adopts as final the amendments to the Domestic Mail Manual (incorporated by reference in the Code of Federal Regulations, see 39 CFR 111.1) that were published in the **Federal Register** on May 8, 1986 on an interim basis and (2) revises 154.2 and 154.3 of these regulations to read as follows:

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 404, 407, 408, 3001–3011, 3201–3219, 3403–3405, 3621, 5001; 42 U.S.C. 1973cc–13, 1973cc–14.

2. Revise 154.2 and 154.3 to read as follows:

PART 154—PLANT-LOAD OPERATIONS

* * * * *

154.2 Procedures for Authorization of Plant Loads

.21 Filing Application. A mailer desiring to have mail plant loaded must complete Form 3815, *Application for*

Plant-Load Authorization, and submit it to the postmaster of the post office serving the mailer's plant. The local postmaster will review an application for completeness and forward it to his Management Sectional Center (MSC).

.22 Action by MSC Manager. An application will be approved by the MSC Manager/Postmaster if (a) it meets the requirements set forth in 154.313a or 154.323a (Alternative 1, Minimum Volume and Maximum Mileage) and (b) after coordination with the transportation management office (TMO) manager, it is determined that transportation equipment is available in accordance with 154.312. If the application is approved, the MSC manager will send a copy to the Field Division General Manager/Postmaster. If the requirements set forth in 154.313a or 154.323a are not met, the MSC manager must send the application to the Field Division Manager for review in accordance with 154.23.

.23 Action by Field Division General Manager/Postmaster.

.231 Intra Division Service Area. An application for an intra-Division service area plant-load will be approved by the Field Division Manager, if (a) it meets the requirements set forth in 154.313b (Alternative 2, Cost Savings Analysis) or 154.323b (Alternative 2, Cost Savings Analysis) or 154.323c (Alternative 3, Mail Processing Capacity) and (b) after coordination with the TMO manager, it is determined that transportation equipment is available in accordance with 154.312. The application will be denied if the requirements of 154.313b or 154.323b or 154.323c are not met.

.232 Inter-Division Service Area. An application for an inter-Division service area plant load will be approved by the origin and destination Field Division Managers and the serving TMO Managers, if it meets the requirements set forth in 154.313b (Alternative 2, Cost Savings Analysis) or 154.323c (Alternative 3, Mail Processing Capacity). The application will be denied if the requirements of 154.313b or 154.323b or 154.323c are not met.

.24 Notification of Action to Mailer. Each official acting upon an application must act upon it within five business days of receipt. The MSC Manager must promptly notify the mailer in writing of the action taken. If the application is denied, the MSC Manager must notify the mailer specifying the reasons for the denial and informing the mailer of his right to appeal the denial.

.25 Commencement of Operations. The application will be approved if it meets all the requirements set forth in 154.3 for either intra- or inter-service-area plant loads, as appropriate. If the application is approved and the mailer desires plant-load operations, the mailer must enter into a plant-load agreement with the Postal Service. Plant-load operations may commence once the application is approved and the mailer enters into the agreement.

.26 Failure to Meet Requirements. The local postmaster of the post office which serves the mailer's plant is responsible for monitoring plant-load operations and must notify his Field Division manager if, at any time, a mailer fails to meet the requirements set forth in these regulations for two consecutive postal accounting periods, or instead a period set forth in the mailer's plant-load agreement. The plant-load authorization must then be reevaluated by the Field Division Manager.

.27 Appeal

.271 Responsibility. If an application is denied by the Field Division Manager, the mailer may appeal to the National Plant Load Policy Committee at Postal Service Headquarters, which will issue a final ruling on the application. Such an appeal must be filed with the Chairman of the National Committee, the Director, Office of Transportation and International Services, Mail Processing Department, Washington, DC 20260–7130, within 10 calendar days of the date of the mailer's receipt of the Divisional manager's notice of denial. The National Committee consists of the following officials or their designees: Director, Office of Transportation and International Services, Mail Processing Department, (chairman); Director, In-Plant Systems Office, Mail Processing Department; Director, Office of Classification and Rates Administration, Rates and Classification Department; Director, Office of Fleet Management, Delivery Services Department; Director, Office of Marketing, Marketing Department; and Associate General Counsel, Office of Postal Rates and Mailing Rules, Law Department.

.272 Procedures. The mailer must specify in its appeal the reasons why the application should be approved.

154.3 Requirements for Approval of Plant Load Applications

.31 Intra-Service Area

.311 General. An application for an intra-service-area plant load will be approved if transportation equipment is available (154.312) and cost savings to the Postal Service are demonstrated under *either* Alternative 1 (154.313a) *or* Alternative 2 (154.313b).

.312 Equipment Availability. Transportation equipment must be available to transport the mail to the BMC, ASF, MSC, or SCF, in the service area of the mailer's plant. If equipment is not available, sufficient additional transportation equipment must be obtained, if possible. The application will not be granted until additional transportation equipment is obtained.

.313 Cost Savings. The plant load must result in cost savings to the Postal Service. A cost savings can be demonstrated *either* under Alternative 1 (154.313a) *or* Alternative 2 (154.313b) below.

a. Alternative 1: Minimum Volume and Maximum Mileage. The current and future volume of mail to be plant loaded must be at least 50 percent of a vehicle by weight or cube, and the mileage from the mailer's plant to the destination postal facility must be 150 miles or less. For mail verified and accepted at a mailer's plant, the Postal Service may allow mailings verified at the plants of two or more mailers located in the same service area to be combined to meet the minimum volume requirement. For mail verified and accepted at the bulk mail acceptance unit of the origin BMC, ASF, MSC, or SCF, the mimimum volume requirement must be met by the mailings of only one mailer. (See 154.423 for requirements for verification at postal facility.)

b. Alternative 2: Cost Savings Analysis. If the mailer does not meet the criteria in Alternative 1 (154.313a), cost savings to the Postal Service must be demonstrated using the analysis on Form 3815.

.32 Inter-Service-Area.

.321 General. An application for an inter-service-area plant load will be approved if transportation equipment is available (154.322) and cost savings to the Postal Service are demonstrated under *either* Alternative 1 (154.3423a) *or* Alternative 2 (154.323b) *or* Alternative 3 (154.323c).

.322 Equipment Availability. Transportation equipment must be available to transport the mail to the BMC, ASF, MSC, or SCF outside the postal facility's service area in which the mailer's plant is located. If equipment is not available, sufficient additional transportation equipment must be obtained, if possible. The application will not be granted until additional transportation equipment is obtained.

.323 Cost Savings. The plant load must result in cost savings to the Postal Service. A cost savings can be demonstrated under *either* Alternative 1 (154.323a) *or* Alternative 2 (154.323b) *or* Alternative 3 (154.323c) below.

a. Alternative 1: Minimum Volume and Maximum Mileage

(1) Minimum Volume. The current and future volume of mail to be plant loaded must be at least 60 percent of a vehicle by weight or cube. Mailings of two or more mailers located in the same service area may be combined to make up the minimum volume.

(2) Maximum Mileage for Highway

(a) If the plant-load transportation is via highway and bypasses the origin SCF and at least one BMC, ASF, or ADC, the mileage from the mailer's plant to the destination postal facility must be 275 miles or less.

(b) If the plant-load transportation is by highway and bypasses only the origin SCF, the mileage from the mailer's plant to the destination postal facility must be 150 miles or less.

(c) There is no mileage criterion for plant-load transportation by railroad or water.

b. Alternative 2: Cost Savings Analysis. If the mailer does not meet the applicable criteria in Alternative 1 (154.323a), cost savings to the Postal Service must be demonstrated by using the analysis on Form 3815.

c. Alternative 3: Mail Processing Capacity. Even if the mailer does not satisfy either Alternative 1 (154.323a) or Alternative 2 (154.323b), the cost savings criteria may be deemed to be satisfied if the local origin postal facility is operating at or near its mail processing capacity for the type of mail plant-loaded. The Field Division Manager shall determine whether a facility is at or near its mail processing capacity and whether to authorize plant load in such cases. If the Field Division Manager subsequently determines that the local origin postal facility is operating below its mail processing capacity for the class or type of mail plant-loaded, the Field Division Manager must reevaluate the plant-load authorization.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 86-12200 Filed 5-29-86; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-8-FRL-3022-8]

Approval and Promulgation of State Implementation Plans; Utah; Visibility

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: In this action, EPA is approving the New Source Review (NSR) and monitoring plan for visibility as a revision to the Utah State Implementation Plan (SIP). This action results from rulemaking on October 23, 1984, (49 FR 42670) at which EPA proposed to disapprove SIPs of states which failed to comply with the provisions of 40 CFR 51.305 (visibility monitoring) and 51.307 (visibility NSR).

The Governor of Utah submitted a SIP Revision for Visibility Protection and the Visibility Regulation on April 26, 1985. EPA proposed to approve the Utah Visibility SIP for NSR and monitoring on November 13, 1985, 50 FR 46782. Comments were received for and against approval. Review of the comments with respect to the Utah visibility plan and regulations indicates that Utah meets the criteria of 40 CFR 51.305 and 51.307.

DATE: This action will be effective on June 30, 1986.

ADDRESSES: Copies of the revision are available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday at the following offices:

Environmental Protection Agency, Region VIII, Air Programs Branch, One Denver Place, Suite 1300, 999 18th Street, Denver, Colorado 80202.

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

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

FOR FURTHER INFORMATION CONTACT: Lee Hanley, Air Programs Branch, Environmental Protection Agency, One Denver Place, Suite 1300, 999 18th Street, Denver, Colorado 80202, (303) 293-1757.

SUPPLEMENTARY INFORMATION:

Background

Section 169A of the Clean Air Act (Act), 42 U.S.C. 7491, requires visibility protection for mandatory Class I Federal areas where EPA has determined that visibility is an important value. ("Mandatory Class I Federal areas" are certain national parks, wilderness areas, and international parks, as described in section 162(a) of the Act, 42 U.S.C. 7472(a), 40 CFR 81.400-81.437.) Section 169A specifically directs EPA to promulgate regulations requiring certain states to amend their State Implementation Plans (SIPs) to provide for visibility protection.

On December 2, 1980, EPA promulgated the required visibility regulations at 45 FR 80084, codified at 40 CFR 51.300 *et seq.* These regulations required the states to submit revised SIPs to satisfy such provisions no later than September 2, 1981. (See 45 FR 80091, codified at 40 CFR 51.302(a)(1).) That rulemaking resulted in numerous parties seeking judicial review of the visibility regulations. In March 1981, a judicial stay of the litigation was granted pending EPA action on related administrative petitions for reconsideration of the visibility regulations.

In December 1982, the Environmental Defense Fund (EDF) filed suit in the U.S. District Court for the Northern District of California alleging that EPA failed to perform a nondiscretionary duty under Section 110 of the Act to promulgate visibility SIPs. A settlement agreement between EPA and EDF outlined a schedule for the promulgation of visibility SIPs. It required EPA to incorporate Federal regulations in states where SIPs were found deficient with respect to the 1980 visibility new source review and monitoring regulations, 40 CFR 51.307 and 51.305, respectively. However, the settlement did allow a state an opportunity to avoid Federal promulgation if it submitted a SIP no later than May 6, 1985. Utah is one of the states listed at 49 FR 42670 as having an inadequate NSR and monitoring plan for visibility protection.

On April 26, 1985, the Governor of Utah submitted a SIP Revision for Visibility Protection together with the Visibility Regulations for monitoring and new source review. On November 13, 1985, FR 46782, EPA proposed to approve the Utah Visibility SIP and regulations. Comments were received in support as well as against approval. The comments are discussed below.

Discussion of comments:

1. Comment: The Utah SIP lacks an adequate and explicit state commitment to a comprehensive and continuous visibility monitoring program adequate to provide the information required to comply with the Act.

Response: As stated in the November 13, 1985 notice, at 50 FR 46783, the monitoring section of the Utah Visibility Protection Plans consist of three components:

(1) Monitoring by the Federal Land Manager (FLM),

(2) Monitoring by sources proposing to locate or modify in an area where emissions may impact Class I areas, and

(3) Implementation of state monitoring network.

"Monitoring by the FLM" is the assessment of visibility background and trends by obtaining existing data available from the FLM. The National Parks in Utah have been or are still being monitored by the National Park Service (NPS). For those areas where monitoring no longer occurs, the NPS believes there exists sufficient

background data (i.e., five to six years of monitoring data). For those areas where monitoring is still being conducted, the State is seeking a cooperative agreement with the NPS to facilitate visibility monitoring and data exchange. Currently, the NPS performs visibility monitoring at the following sites:

(1) Bryce Canyon National Park,
(2) Zion National Park,
(3) Capitol Reef National Park, and
(4) Canyonlands National Park.

Monitoring by sources proposing to locate or modify in a locale where emissions may impact Class I areas will add to the background and trend data bank of that Class I area.

The SIP states a goal to establish a monitoring network by September 1987 to complement the monitoring required by the SIP and to provide additional background data. It will perform visual and photographic monitoring until additional funding can be obtained to begin installation of continuous visibility monitoring equipment.

The Utah monitoring section of the Visibility SIP consists of a statement of goals, a list of monitoring methods, and a provision for future plan revisions.

The commentor cited extensive language relating to the October 23, 1984 proposed rulemaking, 49 FR 42671. The commentor is referred to the language of § 51.305, which requires a strategy by visual observation or other appropriate monitoring techniques taking into account current and anticipated research and techniques. That section also requires consideration of available data and a mechanism for those data's use in decisions. In its general final rulemaking, at 50 FR 28545, EPA discussed the monitoring network requirements. It stated that EPA interprets § 51.305, "in light of structure and purposes of the regulations as a whole, to call for a strategy which will generate visibility data that will reasonably, if roughly, serve the needs of the overall State program."

EPA sees the Utah Visibility SIP as meeting the requirements of § 51.305.

2. Comment: (a) Industry monitoring provisions will not remedy the deficiencies of the state program. (b) Failure to require that the visibility effects of a new source must be analyzed in terms of its cumulative effects taken together with existing sources.

Response: The Utah Visibility regulations and SIP require a visibility impact analysis by a proposed new or modified source with the submittal of a permit application. The SIP requires source specific review as defined in 40 CFR 52.27 and 52.28 to determine the potential visibility impact of the proposed source to existing sources. The regulation provides the mechanism for the permitting authority to require pre-construction as well as post-construction visibility monitoring in any mandatory Class I area to assess the source's impact on visibility.

Monitoring by proposed sources will assist in determining background conditions as well as considering the effects of existing sources. This, coupled with the evaluation of potential impact by the proposed source, can only benefit the visibility program in preventing degradation of the area.

3. Comment: Inadequate provision for attribution to identified sources.

Response: Again, the commentor refers to the proposed rulemaking in 49 FR 42675. The commentor is referred to the July 12, 1985 final rulemaking, 50 FR 28546, which states that "EPA did not mean to imply that the data collection techniques for the background network were to be used in the source-specific studies. The proposed background instrumentation will be used only as appropriate for these studies. The attribution program will be implemented on a case-by-case basis with regard to both siting and equipment.

The EPA has requested that the FLMs identify impairment in each of their areas. From this identification, appropriate studies will be designed which will be unique to each identified problem. Priorities for implementation will be based on availability of existing data, the severity of the suspected impairment, and the probability of an effective control strategy." The FLM had an opportunity to review the Utah Visibility SIP for this phase (monitoring and NSR). No impairment areas were identified by the FLM during the development of this program. Should impairment in mandatory Class I areas be established by the FLM prior to future revisions of the SIP, the State of Utah must consider and comment on the issue at that time.

4. Comment: (a) Excessive discretion in provisions for monitoring by proposed sources. (b) The regulatory portion of the SIP is not clearly distinguished from the explanatory preamble. As a result, the regulations fail to establish clear commitments and obligations, and do not contain some essential requirements.

Response: The State incorporated its permitting regulations into its Visibility SIP as well as requiring the application of Best Available Control Technology and emission limitation requirements of any new or modified source locating anywhere in the State. The regulations state the consideration requirements of the analyses performed by the State and the FLM as well as the denial of a permit if visibility impact is determined by the permitting authority. The regulations provide the mechanisms for permit conditions on control equipment, technology, methods and work practices which would provide the insurance that source emissions will be consistent with making reasonable progress toward the national goal.

5. Comment: (a) The list of factors to be considered in determining control requirements for new source review does not conform to EPA requirements or to the Clean Air Act. (b) Determination of adverse impact should give deference to the adversity determinations of the Federal Land Manager.

Response: The State does allow for consideration of various control requirements (i.e., economic, non-air quality environmental impact, etc.). However, the SIP states it will ensure that source emissions will be consistent with making reasonable progress toward the national goal referred to in § 51.300(a), to consider the FLM's comments and to deny a permit if the permitting authority determines that there will be adverse impact on a mandatory Class I area. Further, the regulation requires the permitting authority to provide an explanation of its decision should it disagree with the FLM's assessment on a proposed source's impact on visibility and to give notice as to where that explanation can be obtained.

40 CFR 51.307(a)(3) and 52.27(d)(2) provide the appropriate mechanism for the permit issuing authority to share with the FLM the review for adverse impact of a proposed source. The final decision rests with the permitting authority.

The State recognizes the expertise of the FLM in monitoring and new source applicability analyses for visibility. It has accorded the FLM (through the NPS) opportunities to participate and comment on its visibility SIP and regulations. Comments by the NPS were considered and incorporated where applicable. It has committed in the SIP to consult continually with the FLM on the review and implementation of the visibility program. It has agreed to notify the FLM of any advance notification or early consultation with a major new or modifying source prior to the submission of the permit application.

Summary of Action

The April 26, 1985 submittal by the Governor of Utah includes an adequate visibility plan and regulation to meet the requirements of § 51.305 and § 51.307.

(One should reference the **Federal Register** notices on October 23, 1984, 49 FR 42670, July 12, 1985, 50 FR 28544, and November 13, 1985, 50 FR 46782, for additional information.) The Visibility SIP and regulations apply to attainment and nonattainment areas. It requires denial of a permit if adverse impact will occur in these areas. The SIP is deficient for all the other requirements of Subpart P (other than § 51.305 and § 51.307). See 51 FR 3046, January 23, 1986.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 29, 1986. This action may not be challenged later in proceedings to enforce its requirements (See section 307(b)(2)).

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, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, and Hydrocarbons, Incorporation by reference.

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

Dated: May 5, 1986.

Lee M. Thomas,

Administrator

PART 52—[AMENDED]

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

Subpart TT-Utah

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

Authority: 42 U.S.C. 7401–7642

2. Section 52.2320 is amended by adding paragraph (c)(19) as follows:

§ 52.2320 Identification of plan.

* * * * *

(c) * * *

(19) A revision to the SIP was submitted by the Governor on April 26, 1985, for visibility monitoring and new source review.

(i) Incorporation by reference.

(A) Letter dated April 26, 1985, from Governor Norman Bangerter submitting the Utah Visibility SIP and Regulations.

(B) The Visibility SIP and the Utah Air Conservaton Regulations 1.1.7 and 3.11.1 were adopted on April 15, 1985 referred to in the Governor's letter as April 12, 1985.

[FR Doc. 86–11868 Filed 5–29–86; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF DEFENSE

48 CFR Parts 213, 217, and 252

Department of Defense Federal Acquisition Regulation Supplement; Identification of Sources of Supply

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: The Defense Acquisition Regulatory Council has approved changes to the coverage in the DoD FAR Supplement regarding Identification of Sources of Supply. The purpose of this change is to implement section 1231 of Pub. L. 98–525.

EFFECTIVE DATE: May 30, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, ODASD(P)/DARS, c/o OASD(A&L)(MRS), Room 3C841, The Pentagon, Washington, DC 20301–3062, telephone (202) 697–7266.

SUPPLEMENTARY INFORMATION:

A. Background

Coverage provides for identification of the actual manufacturer or producer of items and all sources of supplies; identification of sources of technical data to be delivered under contract is also required. Coverage allows for identification of sources at the deliverable item level or at the purchased part/subcontract level.

The DoD FAR Supplement is codified in Chapter 2, Title 48 of the Code of Federal Regulations.

The October 1, 1985 revision of the CFR is the most recent edition of that title. It reflects amendments to the 1984 edition of the DoD FAR Supplement made by Defense Acquisition Circulars 84–1 through 84–10.

Interested parties may submit proposed revisions to this Supplement directly to the DAR Council.

B. Public Comments.

Notice of an interim rule was published in the **Federal Register** on October 9, 1985 (50 FR 41157, October 9, 1985), requesting Government agencies, private firms, associations, and the general public to submit comments to be considered in the formulation of the final rule. As a result of the review of public comments, the following changes were made:

(1) 217.7204(a) was amended to add "of additional costs" after "avoiding payment".

(2) 217.7204(b)(3) was amended to add "e.g., nonrepetitive local purchases" to the end of that sentence.

C. Regulatory Flexibility Act

This final rule will have a beneficial impact on small entities. The change to 217.7103(b)(3) exempts nonrepetitive local purchases from the rule and will benefit small businesses that sell low-dollar value items to local activities on a one-time basis.

A final Regulatory Flexibility Analysis has been prepared and submitted to the Chief Counsel for Advocacy of the Small Business Administration. Copies of the analysis may be obtained from the Office of the Chief Counsel for Advocacy, U.S. Small Business Administration, 1441 L Street NW. (Room 1012), Washington, DC 20416.

D. Paperwork Reduction Act

Office of Management and Budget (OMB) Approval Number 0704–0214 was approved on February 18, 1986, for 1,506,250 hours.

List of Subjects in 48 CFR Parts 213, 217, and 252

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

Adoption of Amendments

Therefore the DoD FAR Supplement is amended as set forth below.

1. The authority for 48 CFR Parts 213, 217, and 252 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

PART 213—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

2. The interim rule published in 50 FR 41157, October 9, 1985, is adopted as final without change.

PART 217—SPECIAL CONTRACTING METHODS

217.7204 [Amended]

3. The interim rule published in 50 FR 41157, October 9, 1985, is adopted as final with the following changes:

Section 217.7204 is amended by adding in the undesignated paragraph following subparagraph (a)(3), between the word "payment" and the word "where" the words "of additional costs"; and by deleting the period at the end of

paragraph (b)(3) and adding at the end of paragraph (b)(3) a comma and the words "e.g., nonrepetitive local purchases."

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. The interim rule published in 50 FR 41157, October 9, 1985, is adopted as final without change.

[FR Doc. 86-12205 Filed 5-29-86; 8:45 am]
BILLING CODE 3810-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 658

[Docket No. 60585-6085]

Shrimp Fishery of the Gulf of Mexico

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

ACTION: Notice of effective date.

SUMMARY: NOAA issues this notice making effective the information collection requirement to the emergency interim rule for the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP). This rule implements the reporting requirements for vessels which incidentally take any endangered or threatened sea turtle. The intended effect is to implement the intent of the emergency rule.

EFFECTIVE DATE: Section 658.6(c) is effective from May 19, 1986, through July 9, 1986.

FOR FURTHER INFORMATION CONTACT: Donald W. Geagan, 813-893-3722.

SUPPLEMENTARY INFORMATION: NOAA published an emergency interim rule on May 13, 1986 (51 FR 17487) to modify the geographic boundary and dates of the seasonal closure to shrimp trawling off Texas to reduce the area closed to trawl fishing to that portion of the fishery conservation zone (FCZ) within 15 nautical miles of the baseline for the territorial sea (shore).

The submission of reports of incidental take of endangered or threatened sea turtles at § 658.5 was not made effective with the emergency interim rule, pending approval of the information collection requirement by OMB. Section 658.5 was approved by OMB under Control No. 0648-0178, effective May 19, 1986, through August 31, 1986.

Other Matters

This action is taken under the authority of 50 CFR Part 658 and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 658

Reporting and recordkeeping requirements, Fisheries.

PART 658—[AMENDED]

1. The authority citation for Part 658 continues to read as follows:

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

Dated: May 27, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator For Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 86-12165 Filed 5-28-86; 9:21 am]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 51, No. 104
Friday, May 30, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 752

Adverse Actions

AGENCY: Office of Personnel Management.

ACTION: Proposed regulations.

SUMMARY: These regulations cover Senior Executive Service suspension and removal actions. The Office of Personnel Management (OPM) issued interim regulations previously on such actions in July 1979. The proposed regulations incorporate statutory revisions since July 1979 of the reasons for taking adverse actions. These regulations also exclude reemployed annuitants from coverage and extend coverage to certain limited appointees in addition to career employees currently covered. The regulations would apply to suspensions for more than 14 days or removals from the civil service for reasons of misconduct, neglect of duty, malfeasance, or failure to accept a directed reassignment or to accompany a position in a transfer of function.

DATE: Comments will be considered if received no later than July 29, 1986.

ADDRESS: Send or deliver written comments to the Chief, Office of Executive Personnel, Office of Executive Administration, Room 6R48, Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Neal Harwood, (202) 632–4625.

SUPPLEMENTARY INFORMATION: On July 31, 1979, OPM published an interim rule (44 FR 44818) on taking adverse actions in the Senior Executive Service (SES) that implemented subchapter V of chapter 75 of title 5, United States Code, by adding Subpart E and Subpart F to Part 752 of Title 5 of the Code of Federal Regulations.

The comment period, which was 60 days from the date of publication, ended on October 1, 1979. No written comments were received. However, there were a number of phone inquiries.

The most frequently asked question was why the interim regulations did not address short term suspensions of SES appointees. The reason is that subchapter V of chapter 75 does not cover suspensions of 14 days or less. Furthermore, subchapter I of chapter 75, which covers such actions, pertains only to employees in the competitive service. Thus, there is no express statutory authority for taking a suspension of 14 days or less against an appointee in the SES.

It appears that the Congress may have viewed suspensions of 14 days or less (normally imposed for less serious offenses) as inappropriate disciplinary measures for SES members. Because of their greater responsibilities, SES members have a significant impact on agency programs and on the public image of the Government. Consequently, offenses by them would be considered more serious and normally would warrant the imposition of a more severe penalty.

After publication of the interim regulations, section 1704(d) of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35, August 13, 1981) revised the cause of action standard in 5 U.S.C. 7543 to read "misconduct, neglect of duty or malfeasance," in place of "such cause as will promote the efficiency of the service." The Conference Report on the Act stated that the change was to assure that adverse actions were taken only for disciplinary reasons. In addition, the Report stated, "Consistent with existing policy, the conferees intend that failure to accept a directed reassignment or failure to accompany a position in a transfer of function would constitute grounds for disciplinary action under the subchapter."

Regulations were drafted to set forth the foregoing changes. Before their issuance, however, further legislation was enacted that revised title 5 to expressly include under adverse actions "failure to accept a directed reassignment or to accompany a position in a transfer of function." Thus, the previously recognized policy in the earlier Conference Report is codified by Pub. L. 98–615 of November 8, 1984, the Civil Service Retirement Spouse Equity Act. The congressional section analysis for the Act points out that a basic premise of the SES is to foster position and geographic movement when in the best interest of the agency. This is further borne out by the fact that the same Act also amends title 5 to specifically provide for transfer of function in the SES. (See 5 U.S.C. 3595(e).) Accordingly, § 752.603 of 5 CFR is amended to incorporate these latest provisions.

In accordance with 5 U.S.C. 3323(b), a reemployed annuitant serves at the will of the appointing authority. Thus, a reemployed annuitant who is serving under an SES career appointment is not entitled to the protections afforded under these regulations. Section 752.601(d) of 5 CFR is amended to reflect this fact.

Under § 317.605 of this chapter, individuals who receive an SES limited appointment without a break in service in the same agency as the one in which they held a career or career conditional appointment (or an appointment of equivalent tenure) in a permanent position outside the SES are entitled to be placed in their former position, or an equivalent one, following termination of their SES appointment, if the termination was not for misconduct, neglect of duty, or malfeasance. Under current regulations, however, individuals who had adverse action coverage before their SES limited appointment lose such coverage while in the SES because the title 5 provision on SES adverse actions and the implementing interim regulations cover only SES career appointees. The proposed regulations cover such limited appointees so that they do not lose adverse action protection for actions involving removal from the civil service or suspension for more than 14 days during the temporary period they are in the SES. Of course, if their conduct removal is upheld, the affected employees would have no reinstatement right under § 317.605 of this chapter. This provision does not affect an agency's authority to terminate an SES limited appointment at any time for reasons other than misconduct, neglect of duty, or malfeasance without the use of adverse action procedures.

Since the interim regulations were first issued in 1979, the Merit Systems Protection Board has held that a suspension during the notice period of an adverse action is illegal. Therefore, paragraph (3) of § 752.604(b) provides

other means for keeping employees away from the work site during the notice period under certain circumstances, such as when an employee's continued presence would post a threat to the employee of others.

Subpart E of 5 CFR Part 752 would be reserved for future use. It currently lists the principal statutory requirements for taking adverse actions in the SES. These requirements appear in 5 U.S.C. and do not need to be repeated in 5 CFR.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it will only affect Government employees who are members of the Senior Executive Service.

List of Subjects in 5 CFR Part 752

Government employees.

U.S. Office of Personnel Management.

Constance Horner,

Director.

Accordingly, OPM is proposing to amend 5 CFR Part 752 as follows:

PART 752—ADVERSE ACTIONS

1. The authority citation for Part 752 is revised as set forth below, and all other authority citations throughout Part 752 are removed:

Authority: 5 U.S.C. 7504, 7514; 5 U.S.C. 1302, Publ. L. 95-494; § 752.401 also issued under 5 U.S.C. 3301 and 3302, and E.O. 10577; Subpart F also issued under 5 U.S.C. 7543.

2. Subpart E is removed and reserved.

3. Subpart F is revised to read as follows:

Subpart F—Regulatory Requirements for Taking Adverse Actions Under the Senior Executive Service

Sec.

Subpart F—Regulatory Requirements for Taking Adverse Actions Under the Senior Executive Service

§ 752.601 Coverage.

(a) *Adverse actions covered.* This subpart applies to suspensions for more than 14 day and removals from the civil service as set forth in 5 U.S.C. 7542.

(b) *Actions excluded.* (1) An agency may not take a suspension action of 14 days or less.

(2) This subpart does not apply to actions taken under 5 U.S.C. 1206(g), 3592, 3595, or 7532.

(c) *Employees covered.* This subpart covers—

(1) A career appointee—

(i) Who has completed the probationary period in the Senior Executive Service;

(ii) Who is not required to serve a probationary period in the Senior Executive Service; or

(iii) Who was covered under 5 U.S.C. 7511 immediately before appointment to the Senior Executive Service.

(2) A limited term or limited emergency appointee—

(i) Who received the limited appointment without a break in service in the same agency as the one in which the employee held a career or career conditional appointment (or an appointment of equivalent tenure as determined by the Office) in a permanent civil service position outside the Senior Executive Service; and

(ii) Who was covered under 5 U.S.C. 7511 immediately before appointment to the Senior Executive Service.

(d) *Employees excluded.* This subpart does not cover an appointee who is serving as a reemployed annuitant.

§ 752.602 Definitions.

In this subpart—

"Career appointee," "limited term appointee," and "limited emergency appointee" have the meaning given in 5 U.S.C. 3132(a).

"Day" means calendar day.

"Suspension" has the meaning given in 5 U.S.C. 7501(2).

§ 752.603 Standard for action.

(a) An agency may take an adverse action under this subpart only for reasons of misconduct, neglect of duty, malfeasance, or failure to accept a directed reassignment or to accompany a position in a transfer of function.

(b) An agency may not take an adverse action under this subpart on the basis of any reason prohibited by 5 U.S.C. 2302.

§ 752.604 Procedures.

(a) *Statutory entitlements.* A career appointee against whom action is proposed under this subpart is entitled to the procedures provided in 5 U.S.C. 7543(b). The same procedures will be followed when an action is proposed against a limited term or limited emergency appointee under this subpart.

(b) *Notice of proposed action.* (1) The notice of proposed action must inform the appointee of his or her right to review the material that is relied on to support the reasons for action given in the notice.

(2) The agency may not use material that cannot be disclosed to the appointee or to the appointee's representative or designated physician under § 297.204(c) of this chapter to support the reasons in the notice.

(3) Under ordinary circumstances, an appointee whose removal has been proposed will remain in a duty status in his or her regular position during the advance notice period. In those rare circumstances when the agency determines that the appointee's continued presence in the work place during the notice period may pose a threat to the appointee or others, result in loss of or damage to Government property, or otherwise jeopardize legitimate Government interests, the agency will consider whether any of the following alternatives is feasible:

(i) Assigning the appointee to duties where he or she is no longer a threat to safety, the agency mission, or Government property;

(ii) Placing the appointee on leave with his or her consent;

(iii) Placing the appointee on involuntary sick or other leave when the agency has medical documentation stating physical or mental incapaciation;

(iv) Placing the appointee on appropriate leave (annual, sick, leave without pay, or absence without leave) if he or she is absent for reasons not originating with the agency; or

(v) Curtailing the notice period when the agency can invoke the provisions of paragraph (d) of this section (the "crime provision").

If none of these alternatives is available, the agency may place the appointee in a paid nonduty status during all or part of the advance notice period.

(c) *Appointee's answer.* (1) The agency will give the appointee a reasonable amount of official time to review the material relied on to support its proposed action, to prepare an answer orally and in writing, and to secure affidavits, if the appointee is otherwise in an active duty status.

(2) The agency will designate an official to hear the appointee's oral answer. The individual designated should be an official who has authority either to make or to recommend a final decision on the proposed adverse action.

(3) The right to answer orally in person does not include the right to a formal hearing with examination of witnesses unless the agency provides one in its regulations in accordance with paragraph (g) of this section.

(d) *Exception.* Section 7543(b)(1) of title 5 of the United States Code authorizes an exception to the 30 days' advance written notice when the crime provision is invoked. This provision may be invoked even in the absence of judicial action if the agency has reasonable cause to believe that the appointee has committed a crime for which a sentence of imprisonment may be imposed. The agency may require the appointee to furnish any answer to the proposed action, and affidavits and other documentary evidence to support the answer, within such time as under the circumstances would be reasonable, but not less than 7 days. When the circumstances require immediate action, the agency may place the appointee in a nonduty status with pay for such time, not to exceed 10 days, as is necessary to effect the action.

(e) *Representation.* (1) Under 5 U.S.C. 7543(b)(3), an appointee covered by this part is entitled to be represented by an attorney or other representative.

(2) An agency may disallow as an appointee's representative—

(i) An individual whose activities as a representative would cause a conflict of interest or position;

((ii) An employee of the agency whose release from his or her official position would give rise to unreasonable costs; or

(iii) An employee of the agency whose priority work assignments preclude the employee's release.

(f) *Agency decision.* In arriving at its written decision, the agency will consider only the reasons specified in the notice of proposed action and any reply of the appointee or the appointee's representative made to a designated official. The agency will deliver the notice of decision to the appointee at or before the time the action will be effective. The notice of decision will inform the appointee of his or her appeal rights.

(g) *Hearing.* Under 5 U.S.C. 7543(c), the agency may in its regulations provide a hearing in place of or in addition to the opportunity for written and oral reply.

§ 752.605 Appeal rights.

(a) Under 5 U.S.C. 7543(d), a career appointee against whom an action is taken under this subpart is entitled to appeal to the Merit Systems Protection Board.

(b) A limited term or limited emergency appointee who is covered under § 752.601(c)(2) also may appeal an action taken under this subpart to the Merit Systems Protection Board.

§ 752.606 Agency records.

The agency will maintain copies of the adverse action record items specified in 5 U.S.C. 7543(e) and furnish them upon request as required by that subsection.

[FR Doc. 86-12203 Filed 5-29-86; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 810

Standards for Wheat

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Grain Inspection Service (FGIS) proposes to revise the U.S. Standards for Wheat to certificate dockage to the nearest 0.1 percent. The current method of dockage certification rounds the actual dockage percentage down to the nearest half or whole percent. This method may result in understating the level of dockage up to 0.49 percent on the certificate. Certification of dockage to the nearest 0.1 percent is more precise than the current method and should enhance the marketability of U.S. wheat traded in the domestic and export markets. In addition, FGIS solicits comments on a change to its Grain Inspection Handbook that would provide that the protein content of wheat be certified on a constant 12.0 percent moisture basis. Certification on the basis of a constant 12.0 percent moisture instead of the current "as is" moisture will add uniformity to the protein reporting procedure.

DATE: Comments must be submitted on or before July 14, 1986.

ADDRESS: Comments must be submitted in writing to Lewis Lebakken, Jr., Information Resources Staff, RM, USDA, FGIS, Room 1661, South Building, 1400 Independence Avenue, SW., Washington, DC 20250, telephone (202) 382-1738. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 382-1738.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed 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

Dr. Kenneth A. Gilles, Administrator, FGIS, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities because those persons who apply the standards and most users of wheat inspection services do not meet the requirements for small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Further, the standards are applied equally to all entities by FGIS employees and licensed persons.

Certification of Dockage in Wheat

Dockage consists primarily of dust, chaff, small weed seeds, very small pieces of broken wheat, and coarse grains larger than wheat. Domestic millers usually remove dockage during grain cleaning and may use it as animal feed. Foreign buyers use dockage in a variety of ways. Some use the dockage in animal feeds, others mill the dockage with the wheat, and some remove and discard the dockage.

In the current U.S. Standards for Wheat (7 CFR 810.301-810.309), dockage is certificated by rounding down to the nearest 0.5 percent (7 CFR 810.305). For example, for 0.0 to 0.49 percent no dockage is shown, 0.5 to 0.99 is shown as 0.5 percent dockage, 1.0 to 1.49 percent is shown as 1.0 percent dockage and so forth. Many foreign buyers question the adequacy of the current dockage certification method asserting that the actual dockage is almost always understated. FGIS proposes recording the dockage to the neareast 0.1 percent on official inspection certificates to more precisely state wheat dockage content.

In current practice a wheat shipment may contain up to 0.49 percent more dockage than the percentage shown on the official inspection certificate. Export shipments certificated with no dockage generally contain 0.35 to 0.45 percent dockage. Export shipments certificated at 0.5 percent dockage generally contain 0.6 to 0.9 percent dockage. An understated amount of dockage may impact on foreign buyers due to wheat prices being paid for understated dockage, freight, and, when applicable, levy charges paid on each ton of wheat imported.

The last review of the wheat standards included an evaluation of the dockage rounding procedure. In the March 22, 1983, **Federal Register** (48 FR 11953), FGIS stated that a review of the wheat standards would include an

evaluation of dockage certification procedures. Two potential alternatives were suggested:

1. Certification to the nearest 0.1 percent, and

2. Certification to the nearest 0.5 percent by rounding up or down on the basis of 0.25 percent.

In the January 13, 1984, **Federal Register** (49 FR 1730), FGIS proposed revising the dockage rounding procedue to certificate dockage to the nearest 0.5 percent. After reviewing available information and the comments submitted on the proposal, FGIS determined that additional study was needed prior to taking any action on the dockage issue, and at least one public meeting would be held to discuss the dockage rounding procedure with interested parties. This position was stated in the final rule published in the May 16, 1984, **Federal Register** (49 FR 20636).

FGIS continued gathering information and data on the level of wheat dockage in the marketplace. Export inspection results for 1984 were collected and analyzed along with domestic inspection results representing the 1984 wheat harvest. The USDA, Economic Research Service (ERS) used these data and other available information to compile a report entitled: "Economic Implications of Alternative Methods of Certificating Dockage in U.S. Wheat." The objectives of the report were to:

1. Review available literature on the relationship between dockage and wheat quality,

2. Estimate economic impact of alternative dockage certification methods, and

3. Estimate the costs and benefits of removing dockage from U.S. wheat through cleaning operations.

The report concludes that dockage certificated to the nearest 0.1 percent could affect price per bushel depending on how market participants view the price quotations for wheat in relation to the certificated dockage content. The price effect on all classes of wheat in the interior market could vary from a decrease of 0.971 cents per bushel to an increase of 0.674 cents per bushel. In the export market, the report concluded that the price effect for all classes of wheat could vary from a decrease of 0.981 cents per bushel to an increase of 0.789 cents per bushel. The report also concluded that elimination of the problem of understated dockage would strengthen the credibility of the official inspection certificate, enhance buyer confidence in the U.S. Standards for Wheat, and strengthen the competitive position of U.S. wheat in the world market.

Other potential benefits of revising the dockage certification procedure to round to the nearest 0.5 percent or the nearest 0.1 percent as noted in the report include:

1. More accurate description of the raw grain. Certification to the nearest 0.1 percent would be more precise and remove incentives to blend grain so as to reach the maximum dockage level allowed by the current rounding down procedure.

2. A reduction in the potential for changing inspection results by 0.5 percent on the same lot or sample. Certification to the nearest 0.1 percent would eliminate the problem.

3. Improvement of pricing efficiency.

4. Removal of the incentive to add dockage to clean grain.

5. Possible reward to producers who deliver wheat with less than the average dockage content.

6. Improvement of grain quality, including: (a) reducing destructive insects, (b) the risk of dust explosions, (c) health problems associated with inhalation of grain dust, and (d) problems associated with segregation of dockage during handling and loading.

Dockage certificated to the nearest 0.1 percent was not proposed previously because of FGIS concerns about grain inspection equipment limitations. To evaluate dockage tester performance, a study was conducted by FGIS on the effect of equipment limitations on the reproducibility of dockage results. Samples of Hard Red Winter wheat, Soft Red Winter wheat, Hard Red Spring wheat, White wheat, and Durum wheat containing four dockage levels (1.0, 2.0, 4.0, and 8.0 percent) were run on three dockage testers. The study revealed that at the 1.0, 2.0, and 4.0 percent dockage levels the equipment provided results within ± 0.10 percent. At the 8.0 percent dockage level two significant deviations occurred out of 15 tests results. Since a large majority (about 90 percent) of wheat inspected in the domestic and export markets contains less than 2.0 percent dockage, FGIS expects that results certificated to the nearest 0.1 percent will be reproducible.

Dockage certificated to the nearest 0.5 percent would be more accurate than the current procedure since the actual dockage level could differ from the amount certificated by no more than 0.25 percent. However, this method would still allow up to 0.25 percent understated dockage and foreign buyer complaints about excess dockage could continue.

FGIS held a Wheat Dockage Meeting in Denver, Colorado, on January 7, 1986. This meeting was announced in the **Federal Register** on December 4, 1985 (50 FR 49737).

Representatives of nearly all segments of the wheat industry attended the meeting, including producers, handlers, merchandisers, millers, exporters, and foreign buyers. Approximately eighty-five individuals were in attendance. The Economic Research Service report cited earlier was made available to the public prior to the meeting and was available to attendees at the meeting.

The wheat dockage certification options presented for discussion at the meeting were:

1. Continue to use the current method whereby the actual percentage of dockage is rounded down to the nearest half or whole percent for certification purposes.

2. Certificate dockage to the nearest 0.5 percent.

3. Certificate dockage in tenths of a percent.

4. Combine dockage and foreign material and count the total percentage against the current foreign material grade standard limits.

FGIS requested that any alternative option(s) be presented by the attendees. However, while variations to the options presented were discussed, no new options were submitted.

More than twenty wheat industry representatives presented formal comments on wheat dockage certification.

Only two speakers supported retaining the current dockage certification procedure. These two speakers believed additional studies on grain handling practices and/or grain quality are necessary before a change could be proposed. A third speaker supported changes in dockage certification but also believed further studies were necessary.

Certificating dockage to the nearest 0.5 percent was not mentioned as the preferred option by any of the speakers.

A large majority of the industry personnel who spoke favored certification of dockage to the nearest 0.1 percent and urged FGIS to implement this method of certification as rapidly as possible. According to their comments, they stated this method of certification would more accurately indicate dockage content and would enhance the quality of U.S. wheat as perceived by foreign buyers.

Combining the percentages of dockage and foreign material and applying the results as a grade-determining factor in the standards was advanced as an option by a number of individuals but was not the option of choice by the majority of speakers. This method could

allow extra dockage to be introduced up to the maximum amount for each grade. In addition, the marketplace could easily calculate the exact amount of dockage and foreign material if desired, provided that dockage is reported to the nearest 0.1 percent. Foreign material is currently certificated to the nearest 0.1 percent.

A few speakers suggested combining dockage, foreign material, and shrunken and broken kernels to form a new factor of non-millable material. Another speaker suggested including the current factors contrasting classes and wheat of other classes in the new factor non-millable material. No consensus was reached regarding these suggestions. Additional research and study would be necessary to establish official grade limits for the non-millable material factor.

In addition to the Wheat Dockage Meeting in Denver, Colorado, comments have been received from growers' and processors' organizations. In addition, a series of Grain Quality Workshops were initiated by the trade. The objective of the workshops is to study problems related to the quality of grain exported from the United States. Workshop members include representatives of producer associations, trade associations and commissions, grain marketing firms, universities, and the Federal Government. Certification of the percentage of dockage in wheat was one of the primary topics considered during the first few workshops. After discussing the current dockage certification procedure and potential alternatives, the majority of the Grain Quality Workshop members recommended that dockage be certificated to the nearest 0.1 percent. Certification to the nearest 0.1 percent was considered to be the most acceptable method to specify the actual dockage content of wheat.

In view of FGIS studies on dockage tester performance, the ERS study on the economics of alternative dockage methods, the comments submitted at the public meeting, and the recommendation received from the Grain Quality Workshops, FGIS proposes that § 810.305(b), be revised to state the percentage of dockage in wheat to the nearest 0.1 percent.

Comments including data, views, and arguments are solicited from interested persons. Pursuant to section 4(b) of the United States Grain Standards Act (7 U.S.C. 75(b)), upon request, such information may be presented orally in an informal manner. Also, pursuant to section 4(b) of the Act, no standards established or amendments or revocations of standards are to become effective less than one calendar year after promulgation unless in the judgment of the Administrator, the public health, interest, or safety requires that they become effective sooner. if finalized, FGIS intends that the change should become effective on May 1, 1987 to coincide with the beginning of the crop year.

Moisture Basis on Protein

In addition to the above rulemaking, FGIS is soliciting views and comments on another topic addressed by the growers' and processors' organizations and the Grain Quality Workshops on the use of a constant moisture basis to certificate the protein content of wheat. Following a discussion of this subject, members recommended that protein content be certificated on a constant 12.0 percent moisture basis to provide uniformity to the certification procedure. A 12.0 percent basis was recommended because this percentage is representative of the average moisture content of wheat exported from the United States.

Protein is an official criteria under the U.S. Grain Standards Act. The procedure for reporting protein content appears in Aux. 21 of the Grain Inspection Handbook. Unless otherwise requested, protein content is currently reported on "as is" moisture basis; that is, the percentage of protein is calculated on the actual moisture content of the wheat. Current procedures also allow protein content to be recorded on a specified moisture basis if requested by the applicant for inspection.

When reported on an "as is" moisture basis, the protein quantity of wheat which has different moisture levels cannot be compared easily. Protein content is inversely related to moisture content. Protein quantity, certificated on a constant moisture basis of 12.0 percent, would provide buyers, sellers, and users of U.S. wheat with results which could be easily evaluated and compared. Also, use of a constant moisture basis would conform with protein reporting procedures used by other major wheat exporting countries.

FGIS is soliciting views and comments as to whether protein content should be certificated on a constant moisture basis of 12.0 percent rather than the "as is" moisture basis which is the current procedure. The procedure for moisture basis appears in the Grain Inspection Handbook and not in the U.S. Standards for Wheat. Accordingly, no change to the grain standards would result nor does this change require rulemaking. However, FGIS believes that it would be beneficial to have industry input prior to changing the moisture basis procedure for protein in wheat. FGIS will notify interested parties, as appropriate, once a final decision is made with respect to this matter.

List of Subjects in 7 CFR Part 810

Export, Grain.

PART 810—OFFICIAL U.S. STANDARDS FOR GRAIN

1. The authority citation for Part 810 continues to read as follows:

Authority: Sections 3A and 4, United States Grain Standards Act (7 U.S.C. 75a, 76).

2. It is proposed that § 810.305 *Percentages* be amended by revising § 810.305(b) to read as follows:

§ 810.305 Percentages.

* * * * *

(b) Percentages shall be stated in whole and tenth percent to the nearest tenth percent, except when determining the identity of wheat, the class, the subclass, and the percentage of ergot. The percentage when determining the identity of wheat, the class, and the subclass shall be stated to the nearest whole percent. The percentage of ergot shall be stated to the nearest hundredth percent.

Dated: May 13, 1986.

Kenneth A. Gilles,

Administrator.

[FR Doc. 86-11969 Filed 5-29-86; 8:45 am]

BILLING CODE 3410-EN-M

Agricultural Marketing Service

7 CFR Part 987

Domestic Dates Produced or Packed in Riverside County, CA; Proposed Amendment of Date Expenses and Rate of Assessment for 1985-86 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize an increase in expenses for the California Date Administrative Committee and an increase in the rate of assessment for the 1985-86 crop year. The expenses would be increased from $26,050 to $176,050, and the assessment rate would be increased from 8 cents to $1.00 per hundredweight of assessable dates. The changes are necessary for the date industry to conduct a market research promotion, and paid advertising program. The Committee

locally administers the Federal marketing order covering dates of domestic production.

DATE: Comments due June 9, 1986.

ADDRESS: Comments should be sent to: Docket Clerk, Room 2086, South Building, U.S. Department of Agriculture, Washington, DC 20250. Two copies of all written materials should be submitted and they shall be available for public inspection at the office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Washington, DC 20250; (202) 447-5697.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been classified a "non-major" rule.

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

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

It is estimated that approximately 26 handlers of dates will be subject to regulation under the marketing order for dates produced or packed in Riverside County, California, during the course of the current season and that the great majority of this group may be classified as small entities. While regulations issued during the season impose some costs on affected handlers the added burden on small entities, if present at all, is not significant.

A comment period of less than 30 days is provided because the proposed promotion program must start by the middle of June for the program to have any positive effect on 1986 fall date sales. Normally, the buik of the domestic industry's sales are made during the fall holiday months.

A final rule establishing expenses in the amount of $26,050 for the 1985-86 crop year and fixing the assessment rate at 8 cents per hundredweight on all assessable dates was published in the Federal Register on February 26, 1986 (51 FR 7054). At a meeting held on March 20, 1986, a date promotion program was proposed. The total expense for the program was estimated at $500,000. Such program would include market research, nutrition research, agency fees, merchandisers, public relations, point of sale material and advertising. The date industry is faced with a serious oversupply problem. The Committee believes that a promotion program can help correct this problem by stimulating demand.

Approximately $150,000 is needed before October 1, 1986, to have date promotion available for sales this fall. At a meeting held on April 3, 1986, the Committee voted to increase this season's expenses and rate of assessment to accomplish that goal.

This proposal sets forth a budget increase in the amount of $150,000 for marketing promotion and advertising for the 1985-86 crop year and a rate of assessment increase to $1.00 per hundredweight of assessable dates.

In a letter dated May 1, 1986, a handler explained that his firm had inspected or sold all of his 1985-crop dates and could not factor any increase in the 1985-86 assessment rate into his 1985 crop pricing like other handlers in the industry who still have large volumes of dates to sell. He further stated that he did not object to the concept of the advertising and promotion program, but he felt it could only be done fairly by starting on October 1, 1986, the beginning of the new season. His contention is that such a starting date would give all participants an equal chance to benefit from the monies being paid. In his opinion, the retroactive assessment is grossly unfair and would create serious financial hardships to firms in his position. Finally, he indicated that a new date committee will be selected in June 1986 and that the new committee may feel differently about a promotion and advertising program of this magnitude.

List of Subjects in 7 CFR Part 987

Marketing agreements and orders, Dates, California.

1. The authority citation for Part 987 continues to read:

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

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

§ 987.330 [Amended]

2. Section 987.330 is amended by changing $26,050 to $176,050 and changing 8 cents to $1.00.

Dated: May 27, 1986.

Joseph A. Gribbin,

Director, Fruit and Vegetable Division.

[FR Doc. 86-12207 Filed 5-29-86; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 103

Powers and Duties of Service Officers; Availability of Service Records

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise 8 CFR 103.2(b) to authorize a district director to withhold adjudication of a visa petition or application where determined necessary to pursue a criminal investigation. The provisions relating to disclosure of classified material would also be revised to require authorization for disclosure by the classifying agency.

DATE: Comments must be received on or before July 29, 1986.

ADDRESS: Please submit written comments in duplicate to the Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street NW., Room 2011, Washington, DC 20536. Telephone (202) 633-3048.

FOR FURTHER INFORMATION CONTACT:

For General Information: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street NW., Room 2011, Washington, DC 20536, Telephone: (202) 633-3048.

For Specific Information: Michael J. Heilman, Associate General Counsel, Immigration and Naturalization Service, 425 I Street NW., Room 7048, Washington, DC 20536, Telephone: (202) 633-2620.

SUPPLEMENTARY INFORMATION: The proposed rule would revise § 103.2(b) to allow a district director of the Immigration and Naturalization Service to hold adjudication of a visa petition or application in abeyance pending a

criminal investigation. This proposed rule is offered in lieu of the proposed rule published at 50 FR 27289 on July 2, 1985, which would have allowed a district director to deny a visa petiton or application and then not disclose the grounds for the denial if a civil or criminal investigation had been undertaken.

By this proposed rule, the disclosure of information will be avoided and the petitioner or applicant will not be prejudiced by a denial based on information not disclosed to the petitioner or applicant. The proposed rule would also, as in the previous proposed rule, revise the procedures for disclosure of classified material. Disclosure would only be made if the classifying agency has agreed in writing that the information may be disclosed.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule, if promulgated, would not have a significant impact on a substantial number of small entities.

This rule is not a major rule as defined in section 1(b) of E.O. 12291.

List of Subjects in 8 CFR Part 103

Administrative practice and procedure, Archives and records.

Accordingly, it is proposed to amend Chapter 1 of Title 8 of the Code of Federal Regulations as follows:

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

1. The authority citation for Part 103 is revised to read as follows and all other authority citations are removed from Part 103:

Authority: Section 501, 65 Stat. 290, section 103, 66 Stat. 173; 31 U.S.C. 483(a), 8 U.S.C. 1103. Interpret or apply sections 281, 382, 343, 344, 405, 66 Stat. 230, 252, 263, 264, 280; 8 U.S.C. 1351, 1443, 1454, 1455, 1101 and note; 7 U.S.C. 2243. § 103.2 is also issued under sections 103, 221, 261 and 265 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103, 1201, and 1301–1305).

2. In § 103.2, paragraph (b)(2) would be redesignated as (b)(3) and revised and a new paragraph (b)(3) would be added to read as follows:

§ 103.2 Applications, petitions, and other documents.

* * * * *

(b) * * *

(2) *Adjudication of application or petition.* A district director may withhold adjudication of a visa petition or other application if the district director personally determines that a criminal investigation has been undertaken or should be undertaken involving any person or organization involved with, or matter related to, the application or visa petition.

(3) *Inspection of evidence.* An applicant or petitioner shall be permitted to inspect the record of proceeding which constitutes the basis for the decision, except as provided in the following paragraphs.

(i) *Derogatory information unknown to petitioner or applicant.* If the decision will be adverse to the applicant or petitioner and is based on derogatory information considered by the Service, of which the applicant or petitioner is unaware, he/she shall be advised of this fact and offered an opportunity to rebut the information and present information in his/her own behalf before the decision is rendered. Any explanation, rebuttal, or information presented by or in behalf of the applicant or petitioner shall be included in the record of proceeding.

(ii) *Determination of statutory eligibility.* A determination of statutory eligibility shall only be based on information contained in the record of proceeding which is disclosed to the applicant or petitioner.

(iii) *Discretionary determination.* Where an application or petition may be granted or denied in the exercise of discretion, the decision may be based in whole or in part on classified information not contained in the record and not made available to the applicant or petitioner.

(iv) *Classified information.* An applicant or petitioner shall not be provided any information contained in the record or outside the record which is classified under Executive Order No. 12356 (47 FR 14874) as requiring protection from unauthorized disclosure in the interest of national security, unless the classifying authority has agreed in writing to such disclosure.

Dated: May 13, 1986.

Alan C. Nelson,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 86-12144 Filed 5-29-86; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 86-039]

Federal Animal Quarantine Stations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Request for comments.

SUMMARY: This document requests comments concerning whether the Department should take action to contract with private firms to conduct certain activities at federal animal quarantine stations.

DATE: Written comments must be received on or before June 30, 1986.

ADDRESS: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Comments should state that they are in response to Docket Number 86-039. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. R.D. Whiting, Import-Export and Emergency Planning Staff, VS, APHIS, USDA, Room 810, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8695.

SUPPLEMENTARY INFORMATION: The regulations in 9 CFR Part 92, among other things, regulate the importation into the United States of specified animals in order to help prevent the introduction into the United States of various diseases.

Certain animals are required to be quarantined as a condition of entry into the United States. Animals are quarantined at fedral animal quarantine stations or at privately operated animal quarantine stations. The Department operates federal animal quarantine stations in Newburgh, New York; Los Angeles, California; Honolulu, Hawaii; and Miami, Florida. The Department also operates the Harry S. Truman Animal Import Center (a maximum security federal animal quarantine station) in Fleming Key, Florida.

Currently, the operations at the federal animal quarantine stations are conducted by technical and professional personnel who are employed by the Department. The duties at these federal animal quarantine stations include care, feed and handling of the animals; maintenance of the station; administrative functions; and conducting and supervising inspections and disease diagnostic procedures. It is necessary to continue to have Veterinary Services personnel supervise the operations at the federal animal quarantine stations insofar as necessary to ensure that the regulatory requirements would be met. However, the Department is considering whether it would be more cost effective and efficient to contract with private firms to

conduct all or a portion of the other duties that need to be performed at a federal animal quarantine station.

This document requests comments concerning whether the Department should take action to contract with private firms to conduct such activities.

Done at Washington, DC, this 27th day of May 1986.

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 86-12119 Filed 5-29-86; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50 and 55

Degree Requirement for Senior Operators at Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Commission is considering an amendment to its regulations to require, after January 1, 1991, that applicants for licenses as a Senior Operator of a nuclear power plant hold a baccalaureate degree in engineering or the physical sciences from an accredited institution. Other baccalaureate degrees from an accredited institution may be accepted on a case-by-case basis. This contemplated rulemaking action is due to a Commission decision to enhance the levels of engineering and accident management expertise on shift. The current requirement, for candidates with a baccalaureate degree, of two years of responsible nuclear power plant operating experience, would be amended to require at least one of the two years of operating experience be with a similar commercial nuclear reactor operating at greater than twenty percent power.

DATE: Comment period expires July 29, 1986.

Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Send written comments or suggestions on the proposed rulemaking to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Copies of the comments received may be examined at the NRC Public Document Room at 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: F. H. Rowsome, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492-4813.

SUPPLEMENTARY INFORMATION:

Background

The issue of academic requirements for reactor operators has long been a concern of the Nuclear Regulatory Commission (NRC). In July 1979, "TMI-2 Lessons Learned Task Force Status Report and Short-Term Recommendations," (NUREG-0578)[1] made specific recommendations for a Shift Technical Advisor (STA) to provide engineering and accident assessment expertise during other than normal operating conditions. On October 30, 1979, the NRC notified all operating nuclear power licensees of the short-term STA requirements, i.e., that STAs should be on shift by January 1980, and that they should be fully trained by January 1981. In November 1980, "Clarification of TMI Action Plan Requirements," (NUREG-0737), provided further details to licensees regarding implementation of the STA position.

The qualifications of operators were also addressed by the 1979, "Lessons Learned Task Force," (NUREG-0585), the 1980 Rogovin report, "Three Mile Island: A Report to the Commissioners and to the Public," (NUREG/CR-1240), and the 1982, "Report of the Peer Advisory Panel and the Nuclear Regulatory Commission on Operator Qualifications," (SECY 82-162).[2] The consensus among these was that greater technical and academic knowledge among shift operating personnel would be beneficial to the safety of nuclear power plants.

On October 28, 1985, the NRC published in the **Federal Register** (50 FR 43621) a final policy statement on engineering expertise on shift. Option 1 of the Policy Statement allows an individual to serve in the combined Senior Operator/Shift Technical Advisor (SO/STA) role holding either a baccalaureate degree in engineering, engineering technology, physical science, or a professional engineer's license. Option 2 permits continuation of the separate STA who rotates with the shift and holds a baccalaureate degree or equivalent and meets the criteria as stated in, "Clarification of TMI Action Plan Requirements," (NUREG-0737). The Commission also encourages the shift supervisor to serve in the dual-role position, and the STA to take an active role in shift activities.

The current advanced notice of proposed rulemaking is intended to extend the current level of engineering expertise on shift, as described in the Commission's Policy Statement on Engineering Expertise on Shift (50 FR 43621) and to ensure senior operators have operating experience on a commercial nuclear reactor operating at greater than twenty percent power, e.g., "hot" operating experience (Generic Letter 84-16). This Advance Notice of Proposed Rulemaking is the result of a Commission decision to consider an amendment to its regulations (Parts 50 and 55) and to obtain comments on the contemplated action to upgrade the levels of operating, engineering, and accident management expertise on shift.

Concurrent Policy Statement

The Commission also intends to prepare a concurrent policy statement which will encourage nuclear power plant licensees, i.e., owner-operators, to:

1. Implement personnel policies that emphasize the opportunities for licensed operators to assume positions of increased management responsibility;
2. Develop programs that would enable currently licensed senior operators and reactor operators to obtain college degrees; and
3. Obtain college credit for appropriate nuclear power plant training and work experience through arrangements with the academic sector.

Discussion

The purpose of the contemplated rulemaking is to upgrade the operating, engineering, and accident management expertise provided on shift by combining both engineering expertise and operating experience in the senior operator function. This is being done to further ensure the protection of the health and safety of the public by having personnel on shift with enhanced qualifications.

The NRC is concerned that operator qualifications to deal with accidents beyond design basis conditions warrant improvement. Operator training programs and related emergency

[1] Copies of all NUREGS referenced may be purchased through the U.S. Government Printing Office by calling (202) 275-2060 or by writing to the U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013-7082. Copies may also be purchased from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161. A copy is available for inspection and/or copying for a fee in the NRC Public Document Room, 1717 H Street, NW., Washington, DC.

[2] SECY-82-162 and Generic Letter 84-16 are available at the NRC Public Document Room at 1717 H Street, NW., Washington, DC.

operating procedures, generally do not consider accident conditions beyond inadequate core cooling. There is general consensus that well qualified operators can substantially mitigate the effects of severe accidents. The Industry Degraded Core Rulemaking Program (IDCOR) industry group for example, has developed arguments that operators could substantially reduce the risk proposed by these conditions. The NRC is considering the need for more extensive severe accident training and emergency operating procedures as well as engineering qualifications for senior operators.

The policy statement on engineering expertise on shift (October 28, 1985; 50 FR 43621) provided an interim way of achieving more engineering capability on shift. Essentially the NRC is moving from interim requirements which provide engineering capability for accident conditions (the STA), to requiring engineering capability, and nuclear power plant operating experience in the same individual (the SO).

The contemplated rulemaking action would require that all applicants for a Senior Operator (SO) license after January 1, 1991, must have a baccalaureate degree in engineering, engineering technology or the physical sciences from an accredited university or college. Other baccalaureate degrees from an accredited institution may be accepted on a case-by-case basis. Degree equivalency will no longer be accepted. A baccalaureate degree in another subject area would be acceptable if the utility (licensee) certifies that the applicant has demonstrated high potential for the SO position.

The contemplated rule would apply only to the SO. Licensed SOs or otherwise fully qualified applicants prior to January 1, 1991, would be exempt from the degree requirement. Licensed reactor operators (ROs) would not be required to have a degree.

Current senior operators and senior operator applications accepted by the NRC prior to January 1, 1991, would be "grandfathered" with regard to the contemplated rule. It is recognized that "grandfathering" current SOs could result in undegreed SOs for an extended period of time.

The proposed concurrent policy statement will encourage previously licensed SOs to obtain degrees. It is the intent of the present advance notice of proposed rulemaking to specify that senior operator license applications received after January 1, 1991, would not be accepted by the Commission unless the license application holds a baccalaureate degree from an accredited college or university.

In the past the NRC has accepted "equivalents" to the baccalaureate degree. The equivalents were based upon specialized utility training or other work experience. For the contemplated rule, equivalency would not be acceptable to the NRC in lieu of a degree. Because the Commission is not in a position to evaluate the academic equivalency of utility training, it encourages academic institutions to allow course credit for such equivalency based upon work experience or specialized training. Thus the proposed concurrent policy statement would encourage efforts to have the training accepted by the colleges for partial credit toward fulfilling the requirement of an accredited degree.

The degree requirement would not apply to licensed reactor operators (ROs). However, the proposed concurrent policy statement would encourage degrees for ROs. The Commission believes a degree requirement on shift, along with the concurrent proposed policy statement will not only enhance public health and safety, but will also provide a route for promotion by SOs.

The cut off date of January 1, 1991, for application for an SO license by individuals who are not degreed is chosen for three reasons. First, it will allow operators now in training sufficient time and notice to complete a degree before application. Second, it should not cause undue hardship on operators who are now in the process of preparing and training for the senior operator license. Third, licensees are encouraged by the Policy Statement on Engineering Expertise on Shift (Option 1) to move toward a dual-role SO/STA position. Furthermore, operators who are licensed as SOs prior to January 1, 1991, would be "grandfathered." The proposed rule would only allow one re-examination for SO applicants who apply for a license just prior to January 1, 1991. This would prevent essentially unqualified individuals (without degrees) from applying just to "beat" the deadline.

The contemplated rule also requires one year of "hot" operating experience for a degreed SO after January 1, 1991. This is simply a continuation of current NRC established policy to provide engineering and accident expertise on shift. It is essential that the SO know and understand plant operations as well as the theoretical, academic, and accident management aspects of the position.

The concurrent policy statement is planned as a way of encouraging licensees (utilities) and the nuclear industry to provide incentives and management opportunities for SOs as well as improving the engineering capabilities of the on-shift crew. The SO with a degree and shift operating experience can become a valuable personnel resource for the utility, one who combines shift operational management experience with the potential for greater management responsibility. The policy statement will encourage licensees to provide that career path.

A regulatory analysis and a backfit assessment will be developed after the comments are received and evaluated, prior to notice of the proposed rulemaking and concurrent policy statement.

Invitation to Comment

Comments regarding the proposed rule are encouraged. Comments on the contemplated rule are solicited in regard to:

1. Is January 1, 1991, a feasible deadline for requiring senior operators to be degreed and licensed, and if not, what should the deadline be?
2. What the implementation and operation costs of the contemplated rule to utilities would be?
3. Assuming regular shift rotation, could the typical SO obtain an engineering or technical degree prior to January 1, 1991?
4. What type of engineering degree would be appropriate, e.g., nuclear, electrical, mechanical, industrial, etc?
5. What has been the industry's experience in securing college-equivalent credit for nuclear power plant training and/or work experience?
6. Should there be similar experience requirements for one-of-a-kind advanced reactors?
7. What are the combined impacts of requiring two years of responsible nuclear power plant experience, the degree requirements, and one year "hot" operating requirement for the position of SO?
8. Should the contemplated degree requirement for senior operators be supplemented with or replaced by intensive focused training requirements in severe accidents for nuclear power plant operators?
9. What are the appropriate criteria for assessing a utility's certification that an individual with a baccalaureate degree in other than engineering or the physical sciences has "demonstrated high potential" for the SO position?
10. What are the implications of this contemplated rulemaking on decisions concerning future reactor designs?

11. Should the NRC require specialized training in severe reactor accidents beyond inadequate core cooling and/or require extension of emergency operating procedures into the realm of more severe accidents instead of or in addition to baccalaureate degrees? What are the implications of the work by IDCOR for the qualifications, training, and emergency operating procedures for licensed reactor operators and senior operators?

12. What is an appropriate cut-off date for allowing only one re-examination for those SO applicants without a degree who apply for a license just prior to January 1, 1991?

13. The proposed rule would require an SO applicant to have a baccalaureate degree in engineering or the physical sciences from an accredited university or college. What should be the appropriate definition (e.g., Department of Education, ABET, etc.) for "an accredited university or college?"

14. What immediate impact will the contemplated rule have on operator morale?

15. [Chairman Palladino believes] that the attached Table [1] correctly identifies the present control room staff as well as that envisioned by the ANPRM by 1991 and after 1991. Should other alternative control room staffing requirements be considered?

16. TMI improvements in control room capabilities and staffing have been undertaken by the industry, i.e., STA's have been added, detailed control design reviews have been undertaken, safety parameter display systems have been installed, emergency operating procedures have been improved, and the combined SO/STA position has been approved by policy. To what extent have these improvements been effective?

17. Requiring SO's in the control room to have a technical college degree will have an impact on RO's and AO's, especially with regard to a career path for these personnel. To what extent will the SO requirement drive out capable operators, and result in high personnel turnover and instability in the workforce?

18. Presently one degreed engineer is required to be within 10 minutes of the control room or a member of the control room staff, the STA or the combined SRO/STA, respectively. While requiring a second control room operator to have a technical degree may enhance operator organizational status, professionalism and esprit de corps, will a second degreed engineer significantly improve operator performance beyond the STA or combined SRO/STA improvements? Will these improvements become apparent in the short term or the long term?

19. What is the industry view about availability of new college graduates who can be trained in nuclear power plant operation or about the feasibility of having present plant operators pursue and obtain a technical college degree?

20. Should there be a numerical limit on the total number of "grandfathered" SO's at any particular plant?

BILLING CODE 7590-01-M

TABLE 1

SECY-86-70

ONE UNIT[1]

ONE CONTROL ROOM

I	II	III	IV	V
PRE-TMI	NUREG-0737	SECY 84-355	ANPRM	
			NOW TO 1991	1991 AND AFTER[2]
1 SO	2 SO's	2 SO's	2 SO's	2 SO's[4]
2 RO's	2 RO's	2 RO's	2 RO's	2 RO's
	1 STA(E)[5]	1 STA(E)[5]	1 STA(E)[5]	1 STA(E)[5]
		--OR--	--OR--	--OR--
		1 SO/STA(D)[3]	1 SO/STA(D)[3]	1 SO(D)[3]
		1 SO	1 SO	1 SO[4]
		2 RO's	2 RO's	2 RO's
				--OR--
				2 SO's(D)[3]
				2 RO's
TIME				
1979	1979	1985	NOW	1991

(1) 10 CFR 50.54(M)(2).

(2) AS NON-DEGREED GRANDFATHERED SO'S RETIRE, OR OTHERWISE LEAVE THE INDUSTRY, CONTROL ROOM STAFFING WILL EVOLVE TO 2 SO'S(D) AND 2 RO'S.

(3) D = BACCALAUREATE DEGREE IN ENGINEERING OR RELATED SCIENCE (NO EQUIVALENCY).

(4) GRANDFATHERED.

(5) E = B.S. OR EQUIVALENCY.

Additional Comments of Commissioner Roberts

The additional comments of Commissioner Thomas M. Roberts on this ANPRM follow:

"Although I continue to believe that well-trained and qualified operators are important in assuring safe and reliable operation of nuclear plants, I am concerned that this rulemaking will negatively affect the level of experience and expertise of senior operators (the potential for negative implications was raised in the 1982 report of the Commission's Peer Advisory Panel on Operator Qualifications). I will be specifically interested in public comments on: (1) The extent that a formal degree requirement for senior operators is related to job performance, (2) whether requiring a baccalaureate degree for senior operators will enhance public health and safety, and (3) what negative safety implications may result from this proposal."

Additional Views of Commissioner Asselstine

The additional views of Commissioner James K. Asselstine on this ANPRM also follow:

"I have approved this advance notice of proposed rulemaking for the purpose of obtaining public and industry comment on the various options for upgrading the level of operating, engineering and accident management expertise on shift at operating nuclear powerplants. I agree entirely with the conclusion expressed in this advance notice that operator qualifications to deal with accidents beyond the design basis for the plants warrant improvement. Qualified operators can play a potentially significant role in mitigating the consequences of severe accidents. However, in order to carry out this role, operators must have sufficient knowledge of engineering and reactor theory to understand plant behavior under severe accident conditions.

"Although considerable progress has been made in recent years in improving operator training programs and plant emergency operating procedures, these training programs and procedures generally do not consider accident conditions beyond inadequate core cooling. Moreover, despite the improvements in reactor operator training, recent experience with NRC-administered reactor operator requalifications examinations indicates that some operators are having difficulty in retaining the level of knowledge of engineering and reactor theory needed to deal effectively with design basis events. These indications of weakness in operator knowledge of engineering and reactor theory, the absence of emergency procedures to deal with beyond design basis events, and the reliance on operator actions as one means of mitigating the effects of severe accidents all point to the need for more extensive knowledge of engineering and reactor theory on the part of plant operators, and particularly those operators holding senior reactor operator (SRO) licenses and serving in the position of shift supervisor.

"Although I believe that additional engineering knowledge is needed by licensed senior reactor operators, I am not satisfied either with the approach recommended by the NRC staff or with the position adopted by the Commission in this advance notice of proposed rulemaking. The NRC staff proposed that after January 1, 1991, all applicants for a senior reactor operator license hold a baccalaureate degree in engineering or a related science from an accredited institution. In addition, the staff proposed a requirement that after January 1, 1991, at least one SRO per shift at a nuclear powerplant (the SRO serving as the shift manager) meet the degree requirement. For purposes of this advance notice, the Commission accepted the staff's first recommendation but not the second. The practical effect of the Commission's position is to exempt forever from the degree requirement any person holding an SRO license on January 1, 1991.

"While the staff and the Commission proposals would bring about some improvement in the engineering knowledge of some licensed reactor operators, both of the proposals suffer from a number of disadvantages. First, it is not clear that requiring a baccalaureate degree in engineering provides the best means for assuring that senior reactor operators have the knowledge needed to carry out their responsibilities. Some courses required for an engineering degree may well be irrelevant to an understanding of reactor behavior during accident conditions. At the same time, some engineering knowledge and reactor theory needed to understand and cope with beyond design basis accident situations will not be covered by the courses needed to obtain a baccalaureate engineering degree. Second, imposing a degree requirement for SRO's is likely to result in the loss of some experienced and skilled reactor operators. After 1991, experienced reactor operators (RO's) will not be permitted to become SRO's without obtaining a degree, and the SRO's without a degree will not be able to advance to the position of shift manager or supervisor. Third, by focusing on degree requirements for SRO's, these proposals will require literally years before engineering knowledge on shift is substantially upgraded. In the case of the staff proposal, some SRO's wil have upgraded engineering expertise (applicants for SRO licenses after January 1, 1991, and pre-1991 SRO's serving as shift managers) while others need not upgrade their engineering knowledge at all (pre-1991 SRO's not serving as the shift manager). In the case of the Commission proposal, large numbers of licensed SRO's could be exempt from any upgrading of their engineering knowledge because the degree requirement would only apply to new SRO applicants after January 1, 1991. To avoid the requirement, a utility could simply obtain SRO licenses for all its reactor operators prior to 1991.

"In view of the disadvantages of the NRC staff and Commission proposals, I would appreciate comments on an alternative method for upgrading the engineering knowledge and understanding of reactor theory needed by licensed senior reactor operators. This method would include the following steps:

"1. Establish a working group, with NRC, academic and industry participants, with the responsibility to define the engineering knowledge and understanding of reactor theory needed for reactor operators to deal effectively with design basis events and severe accidents.

"2. Establish a training curriculum for each nuclear utility operator training program that will provide all senior reactor operators with the knowledge and understanding defined by step 1. This curriculum would establish milestones in individual subject areas to be achieved by new SRO candidates and previously licensed SRO's and would lead to satisfactory completion of the curriculum not later than January 1, 1991. These curriculums would be reviewed and accredited by NRC or by an appropriate industry or third party organization.

"3. Develop and administer new NRC senior reactor operator licensing examinations and NRC and licensee SRO requalification examinations that will test achievement by operators at each of the milestones defined under Step 2, leading to a comprehensive examination not later than 1991 for all new and previously-licensed senior reactor operators. A passing grade on this examination would be required to obtain or retain an SRO license after January 1, 1991."

List of Subjects

10 CFR Part 50

Antitrust, Classified information, Fire protection, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

10 CFR Part 55

Manpower training programs, Nuclear power plants and reactors, Penalty, Reporting and recordkeeping requirements.

Authority Citation

The authority for this advanced notice of proposed rulemaking is:

Authority: Sec. 161, Pub. L. 83-703, 68 Stat. 948, as amended (42 U.S.C. 2201).

Dated at Washington, DC, this 27th day of May 1986.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 86-12153 Filed 5-29-86; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 155

[Docket No. 86N-0175]

Canned Dry Peas; Advance Notice of Proposed Rulemaking on the Possible Amendment of U.S. Standards of Identity, Quality, and Fill of Container

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is offering to interested persons an opportunity to review the Codex Standard for Canned Mature Processed Peas (Codex Standard 81–1981) (Codex standard) developed by the Codex Alimentarius Commission and to comment on the desirability of and need for amending the U.S. standards for this food to achieve consistency with the Codex standard. The Codex standard was submitted to the United States for consideration for acceptance. If the comments received do not support the need to amend the U.S. standards for canned dry peas, FDA will not propose their amendment.

DATE: Comments by July 29, 1986.

ADDRESS: Written comments, data, or other information to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Howard A. Anderson, Center for Food Safety and Applied Nutrition (HFF–214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–485–0118.

SUPPLEMENTARY INFORMATION: The Food and Agriculture Organization (FAO) and the World Health Organization (WHO) jointly sponsor the Codex Alimentarius Commission, which conducts a program for developing worldwide food standards. The program has developed a number of Codex standards, among which is the Codex standard for Canned Mature Processed Peas (Codex Standard 81–1981).

As a member of the Codex Alimentarius Commission, the United States is obligated to consider all Codex standards for acceptance. The rules of procedure of the Codex Alimentarius Commission state that a Codex standard may be accepted by a participating country in one of three ways: Full acceptance, target acceptance, or acceptance with specified deviations. A commitment to accept at a designated future date constitutes target acceptance. A country's acceptance of a Codex standard signifies that except as provided for by specified deviations, a product that complies with the Codex standard may be distributed freely within the accepting country. A participating country which concludes that it will not accept a Codex standard is requested to inform the Codex Alimentarius Commission of this fact and the reasons therefor, the manner in which similar foods marketed in the country differ from the Codex standard, and whether the country will permit products complying with the Codex standard to move freely in that country's commerce.

For the United States to accept some or all of the provisions of a Codex standard for any food to which the Federal Food, Drug, and Cosmetic Act (the act) applies, it is necessary either to establish a standard under the authority of section 401 of the act (21 U.S.C. 341) or to appropriately revise an existing standard to incorporate the provisions within the U.S. standard. At present, the United States has standards of identity, quality, and fill of container for canned dry peas which differ in some respects from the Codex standard.

Under the procedure prescribed in 21 CFR 130.6(b)(3), FDA is providing an opportunity for review and informal comment on: (1) The desirability of and need for amending the U.S. standards for canned dry peas, (2) the specific provisions of the Codex standard, (3) additional or different requirements that should be in the U.S. standards, and (4) any other pertinent points.

FDA advises that if the comments received do not support the need to amend the U.S. standards of identity, quality, and fill of container, no amendment will be proposed. If this decision is reached, FDA will inform the Codex Alimentarius Commission of the differences between the Codex and U.S. requirements and that imported foods may move freely in interstate commerce in this country, providing they comply with the applicable U.S. laws and regulations which include the U.S. standards of identity, quality, and fill of container for canned dry peas.

Because of the large number of countries, often with diverse food regulations, that are associated with the development of Codex standards, certain provisions of the Codex standards may not be consistent with aspects of U.S. policy and regulations. Codex standards customarily include hygiene requirements, certain basic labeling requirements such as declaration of the net quantity of contents, name of manufacturer and country of origin, and other factors. These factors are not considered a part of U.S. food standards under section 401 of the act, rather, they are dealt with under the authority of other sections of the act.

For the benefit of interested persons who may wish to submit comments relative to this notice, FDA points out that the following major differences exist between the Codex standard and the U.S. standards for canned dry peas:

1. Viscosity of packing medium. The Codex standard in section 2.2.2 requires that the packing medium shall separate from the peas at 20° C. The U.S. standards contain no requirement regarding the viscosity of the packing medium.

2. Defects and allowances. (a) The Codex standard in section 2.2.5 and the U.S. standard by cross reference in § 155.172(b)(1) to the U.S. standard for canned peas in § 155.170(b)(1) (i) through (v) contain the following defect action levels:

	Based on the weight of drained peas	
	Codex standard (percent)	U.S. standard (percent)
Blond and yellow peas (i.e., white or yellow but edible peas)	(1)	2
Blemished peas (i.e., slightly stained or spotted peas)	10	5
Seriously blemished peas (i.e., peas that are hard, shrivelled, spotted, discolored, or otherwise blemished to the extent that the appearance or eating quality is seriously affected)	2	1
Pea fragments	10	10
Extraneous vegetable material	0.5	0.5

[1] No requirement.

In addition to the requirements above, the Codex standard in section 2.2.5 states that the sum of the individual defect action levels shall not exceed 15 percent and the U.S. standard by cross reference in § 155.172(b)(1) to§ 155.170(b)(1)(vii) states that the sum shall not exceed 12 percent.

(b) The Codex standard does not provide a limitation on ruptured skins. The U.S. standard in § 155.172(b)(1)(ii) states that skins of not more than 25 percent by count of the peas in a container may be ruptured to a width of 1.6 millimeters (0.06 inch) or more.

3. Softening agents. The Codex standard in section 3.2 provides for a maximum level of 150 milligrams/kilogram (0.005 ounce/2.2 pounds), expressed as sodium, singly or in combination, of sodium bicarbonate and sodium citrate as softening agents. The U.S. standard of identity does not provide for softening agents.

4. Flavorings. The Codex standard in section 3.4 has temporarily endorsed the use of natural flavors and their identical synthetic equivalents at levels limited by good manufacturing practice. The U.S. standard by cross reference in § 155.172(a) to the U.S. standard for canned peas in § 155.170(a)(2)(ix) provides for safe and suitable flavoring ingredients (except artificial).

5. Vacuum pack. The Codex standard is silent on vacuum pack. The U.S. standard by cross reference in § 155.172(a) to the U.S. standard for canned peas in § 155.170(a)(3)(ii)(*c*) states that the words "vacuum pack" or "vacuum packed" shall be included as part of the name or in close proximity to the name of the food when the weight of the liquid in the container is not more than 20 percent of the net weight and the container is closed under conditions creating a high vacuum in the container.

6. Minimum total soluble solids or drained weight. The Codex standard in section 6.1.2.1 states that the total solids of the product is not less than 19.5 percent of the weight of distilled water at 20 °C which the sealed container will hold when completely filled. As an alternative to this requirement, the Codex standard in section 6.1.2.3 states that the drained weight is not less than 60 percent by weight of distilled water at 20 °C which the sealed container will hold. The U.S. standard by cross reference in § 155.172(c)(1) to the U.S. standard for canned peas in § 155.170(c)(2) states that when the peas and liquid are removed from the container, and returned thereto, the peas (irrespective of the quantity of liquid) 15 seconds after they are returned fill the container to a vertical distance of 5 millimeters (0.20 inch) below the top of the double seam of the containers and to a vertical distance of 13 millimeters (0.5 inch) below the top of glass containers.

7. Compliance. The Codex standard in section 8 specifies analytical methods by which compliance with certain provisions would be determined. In making such determinations, FDA prefers to rely on methods of analysis recognized by the Association of Official Analytical Chemists.

Under § 130.6(c), all persons who wish to submit comments are encouraged and requested to consult with different interested groups (consumers, industry, academic community, professional organizations, and others) in formulating their comments, and to include a statement of any meetings or discussions that have been held with other groups.

List of Subjects in 21 CFR Part 155

Food standards; Vegetables.

The Codex standard under consideration is as follows:

Codex Stan. 81–1981—Codex Standard for Canned Mature Processed Peas [1] (World-wide Standard)

1. *DESCRIPTION.*

1.1 *Product Definition.*

Canned processed peas or canned mature peas are the product:

—*prepared* from clean, substantially sound, whole, threshed, dried mature seeds of green pea varieties (cultivars) conforming with the characteristics of the species *Pisum sativum L.* which have been soaked, but excludes the sub-species *macrocarpum;*

—*packed* with water to which may be added nutritive sweeteners, seasoning and other ingredients appropriate to the product; and

—*processed* by heat in an appropriate manner before or after being sealed in a container so as to prevent spoilage.

1.2 *Varietal types.*

Any suitable variety (cultivar) of pea may be used.

2. *ESSENTIAL COMPOSITION AND QUALITY FACTORS.*

2.1 *Basic ingredients.*

—Peas

—Water

2.1.1 Optional ingredients.

—Salt

—One or more of the carbohydrate sweeteners as defined by the Codex Alimentarius Commission and fructose

—Aromatic herbs and spices; stock or juice of vegetables and aromatic herbs (lettuce, onions, etc.); garnishes composed of one or more vegetables (lettuce, onions, pieces of green or red peppers, or mixtures of both, etc.) up to a maximum of 15% of the total drained vegetable ingredient

—Essences (see 3.3)

2.2 *Quality Criteria.*

2.2.1 Colour.

The drained peas shall have normal colour characteristic of canned processed peas, taking into consideration any added artifical colour.

2.2.2 Packing Medium.

The packing medium shall not be so viscous that the liquid will not separate from the peas at 20 °C. It shall not have a colour nor an appearance which is foreign to the product.

2.2.3 Odour and flavour.

Processed peas shall have a normal odour and flavour and be free from odours or flavors foreign to the product.

Processed peas with other permitted ingredients shall have the flavour characteristic of that imparted by the peas and the other substances used.

2.2.4 Texture.

The peas shall be reasonably tender and reasonably uniform in texture.

2.2.5 Defects and allowances.

Processed peas shall be reasonably free from defects and within the limits set forth herein for common defects as defined.

[1] Formerly CAC/RS 81–1976.

	Maximum limits (based on weight of drained peas)
(a) *Blemished peas* (peas which are slightly stained or spotted).	10% m/m.
(b) *Seriously blemished peas* (peas which are spotted, discoloured, or otherwise blemished to an extent that the appearance or eating quality is seriously affected; these shall include worm eaten peas).	2% m/m.
(c) *Pea fragments* (portions of peas: separated or individual cotyledons; crushed, partial or broken cotyledons; and loose skins).	10% m/m.
(d) *Extraneous plant material* (any vine or leaf or pod material from the pea plant, or other plant material).	0.5% m/m.
Total of the foregoing defects (a), (b), (c), (d).	15% m/m.

2.2.6 Classification of "defectives".

A container that fails to meet one or more of the applicable quality requirements, as set out in subsections 2.2.1 through 2.2.5, shall be considered a "defective".

2.2.7 Lot Acceptance.

A lot will be considered as meeting the applicable quality requirements referred to in subsection 2.2.6 when the number of "defectives", as defined in subsection 2.2.6, does not exceed the acceptance number (c) of the appropriate sampling plan (AQL–6.5) in the FAO/WHO Codex Alimentarius Sampling Plans for Prepackaged Foods (Ref. No. CAC/RM 42–1969).

		Maximum level
3. Food additives		
3.1 Firming Agents		
3.1.1 Calcium chloride.	Firming agents and softening agents may not be used in the same product.	350 mg/kg expressed as Ca, singly or in combination.
3.1.2 Calcium lactate.		
3.1.3 Calcium gluconate.		150 mg/kg expressed as Na, singly or in combination.
3.2 Softening agents.		
3.2.1 Sodium bicarbonate.		
3.2.2 Sodium citrate.		
3.3 Colours		
3.3.1 Fast Green FCF.		200 mg/kg singly or in combination.
3.3.2 Tartrazine		
3.3.3 Brilliant Blue FCF.		
3.4 Flavours		
Natural flavours and their identical synthetic equivalents.		Limited by good manufacturing practice.[1]
4. Contaminants		
Tin		250 mg/kg,[1] calculated as Sn.

[1] Temporarily endorsed.

5. *HYGIENE.*

5.1 It is recommended that the product covered by the provisions of this standard be prepared in accordanace with the Recommended International code of Hygienic Practice for Canned Fruit and Vegetable Products (Ref. No. CAC/RCP 2–1969).

5.2 To the extent possible in good manufacturing practice the product shall be free from objectionable matter.

5.3 When tested by appropriate methods of sampling and examination, the product:

(a) shall be free from microorganisms capable of development under normal conditions of storage; and

(b) shall not contain any substances originating from microorganisms in amounts which may represent a hazard to health.

5.4 Products with an equilibrium pH above 4.6 shall have received a processing treatment sufficient to destroy all spores of *Clostridium botulinum* unless growth of surviving spores is permanently prevented by product characteristics other than pH.

6. *WEIGHTS AND MEASURES*

6.1 *Fill of container*

6.1.1 Minimum Fill

The container shall be well filled with peas and the product (including packing medium) shall occupy not less than 90% of the water capacity of the container. The water capacity of the container is the volume of distilled water at 20 °C which the sealed container will hold when completely filled (see also 8.2.3).

6.1.1.1 Classification of "defectives"

A container that fails to meet the requirement for minimum fill (90 percent container capacity) of 6.1.1 shall be considered a "defective".

6.1.1.2 *Lot Acceptance*

A lot will be considered as meeting the requirement of 6.1.1 when the number of "defectives" does not exceed the acceptance number (c) of the appropriate sampling plan (AQL-6.5) in the FAO/WHO Codex Alimentarius Sampling Plans for Prepackaged Foods (Ref. No. CAC/RM 42-1969).

6.1.2 Minimum total solids content

6.1.2.1 The Total solids content (see 8.2.1) of the product shall be not less than 19.5% of the weight of distilled water at 20 ° C which the sealed container will hold when completely filled.

6.1.2.2 The requrements for minimum total solids content shall be deemed to be complied with when the average total solids content of all containers examined is not less than the minimum required, provided that there is no unreasonable shortage in individual containers.

6.1.2.3 As an alternate to the requirement in 6.1.2.1, a minimum drained weight (see 8.2.2) of 60% m/m of distilled water at 20 ° C, which the sealed container will hold when completely filled, may be utilised. However, in cases of dispute the requirement in 6.1.2.1 will be the referee method and requirement.

7. *LABELLING*

In addition to Sections 1, 2, 4 and 6 of the General Standard for the Labelling of Prepackaged Foods (Ref. CODEX STAN. 1-1981) the following specific provisions apply:

7.1 *The name of the food*

7.1.1 The name of the product shall be "Processed Peas" or "Mature Peas" or "Reconstituted Dried Peas" or "Cooked Dried Peas" or "Soaked Dried Peas" or the equivalent description used in the country in which the product is intended to be sold.

7.1.2 A declaration, as part of the name or in close proximity to the name, shall be made of characteristic flavorings or seasonings, e.g., "with X", when appropriate. ("X" shall be the name of the characteristic flavouring or seasoning).

7.1.3 The name of the product shall include the varietal type and/or colour of the pea if the colour of the pea is not green (e.g. "Dun peas", "Yellow peas").

7.1.4 No reference shall be made to the pea being "fresh", "garden", or "green" nor shall any other word or picture be used indicating either directly or by ambiguity, omission or inference that the peas are other than peas which have been dried and soaked.

7.2 *List of ingredients*

A complete list of ingredients shall be declared on the label in descending order of proportion in accordance with subsections 3.2(b) and (c) General Standard for the Labelling of Prepackaged Foods except that water need not be declared.

7.3 *Net Contents*

The net contents shall be declared by weights in either metric system ("Systeme international" units) or avoirdupois or both systems of measurement as required by the country in which the product is sold.

7.4 *Name and address*

The name and address of the manufacturer, packer, distributor, importer, exporter, or vendor of the product shall be declared.

7.5 *Country of Origin*

The country of origin of the product shall be declared if its omission would mislead or deceive the consumer.

7.6 *Lot Identification*

Each container shall be embossed or otherwise permanently marked in code or in clear to identify the producing factory and the lot.

8. *METHODS OF SAMPLING, ANALYSIS AND EXAMINAITON*

8.1 *Sampling*

In accordance with the FAO/WHO Codex Alimentarious Sampling Plans for Prepackaged Foods (Ref. No. CAC/RM 42-1969).

8.2 *Test Procedures*

8.2.1 Total solids content

In accordance with AOAC Method "Determination of total solids content", XII (1975) 32.004. The results are expressed as % total solids in the product.

This percentage of total solids arrived at by the above method is then converted to total solids as a percentage of water capacity as follows:

$$\frac{\text{\% total solids (AOAC)} \times \text{net contents}}{\text{water capacity}} = \text{Total solids as a percentage of water capacity}$$

8.2.2 Determination of drained weight

In accordance with the FAO/WHO Codex Alimentarius Methods of Analysis for Processed Fruits and Vegetables (Ref. No. CAC/RM 35-1970), Determination of Drained Weight—Method I. Results are expressed as % m/m calculated on the basis of the mass of distilled water at 20 °C which the sealed container will hold when completely filled.

8.2.3 Determination of Water Capacity of Container

In accordance with the FAO/WHO Codex Alimentarius Recommended Method (Ref. No. CAC/RM 46-1972).

For the convenience of the reader, FDA is including the text of the existing U.S. standards of identity, quality, and fill of container for canned dry peas. FDA is also including the standards of identity, quality, and fill of container for canned peas, for reference purposes only.

§ 155.170 Canned peas.

(a) *Identity*—(1) *Definition.* Canned peas is the food prepared from fresh or frozen succulent seeds of the pea plant of the species *Pisum sativum* L. but excluding the subspecies *macrocarpum*. Only sweet wrinkled varieties, smooth-skin varieties, or hybrids thereof may be used. The product is packed with water or other suitable aqueous liquid medium to which may be added one or more of the other optional ingredients set forth in paragraph (a)(2) of this section. Such food is sealed in a container and, before or after sealing, is so processed by heat as to prevent spoilage.

(2) *Optional ingredients.* In addition to the optional packing media provided for in paragraph (a)(1) of this section, the following safe and suitable optional ingredients may be used:

(i) Salt.

(ii) Monosodium glutamate.

(iii) Disodium inosinate.

(iv) Disodium guanylate.

(v) Hydrolyzed vegetable protein.

(vi) Autolyzed yeast extract.

(vii) One or any combination of two or more of the dry or liquid forms of sugar, invert sugar sirup, dextorse, glucose sirup, and fructose.

(viii) Spice.

(ix) Flavoring (except artificial).

(x) Color additives.

(xi) Calcium salts, the total amount of which added to firm the peas shall not result in more than 350 milligrams/kilogram (0.01 ounce/2.2 pounds) of calcium in the finished food.

(xii) Magnesium hydroxide, magnesium oxide, magnesium carbonate, or any mixture or combination of these in such quantity that the pH of the finished canned peas is not more than 8, as determined by the glass electrode method for the hydrogen ion concentration.

(xiii) Seasonings and garnishes:

(*a*) Pieces of green or red peppers or mixtures of both, either of which may be dried, or other vegetables not exceeding in total 15 percent of the drained weight of the finished food.

(*b*) Lemon juice or concentrated lemon juice.

(*c*) Mint leaves.

(*d*) Butter or margarine in a quantity not less that 3 percent by eight of the finished food, or other vegetable or animal fats or oils in a quanity not less than 2.4 percent by weight of the finished foods. When butter, margarine, or other vegetable or animal fats or oils are added, emulsifiers or stablizers or both may be added, but no color, spice, or flavoring simulating the color or flavor imparted by butter or margarine may be used.

(3) *Labeling.* The name of the food is "peas" and may include the designation "green." The term "early," "June," or "early June" shall precede or follow the name in the case of smooth-skin peas or substantially smooth-skin peas, such as Alaska-type peas

or hybrids having similar characteristics. Where the peas are of sweet green wrinkled varieties or hybrids having similar characteristics, the name may include the designation "sweet," "wrinkled," or any combination thereof. The term "petit pois" may be used in conjunction with the name of the food when an average of 80 percent or more of the peas will pass through a circular opening of a diameter of 7.1 millimeters (0.28 inch). If any color additive has been added, the name of the food shall include the term "artificially colored."

(ii) The following shall be included as part of the name or in close proximity to the name of the food:

(*a*) A declaration of any flavoring that characterizes the food, as specified in § 101.22 of this chapter.

(*b*) A declaration of any spice, seasoning, or garnishing that characterizes the product, e.g., "seasoned with green peppers", "seasoned with butter", "seasoned with ——— oil", the blank to be filled in with the common or usual name of the oil, "with added spice", or, in lieu of the word spice, the common or usual name of the spice.

(*c*) The words "vacuum pack" or "vacuum packed" when the weight of the liquid in the container, as determined by the method prescribed in § 155.3(a) is not more than 20 percent of the net weight, and the container is closed under conditions creating a high vacuum in the container.

(4) *Ingredient statement.* Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

(b) *Quality.* (1) The standard of quality for canned peas is as follows:

(i) *Blond and yellow peas.* Not more than 2 percent of the drained weight is blond and/or yellow peas, i.e., white or yellow but edible peas.

(ii) *Blemished peas.* Not more than 5 percent of the drained weight is blemished peas, i.e., slightly stained or spotted peas.

(iii) *Seriously blemished peas.* Not more than 1 percent of the drained weight is seriously blemished peas, i.e., peas that are hard, shrivelled, spotted, discolored, or otherwise blemished to an extent that the appearance or eating quality is seriously affected.

(iv) *Pea fragments.* Not more than 10 percent of the drained weight is pea fragmented, i.e., portions of peas, separated or individual cotyledons, crushed, partial or broken cotyledons, and loose skins, but excluding entire intact peas with skins detached.

(v) *Extraneous vegetable material.* Not more than 0.5 percent of the drained weight is extraneous vegetable material, i.e., vine or leaf or pod material from the pea plant or other such material.

(vi) *Alcohol-insoluble solids.* The alcohol-insoluble solids of smooth-skin or substantially smooth-skin peas, such as Alaska-type peas or hybrids having similar characteristics, may not be more than 23.5 percent and, of sweet green wrinkled varieties or hybrids having similar characteristics, not more than 21 percent based on the procedure set forth in the "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), section 30.012, which is incorporated by reference. Copies are available from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(vii) *Limitation.* The sum of the pea material described in paragraphs (b)(1), (i), (ii), (iii), (iv), and (v) of this section shall not exceed 12 percent.

(2) Determine compliance as specified in § 155.3(b).

(3) If the quality of canned peas falls below the standard prescribed in paragraph (b)(1) of this section, the label shall bear the general statement of substandard quality specified in § 130.14(a) of this chapter, in the manner and form therein specified; but in lieu of such general statement of substandard quality when the quality of canned peas falls below the standard in only one respect, the label may bear the alternative statement, "Below standard in quality ", the blank to be filled in with the words specified after the corresponding paragraph under paragraph (b)(1) of this section which such canned peas fail to meet, as follows: (i) "Excessive blond and/or yellow peas"; (ii) "Excessive blemished peas"; (iii) "Excessive seriously blemished peas"; (iv) "Excessive pea fragments"; (v) "Excessive vegetable material"; (vi) "Excessive mealy". Such alternative statement shall immediately and conspicuously precede or follow without intervening written, printed, or graphic matter, the name "peas" and any words and statements required or authorized to appear with such name by paragraph (a)(3) of this section.

(c) *Fill of container.* (1) Except in the case of vacuum pack peas, the fill of pea ingredient and packing medium, as determined by the general method for fill of container prescribed in § 130.12(b of this chapter, is not less than 90 percent of the total capacity of the container.

(2) When the peas and liquid are removed from the container and returned thereto, the leveled peas (irrespective of the quantity of the liquid), 15 seconds after they are so returned, completely fill the container. A container with lid attached by double seam shall be considered to be completely filled when it is filled to 5 millimeters (0.2 inch) vertical distance below the top of the double seam; and a glass containr shall be considered to be completely filled when it is filled to 13 millimeters (0.5 inch) vertical distance below the top of the container.

(3) Determine compliance for fill of container as specified in § 155.3(b).

(4) If canned peas fall below the standard of fill of container prescribed in paragraph (c)(1) and/or (2) of this section, the label shall bear the general statement of substandard fill specified in § 130.14(b) of this chapter, in the manner and form therein specified.

§ 155.172 Canned dry peas.

(a) *Identity.* Canned dry peas conforms to the definition and standard of identity, and is subject to requirements for label statement of optional ingredients prescribed for canned peas by § 155.170(a), except that:

(1) The optional pea ingredient is the dry seeds of the pea plant of the species *Pisum sativum* L. but excluding the subspecies *macrocarpum.*

(2) The optional ingredients specified in § 155.170(a)(2)(xii) shall not be used.

(3) The name of the food is "cooked dry peas" or "soaked dry peas". The optional terms specified by § 155.170(a)(3), "early", "June", "sweet", "green", "wrinkled", or any combination thereof, shall not be used on the labels.

(b) *Quality.* (1) The standard of quality for canned dry peas is that specified for canned peas by § 155.170(b) except that:

(i) The alcohol-insoluble solids maximums specified in § 155.170(b)(1)(vi) do not apply.

(ii) The skins of not more than 25 percent by count of the peas in the container are ruptured to a width of 1.8 millimeters (0.06 inch) or more.

(2) If the quality of canned dry peas falls below the standard of quality prescribed by paragraph (b)(1) of this section, the label shall bear the statement of substandard quality in the manner and form specified in § 155.170(b)(3) for canned peas, except that the words "Excesively mealy" shall not be used.

(c) *Fill of container.* (1) The standard of fill of container for canned dry peas is that prescribed for canned peas by § 155.170(c).

(2) If canned dry peas fall below the standard of fill of container prescribed by paragraph (c)(1) of this section, the label shall bear the general statement of substandard fill specified in § 130.14(b) of this chapter, in the manner and form therein specified.

Interested persons may, on or before July 29, 1986, submit to the Dockets Management Branch (address above) written comments regarding this notice. Two copies of any comments are to be submitted, except that individuals may submit one copy. Each comment should identify the title of the Codex standard and the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Any comments submitted in support of amendment to the U.S. standards of identity, quality, and fill of container for canned dry peas should be supported by appropriate information and data regarding impact on small business consistent with requirements of the Regulatory Flexibility Act (Pub. L. 96-354).

Dated: May 9, 1986.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86-12092 Filed 5-29-86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[LR-205-82]

Procedure and Administration; Miscellaneous Provisions Related to the Tax Treatment of Partnership Items

Correction

In FR Doc. 86-8763 beginning on page 13231 in the issue of Friday, April 18, 1986, make the following corrections:

1. On page 13235, in the first column, in the Authority citation, tenth line, "Section 301.6223(a)-2" should read "Section 301.6223(a)-1". In the eleventh line, "Section 301.6223(a)-1" should read "Section 301.6223(a)-2".

2. In the same column, in the fourth line from the bottom, "Section 301.623(c)-6" should read "Section 301.6231(c)-6".

3. On the same page, in the second column, in Par. 2, eighth line, "301(g)-1" should read "301.6223(g)-1".

4. On page 13236, in the first column, paragraph (2), third line, "(b)(3)" should read "(c)(3)".

5. On page 13240, in the first column, fourth line, "or" should read "of".

6. On the same page, in the second column, paragraph (vii), second line, the second "or" should read "of".

7. On page 13242, in the third column, sixth line, insert "only" after "deposit".

8. On page 13244, in the first column, paragraph (4), third line from the bottom, "6231(a)(B)" should read "6231(a)(1)(B)".

9. On page 13245, in the first column, in *Example (2)*, eighth line, insert "under" after "tax".

10. On the same page and column, in paragraph (a), sixth line, insert ". A computational adjustment" before "may".

11. On the same page, in the third column, paragraph (4), second line, insert "tax" before "matters".

12. On page 13246, in the first column, delete the first paragraph (3).

13. On page 13249, third column, paragraph (b), in the twelfth line, "the" should read "that".

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 94

[PR Docket No. 86-174, RM 5072; FCC 86-219]

Radio Local Area Network Stations in the 1700-1710 MHz Band

AGENCY: Federal Communications Commission.

ACTION: Proposed rules.

SUMMARY: This document proposes to amend Parts 2 and 94 of the Commission's rules to permit the operation of radio local area network and similar systems in the 1700-1710 MHz band. The use of radio to interconnect local area networks could result in significant economic savings during installation of relocation of terminal equipment.

DATES: Comments must be submitted on or before July 23, 1986, reply comments on or before August 22, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Eugene Thomson, Private Radio Bureau, (202) 634-2443.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, PR Docket No. 86-174, adopted May 1, 1986, and released May 19, 1986. The full text of Commission decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC 20037. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, 2100 M Street NW., Suite 140, Washington, DC 20037. Telephone (202) 857-3800.

Summary of Notice of Proposed Rule Making

1. On May 1, 1986, the Commission adopted a Notice of Proposed Rule Making which proposed to allow the operation of radio local area network (LAN) systems in the 1700-1710 MHz band.

2. Personal computers and desktop terminals are commonplace in today's office environment and are interconnected by cable to form local area networks. However, when a LAN is interconnected by cable, relocating the LAN because of office or employee relocations can be very expensive and time consuming. A radio LAN would allow users to move computing machines without the expense or disruption of disconnecting and rerouting wires and cables.

3. In response to a petition submitted by Motorola, Inc., the Commission has proposed to permit radio LANs to operate, on a secondary basis, in the 1700-1710 MHz band. This band is allocated on a primary basis for the Meteorological Satellite Service and for government fixed use. Rules are proposed to minimize potential interference to existing stations, to allow maximum reuse of frequencies, and to establish equipment technical standards.

4. The Commission is considering requiring frequency coordination in this band and has asked that potential coordinator candidates submit their qualifications along with their comments.

5. The Commission also proposed that the use of the 1700-1710 MHz band should not be limited to radio LANs, but should be open to other office of non-office related systems that may utilize similar interconnection techniques.

6. This is a non-restricted notice and comment rule making proceeding. *See* § 1.1231 of the Commission's rules, 47 CFR 1.1231, for rules governing permissible *ex parte* contracts.

7. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, it is certified that the proposed rule will not, if promulgated, create a significant economic burden on a substantial number of small entities.

8. The decision contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or recordkeeping, labeling, disclosure or record retention requirements, and will not increase or decrease burden hours imposed on the public.

9. Interested persons may file comments on or before July 23, 1986, and reply comments on or before August 22, 1986. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided

that the fact of the Commission may take into consideration information and ideas not contained in the comments, provided the fact of the Commission's reliance on such information is noted in the report and order.

10. In accordance with the provision of § 1.419 of the Commission's Rules, 47 CFR § 1.419, formal participants shall file an original and five copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters at 1919 M Street, NW., Washington, DC.

11. For further information concerning this rule making contact Eugene Thomson, Rules Branch, Land Mobile and Microwave Division, Private Radio Bureau, Federal Communications Commission, Washington, DC 20554, (202) 634–2443.

List of Subjects in 47 CFR Parts 2 and 94

Radio; Private operational-fixed microwave service.

William J. Tricarico,

Secretary.

Appendix

It is proposed to amend Parts 2 and 94 of the Commission's Rules and Regulations as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

PART 94—PRIVATE OPERATIONAL-FIXED MICROWAVE SERVICE

The authority citations for Parts 2 and 94 continue to read as follows:

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

§ 2.106 [Amended]

1. The Table of Frequency Allocations in § 2.106 is amended by adding the Private Operational-Fixed Microwave Service to column (6), Rule part(s), for the 1700–1710 MHz frequency band.

§ 2.106 Table of Frequency Allocations.

UNITED STATES TABLE

Government	Non-Government	FCC use designators	
Allocation MHz	Allocation MHz	Rules part (s)	Special-use frequencies
(4)	(5)	(6)	(7)
* *	* *	* *	* *
1700–1710 FIXED METEORLOGICAL-SATELLITE (space-to-Earth) 671 722 G118	1700–1710 METEORLOGICAL-SATELLITE (space-to-Earth) FIXED 671 722	Private Operational-Fixed Microwave (94)	
* *	* *	* *	* *

2. § 94.15 is amended by adding paragraph (k) as follows:

§ 94.15 Policy governing the assignment of frequencies.

* * * * *

(k) Applications filed for frequencies in the 1700–1710 MHz band will not be subject to the provisions of paragraphs (a) through (j) of this section.

3. § 94.61(b) is amended by adding the band 1700–1710 MHz between 960 and 1850 MHz to the table as follows:

§ 94.61 Applicability.

* * * * *

(b) * * *

Frequency Band (MHz)
* * * * *
1700 to 1710 ..... ([13])

* * * * *

4. § 94.63(b) introductory text is revised to read as follows:

§ 94.63 Interference protection criteria for operational-fixed stations.

* * * * *

(b) The intereference protection criteria for operational-fixed stations other than those licensed on frequencies set out in §§ 94.65(a)(1), 94.90, and 94.65(m) are as follows:

* * * * *

5. A new § 94.65(m) is added to read:

§ 94.65 Frequencies.

* * * * *

(m) 1700–1710 MHz. (1) 2 megahertz authorized channels:

Transmit (receive) MHz

1701
1703
1705
1707
1709

(2) Upon adequate justification, up to 5 contiguous channels may be authorized at a single location.

6. § 94.71(b) is amended by adding the band 1700–1710 MHz between 960 and 1850 MHz to the table.

§ 94.71 Emission and bandwidth limitations.

* * * * *

(b) * * *

Frequency band (MHz)	Maximum authorized bandwidth
* * * * *	
1700–1710	10 megahertz.
* * * * *	

7. § 94.73(a)(2) is amended by adding the band 1700–1710 MHz between 960 and 1850 MHz and footnote 7 to the table.

§ 94.73 Power limitations.

(a) (2)

Frequency band (MHz)	Maximum allowable EIRP[2] (dBw)
• • • • •	
1700–1710	−10 [7]
• • • • •	

[7] Either omnidirectional or directional antennas may be authorized.

8. A new § 94.97 is added to Subpart C to read:

§ 94.97 Special provisions for the use of the 1700–1710 MHz band.

Notwithstanding any contrary provision in this part, frequencies in the 1700–1710 MHz band may be authorized subject to the following:

(a) All systems authorized in this band shall be licensed at the prescribed set of coordinates. To provide co-channel interference protection, the minimum separation between co-channel assignments shall be 2000 feet. Lesser separations will be authorized if the applicant obtains consent from affected co-channel licensees.

(b) Communications between components of a system shall be restricted to within a single building. These frequencies may not be utilized for communications between different buildings.

(c) All systems in this band shall be authorized on a secondary basis. Applicants for stations within 100 km of the following government earth station installations will submit a technical analysis stating the expected radio station signal level at the earth station coordinates.

Name and location	Coordinates (degrees-minutes)	
Elmendorf AFB, AK	61-15 N	149-47 W
Gilmore Creek, AK	64-59 N	147-30 W
El Toro, CA	33-38 N	117-41 W
La Jolla, CA	32-52 N	117-15 W
McClellan AFB, CA	38-40 N	121-23 W
Monterey, CA	36-35 N	121-55 W
Point Mugu, CA	36-09 N	119-05 W
Redwood City, CA	37-30 N	122-14 W
San Diego, CA	32-45 N	117-10 W
Tustin, CA	33-43 N	117-48 W
Lowry AFB, CO	39-43 N	104-53 W
Macdill AFB, FL	27-51 N	82-28 W
Nimitz Hill GU	13-27 N	144-47 W
Hickman AFB, HI	21-23 N	157-58 W
Kaneohe Bay, HI	21-29 N	157-46 W
Pearl Harbor, HI	21-20 N	158-00 W
Chanute AFB, IL	40-18 N	88-09 W
Indianapolis, IN	39-45 N	86-10 W
Greenbelt, MD	39-00 N	76-51 W
Bay St. Louis, MS	30-19 N	89-21 W
Cherry Point, NC	34-55 N	76-53 W
Offutt AFB, NE	41-08 N	95-55 W
Beaufort, SC	32-26 N	80-40 W
New River, SC	34-42 N	77-26 W
Norfolk, VA	36-54 N	76-18 W
Wallops Island, VA	37-57 N	75-28 W
Sioux Falls, SD	43-44 N	96-38 W
Vancouver, BC	49-15 N	123-15 W
Toronto, ONT	43-45 N	79-29 W

[FR Doc. 86-12021 Filed 5-29-86; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 32 and 33

Addition of Seven National Wildlife Refuges to the Lists of Open Areas for Migratory Game Bird Hunting, Upland Game Hunting, and Big Game Hunting, and Eleven Refuges for Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service (Service) proposes to add seven national wildlife refuges (NWRs) to the lists of open areas for migratory game bird hunting, upland game hunting, and/or big game hunting, and 11 NWRs to sport fishing. The Service has determined that such uses would be compatible with and, in some cases, enhance the major purposes for which each refuge was established. The Service has further determined that this action would be in accordance with the provisions of all applicable laws, would be consistent with the principles of sound wildlife management, and would otherwise be in the public interest by providing additional recreational opportunities. It is also the intent of this action to revise the entry for Alaska, under §§ 32.11, 32.21, 32.31, and 33.4. Under the Alaska National Interest Lands Conservation Act of 1980, refuges in Alaska were renamed and new ones added to the National Wildlife Refuge System (NWRS). 50 CFR Part 36 (Alaska NWRs) supplements the general NWRS regulations found in 50 CFR Subchapter C and includes a table listing all the refuges in Alaska.

DATE: Comments must be received on or before June 30, 1986.

ADDRESS: Comments may be addressed to: Associate Director—Wildlife Resources, U.S. Fish and Wildlife Service, 18th and C Streets, NW., Room 3252, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: James F. Gillett, Division of Refuge Management, U.S. Fish and Wildlife Service, 18th and C Streets NW., Room 2343, Washington, DC 20240; Telephone (202) 343-4311.

SUPPLEMENTARY INFORMATION: National wildlife refuges, other than those in Alaska, are generally closed to hunting and sport fishing until opened by rulemaking. The Secretary may open refuge areas to hunting and/or fishing upon a determination that such uses are compatible with the major purposes for which each refuge was established, and that funds are available for development, operation, and maintenance of a hunting or fishing program. The action must also be in accordance with provisions of all laws applicable to the areas, must be consistent with the principles of sound wildlife management, and must otherwise be in the public interest. This rulemaking proposes to open seven refuges to hunting and eleven to sport fishing. Some of the hunting and fishing programs that are proposed require refuge-specific hunting or fishing regulations. These regulations will be included in a separate rulemaking document or refuge-specific hunting and fishing regulations.

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. It is, therefore, the purposes of this proposed rulemaking to seek public input regarding the opening of the refuges cited below to migratory game bird, upland game or big game hunting, and/or sport fishing. Accordingly, interested persons may submit written comments, suggestions, or objections concerning this proposal to the Associate Director—Wildlife Resources (address above) by the end of the comment period. All relevant comments will be considered by the Department prior to issuance of a final rule.

Conformance With Statutory and Regulatory Authorities

The National Wildlife Refuge System Administration Act of 1966, as amended (NWRSAA) (16 U.S.C. 668dd), and the Refuge Recreation Act of 1962 (16 U.S.C. 460K) govern the administration and public use of national wildlife refuges. Specifically section 4(d)(1)(A) of the NWRSAA authorizes the Secretary to permit the use of any area within the Refuge System for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access, when he determines that such uses are compatible with the major purposes for which each refuge was established. The Service administers the Refuge System on behalf of the Secretary of the Interior (Secretary).

The Refuge Recreation Act gives the Secretary additional authority to administer refuge areas within the Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary purposes for which the refuges were established. In addition, prior to opening refuges to hunting or fishing under this act, the Secretary is

required to determine that funds are available for the development, operation, and maintenance of these permitted forms of recreation.

In accordance with the NWRSAA and the Refuge Recreation Act, the Secretary has determined that the proposed openings for hunting and fishing would be compatible and consistent with the primary purposes for which each of the refuges listed below was established. The hunting and fishing programs will be within State and Federal (migratory game bird) regulatory frameworks. A discussion of the compatibility of the hunting and fishing programs with the purpose(s) for which each refuge was established and the availability of funding for each program follows:

Ash Meadows NWR was purchased in 1984 to protect the endemic, endangered, and rare plants and animals (primarily fish) from alteration of their terrestrial and aquatic environments [Supplemental Appropriations Act of 1983]. The refuge is currently administered by the Desert NWR Complex, is located in a sparsely populated area and does not attract a large number of visitors. The Service proposes to open the refuge to migratory game bird (waterfowl, mourning dove) and upland game (quail, pheasant, rabbit) hunting. Because of the very limited participation expected in the hunting program and the remote chance of adverse interaction by the hunters with any endangered plant or fish species, hunting would be compatible with refuge purposes. Further, a section 7 consultation concludes that hunting "is not likely to jeopardize" the continued existence of any species listed as threatened or endangered. Opening Ash Meadows NWR to migratory game bird and upland game hunting would thus be in compliance with the NWRSAA. The annual cost of the hunting program will be approximately $9,500. Within the annual Refuge Complex budget of approximately $387,000, the necessary funds are available for the administration of the hunting program. Therefore, opening Ash Meadows NWR to migratory game bird and upland game hunting would be in compliance with the Refuge Recreation Act.

Bandon Marsh NWR was established in 1983 by authority of the Fish and Wildlife Act of 1956 to protect migratory bird habitat. It is administered by the Western Oregon Refuge Complex. The Service proposes to open the refuge to migratory game bird (waterfowl, snipe, dove, pigeon) hunting and sport fishing. Hunting and fishing pressures will be light because the area, and access to it, are somewhat remote, and most participants would come from the surrounding lowly populated area. Consequently, it is anticipated that these activities would result in only minor trampling of the vegetation which will recover the next growing season. A section 7 consultation concludes that hunting or sport fishing are "not likely to jeopardize" the continued existence of any species listed as threatened or endangered that are using the refuge. These recreational opportunities will not interfere with or distract from the purpose for which the refuge was established, therefore, they would be in compliance with the NWRSAA. The annual cost of the hunting and fishing program is estimated at $2,000. Within the annual Refuge Complex budget of approximately $430,000, the necessary funds are available for the administration of these hunting and fishing programs. Therefore, opening Bandon Marsh NWR to migratory game bird hunting and sport fishing would be in compliance with the Refuge Recreation Act.

Bear Valley NWR was established in 1978 by authority of the Fish and Wildlife Act of 1956 to protect a major winter roost for bald eagles. The refuge is administered by the Klamath Basin NWR Complex. The Service proposes to open the refuge to deer hunting. The refuge is closed to *all* public entry from November 1 through March 31, the only period of time eagles use the refuge. The hunt would occur from late August through October and will be regulated (such as vehicle access restrictions and no open fires) to insure that eagle roosting habitat is not jeopardized. A section 7 evaluation concludes that deer hunting "would not effect" the continued existence of the bald eagle. Therefore, opening Bear Valley NWR to deer hunting would be compatible with the purpose for which the refuge was established and would be in compliance with the NWRSAA. Refuge administration, operation and maintenance costs are derived from the general tax fund by congressional appropriation. The estimated annual cost of $2,500 to manage the hunt program would be available from the annual Klamath Basin NWR Complex budget of approximately $800,000. Therefore, opening Bear Valley NWR to deer hunting would be in compliance with the Refuge Recreation Act.

Cedar Island NWR was established in 1964 by authority of the Migratory Bird Conservation Act to preserve migratory waterfowl habitat. It is administered by the Mattamuskeet NWR. The Service proposes to open the refuge to sport fishing which would be limited to fishing from refuge ditch banks, islands and bridges during daylight hours. Because of the restricted locations where fishing would occur, there will be very little or no disturbance to the waterfowl habitat, which is salt marsh dominated by *Spartina sp.* A section 7 evaluation states that "no threatened or endangered species exist on the refuge". Opening Cedar Island NWR to sport fishing would therefore be compatible with the purpose for which the refuge was established and would be in compliance with the NWRSAA. The estimated annual cost of the fishing progam would be approximately $200. Within the annual Mattamuskeet NWR budget of approximately $406,000, the necessary funds would be available for the administration of the proposed fishing program. Therefore, opening Cedar Island NWR to sport fishing would be in compliance with the Refuge Recreation Act.

Cedar Point NWR was established in 1964 by authority of the Migratory Bird Conservation Act to protect migratory bird habitat. Sport fishing is proposed for one 15-acre borrow pond and the Cedar Point Bay. It is proposed to open the pond to fishing only during the months of June, July and August when waterfowl use is very low. Access for fishing in the Bay will be limited to boat only thereby minimizing disturbance to shorebirds. A section 7 evaluation concludes that this sport fishing program "will not affect" bald eagles around the area. By selecting only those areas where fishing would cause little disturbance to the migratory birds and their habitat and limiting fishing activities to periods of low waterfowl use, opening Cedar Point NWR to sport fishing would be compatible with the purpose for which the refuge was established and would be in compliance with the NWRSAA. The estimated annual cost of administering the program is $2,800. Within the annual refuge budget of approximately $230,000, the necessary funds are available for the administration of the fishing program. Therefore, opening Cedar Point NWR to sport fishing would be in compliance with the Refuge Recreation Act.

Chickasaw NWR was established in 1985 by authority of the Migratory Bird Conservation Act to manage and conserve habitat for migratory birds, but not as an inviolate sanctuary for such (as allowed by the 1978 Improvements Act). The Service proposes to open the refuge to migratory game bird (waterfowl, dove, snipe, woodcock), big game (deer, wild boar and turkey) and upland game (squirrel, rabbit, quail, raccoon, opossum) hunting. Hunting will

have a beneficial effect in controlling the abundant game populations that can damage migratory bird habitat due to overpopulation. This is especially true of the deer population which could increase beyond the carrying capacity of the refuge and cause damage to the habitat through over-browsing. Further, in an Intra-Service Section 7 consultation the Region 4 Director concludes that the proposed hunting programs "are not likely to jeopardize the existence of the bald eagle or result in the destruction or adverse modification of its habitat". Opening Chickasaw NWR to migratory game bird, upland game, and big game hunting would be compatible with the purpose for which the refuge was established and would be in compliance with the NWRSAA. With an estimated annual cost of $2,500 to administer the hunting program and an annual budget of $227,600, to operate the refuge, the necessary funds are available to administer the hunting program. Therefore, opening Chickasaw NWR to migratory game bird, upland and big game hunting would be in compliance with the Refuge Recreation Act.

Eufaula NWR was established in 1964 by authority of the Fish and Wildlife Act of 1956 to provide resting and feeding habitat for waterfowl, in a cooperative agreement with the U.S. Army Corps of Engineers. The Service proposes to open the refuge to deer hunting. Hunting will occur prior to the major arrival of migratory waterfowl in early November. The resultant deer harvest will help control the size of the herd which, if allowed to expand, could destroy the forest habitat and consume crops planted for waterfowl. A section 7 evaluation concludes that the proposed hunting program "will not affect" the bald eagle or American alligator. For these reasons, opening Eufaula NWR to big game hunting would further the purpose for which the refuge was established, and would be in compliance with the NWRSAA. The estimated annual cost to administer the hunting program is $1,000. Within the annual refuge budget of approximately $193,000, the necessary funds are available to administer this program. Therefore, opening the Georgia portion of Eufaula NWR to big game hunting would be in compliance with the Refuge Recreation Act.

Hanalei NWR was established in 1972 by authority of the Fish and Wildlife Act of 1956 to preserve and manage critical habitat for the endangered Hawaiian stilt, coot, duck and gallinule. It is administered by the Hawaiian/Pacific Islands Refuge Complex. The Service proposes to open the refuge to sport fishing. This recreational opportunity would involve fishing from a refuge dike into non-refuge waters. The location where this activity would occur is used very little by endangered waterbirds as the deep water and dense California grass on the river banks provide poor waterbird habitat. Further, a section 7 evaluation concludes that the proposed fishing program "is not likely to jeopardize" any of the species listed as endangered. Therefore, opening Hanalei NWR to sport fishing would be compatible with the purpose for which the refuge was established and would be in compliance with the NWRSAA. The annual cost of the sport fishing program would be negligible, since no special services or facilities are required to administer it and public access would be via a county road available to all visitors. Within the annual Hawaiian/Pacific Islands Refuge Complex budget of approximately $800,000, the necessary funds are available for the administration of this sport fishing program. Therefore, opening Hanalei NWR to sport fishing would be in compliance with the Refuge Recreation Act.

Johnston Atoll NWR was established in 1926 by Executive Order 4467 for "the protection of native birds". In 1934, President Roosevelt placed administrative control and jurisdiction of the refugee under the Secretary of the Navy but maintained the island as a refuge. Currently, the U.S. Department of Defense has overall administrative authority for the refuge. The Service provides the Base Commander with technical assistance on habitat maintenance, species management and environmental interpretation. The State of Hawaii has no jurisdiction over the refuge as it is outside State boundaries. Throughout the period of military occupation, residents and visitors of Johnston Atoll have been given recreational fishing opportunities which include shore fishing from the four islands in the lagoon and boat fishing in the lagoon and outside the reef. Recreational fishing at current levels has had minimal adverse impact on the resources. Present refuge and base regulations prohibit entry to the breeding seabird colonies during the breeding season and limit fishing to pier and unvegetated beach areas on the islands. Further, a section 7 evaluation concludes that the proposed fishing program "is not likely to affect" any threatened green and hawksbill turtles or humpback whales. Therefore, opening Johnston Atoll NWR to sport fishing would be compatible with the purpose for which the refuge was established and would be in compliance with the NWRSAA. The Department of Defense currently provides approximately $50,000 annually to the Service to operate the refuge. Few special services or facilities are required by the Service to administer the fishing program and public access is not allowed on the refuge without prior approval by the Base Commander, so program administration costs are not great. Miscellaneous costs incurred by the program are met by the Hawaiian/Pacific Islands Refuge Complex budget of approximately $800,000. Therefore, opening Johnston Atoll NWR to sport fishing would be in compliance with the Refuge Recreation Act.

Kakahaia NWR was established in 1977 by authority of the Fish and Wildlife Act of 1956 to preserve and manage critical habitat for the endangered Hawaiian stilt, coot, duck and gallinule. It is administered by the Hawaiian/Pacific Islands Refuge Complex. The Service proposes to open the refuge to sport fishing which would involve fishing from a refuge beach to take fish from ocean waters. A highway and fence separate the beach from wetlands used by the endangered waterbirds. Further, a section 7 evaluation concludes that the proposed fishing program "will not affect" the endangered waterbirds or adversely modify their habitat. Opening Kakahaia NWR to sport fishing would be compatible with the purpose for which the refuge was established and would be in compliance with the NWRSAA. The annual cost of the program would be negligible, since no special services or facilities are required to administer it and public access would be via a county road available to all visitors. Within the annual Hawaiian/Pacific Islands Refuge Complex budget of approximately $800,000, the necessary funds are available for the administration of this program. Therefore, opening Kakahaia NWR to sport fishing would be in compliance with the Refuge Recreation Act.

Nantucket NWR was established in 1973 by authority of the Fish and Wildlife Act of 1956 to preserve coastal habitat for shorebirds and migratory passerine birds and to provide wildlife-oriented recreation. It is currently administered by the Parker River NWR. The Service proposes to open the refuge to sport fishing. This activity would involve fishing from refuge lands into the waters of Nantucket Sound and the Atlantic Ocean. Access to the fishing areas will be allowed only over designated routes, away from the prime

migratory bird habitat and driving within 20 feet of the bases of the dunes facing the beaches will be prohibited. A section 7 evaluation concludes that threatened and endangered wildlife would "not be affected" by the proposed fishing program. For these reasons, opening Nantucket NWR to sport fishing would not disturb coastal habitat, would enhance wildlife-oriented recreation and would be in compliance with the NWRSAA. The estimated annual cost to administer the fishing program is approximately $500. Within the annual Parker River NWR budget of approximately $430,000, the necessary funds would be available to administer the fishing program. Therefore, opening Nantucket NWR to sport fishing would be in compliance with the Refuge Recreation Act.

Ottawa NWR was established in 1961 by authority of the Migratory Bird Conservation Act for the conservation and management of migratory bird habitat. Sport fishing is proposed for the open water section of Metzger Marsh Bay, a part of the refuge. Fishing would be a management tool to remove carp whose feeding and spawning activities make the water turbid, thereby reducing the growth of submergent and emergent vegetation necessary for migratory bird feeding and nesting. Waterfowl use of the bay is moderate in the fall and spring with marsh and shorebird use low. A borrow pond, established as a result of dike construction, is also proposed to be opened for sport fishing during the months of June, July and August only. A section 7 evaluation indicates that "there are no threatened or endangered species on the refuge to be impacted by the proposed fishing program." By selecting only those areas where fishing would cause little disturbance, selecting the least disruptive time of year for public access, and encouraging an activity that would enhance the habitat for migratory birds, opening Ottawa NWR to sport fishing would be compatible with the purpose for which the refuge was established and would be in compliance with the NWRSAA. The established annual cost to administer the program is approximately $2,500. Within an annual refuge budget of approximately $230,000, the necessary funds are available to administer the program. Therefore, opening Ottawa NWR to sport fishing would be in compliance with the Refuge Recreation Act.

Pond Island NWR was established in 1973 by authority of the Fish and Wildlife Act of 1956 to preserve habitat for waterfoul, shorebirds, and passerine birds and to provide wildlife-oriented recreation. It is currently administered by the Parker River NWR. The Service proposes to open the refuge to sport fishing. This activity would consist of access by boat to a small beach and fishing from refuge lands into the waters of Casco Bay. Fishing would not be permitted during the waterfowl and shorebird nesting season, March 1 through July 31. A section 7 evaluation indicates that "there are no threatened or endangered species on the refuge to be affected by the proposed fishing program". Because of limited access to the island restricting the volume/disturbance by the public and closing it to fishing during the nesting season, opening Pond Island NWR to sport fishing would be compatible with the purpose of habitat protection. Further, it would enhance wildlife-oriented recreation and would be in compliance with the NWRSAA. The estimated annual cost to administer the program is approximately $100. Within the annual Parker River NWR budget of approximately $430,000, the necessary funds would be available to administer the program. Therefore, opening Pond Island NWR to sport fishing would be in compliance with the Refuge Recreation Act.

Prime Hook NWR was established in 1963 by authority of the Migratory Bird Conservation Act to preserve coastal wetlands as waterfowl habitat. Opening the refuge to sport fishing would be limited to two small freshwater ponds, and to certain tidal water areas for bank and boat fishing. Fishing in the ponds would be restricted seasonally so as not to interfere with wood duck and black duck nesting. Bank fishing along tidal waterways will be restricted to areas not over 250 feet off the roadways to prevent disturbance to nesting waterfowl.

A section 7 evaluation indicates that the bald eagle and peregrine falcon "will not be affected" by the proposed fishing program. For these reasons, opening Prime Hook NWR to sport fishing would be compatible with the purpose for which the refuge was established and would be in compliance with the NWRSAA. The estimated annual cost to administer the fishing program would be approximately $2,300. Within the annual refuge budget of approximately $169,000, the necessary funds would be available to administer the program. Therefore, opening Prime Hook NWR to sport fishing would be in compliance with the Refuge Recreation Act.

San Bernardino NWR was established in 1982 by authority of the Endangered Species Act to preserve habitat for the endangered Rio Yaqui fish. The Service proposes to open the refuge (lands east of Black Draw) to migratory game bird (white-winged and mourning dove) and upland game (rabbit, quail) hunting. Sensitive springs and water developments east of Black Draw will be closed so that accidental pollution will be prevented. Also, vehicular traffic will be prohibited. Further, a section 7 evaluation concludes that the proposed hunting program "will not affect" the continued existence of the endangered fish. Therefore, opening San Bernardino NWR to upland game hunting would be compatible with the purpose for which the refuge was established and would be in compliance with the NWRSAA. Annual costs to administer the program are expected to be approximately $3,600, primarily for enforcement. Within an annual refuge budget of approximately $75,000, the necessary funds are available to administer the program. Therefore, opening San Bernardino NWR to migratory game bird and upland game hunting would be in compliance with the Refuge Recreation Act.

San Pablo Bay NWR was established in 1974 by authority of the Migratory Bird Conservation Act to preserve migratory bird habitat. It is administered by the San Francisco Bay NWR Complex. Most of the refuge consists of tidelands leased from the State of California in 1982. They were leased to protect almost 12,000 acres of shoreline and open water and under the terms of the lease must be open to waterfowl hunting. The Service proposes to open the leased lands of the refuge to migratory game bird and upland game hunting. Pheasant hunting will be permitted on certain leased lands where the population consists of pen reared birds which escape from a neighboring hunting club. Waterfowl hunting will be permitted on leased portions of San Pablo Bay and its tributaries in accordance with provisions of the lease. A section 7 evaluation and consultation concludes that the proposed hunting programs "are not likely to jeopardize" the threatened or endangered species on the refuge. Since the area being opened to waterfowl and pheasant hunting is required by the lease, opening San Pablo Bay NWR to migratory game bird and upland game is in compliance with the NWRSAA. The estimated annual cost to administer the hunting program would be approximately $5,000. Within the Refuge Complex operating budget of approximately $1,126,000, the necessary funds would be available to administer the hunting program. Therefore, opening San Pablo Bay NWR to migratory game bird and upland game hunting would be

in compliance with the Refuge Recreation Act.

Swanquarter NWR was established in 1935 by authority of the Migratory Bird Conservation Act to provide winter sanctuary for migratory waterfowl. It is administered by the Mattamuskeet NWR. The Service proposes to open the refuge to sport fishing and only permit fishing from refuge islands and the Bell Island pier into State controlled waters. Waterfowl use of these areas in the winter is low as is angler use due to the colder weather at this time of year. Therefore, no disturbance to migratory waterfowl is expected to occur from this program. Sport fishing, permitted in the State controlled waters surrounding the refuge, also has had no adverse impacts on migratory bird habitat. Further, a section 7 evaluation concludes that the proposed fishing program "will not affect" the continued existence of the bald eagle or American alligator. Opening Swanquarter NWR to sport fishing would be compatible with the purpose for which the refuge was established and would be in compliance with the NWRSAA. The estimated annual cost of the fishing program would be approximately $500. Within the annual Mattamuskeet NWR budget of approximately $406,000, the necessary funds would be available to administer the program. Therefore, opening Swanquarter NWR to sport fishing would be in compliance with the Refuge Recreation Act.

In summary, the Service believes that these hunting and fishing programs would be appropriate incidental or secondary uses of the refuges; would be compatible with, and in some cases enhance, the primary purposes for which they were established; would be biologically sound and compatible with the principles of sound wildlife management; and would be consistent with other previously authorized Federal programs or the primary objectives of these refuges. The Service further believes that funds would be available to administer the programs, and that they would be in the public interest by providing recreational opportunities that would not impair the resource.

Hunting and fishing plans have been developed for each respective program on the listed refuges prior to the proposed opening of them to hunting and/or fishing. Refuge-specific hunting or fishing regulations are generally included as part of the hunting or fishing plan to ensure the compatibility of the programs with refuge purposes. Necessary refuge-specific regulations proposed for the programs will be included in a separate rulemaking document on refuge-specific hunting and fishing regulations.

Economic Effect

Executive Order 12291, "Federal Regulation," of February 17, 1981, requires the preparation of regulatory impact analyses for major rules. A major rule is one likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, government agencies or geographic regions; or significant adverse effects on the ability of United States-based enterprises to compete with foreign-based enterprises. The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.) further requires the preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations or governmental jurisdictions.

It is estimated that the proposed opening of these refuges to hunting and fishing will generate approximately 42,666 annual visits. Using data from the 1980 National Survey of Hunting, Fishing, and Wildlife-Associated Recreation, total annual receipts generated from purchases of food, transportation, hunting equipment, fishing gear, fees, and licenses associated with these programs are expected to be approximately $975,708, or substantially less than $100 million. In addition, since these estimated receipts will be spread over 12 states, the implementation of this rule should not have a significant economic impact on the overall economy, or a particular region, industry or group of industries, or level of government.

With respect to small entities, this rule would have a positive aggregate economic effect on small businesses, organizations, and governmental jurisdictions. The proposed openings would provide recreational opportunities and generate economic benefits that would not otherwise exist, and will impose no new costs on small entities. While the number of small entities likely to be affected is not known, the number is judged to be small. Moreover, the added cost to the Federal government of law enforcement, posting, etc., needed to implement activities under this rule would be less than the income generated from the implementation of these hunting and/or sport fishing programs. Accordingly, the Department of the Interior has determined that this rule is not a "major rule" within the meaning of Executive Order 12291 and would not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq.

Environmental Considerations

The "Final Environmental Statement for the Operation of the National Wildlife Refuge System" [FES 76–59] was filed with the Council on Environmental Quality of November 12, 1976; a notice of availability was published in the **Federal Register** on November 19, 1976 (41 FR 51131). Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)), environmental assessments have been prepared for these proposed openings. Section 7 evaluations have been prepared pursuant to the Endangered Species Act. These documents are available for public inspection and copying in Room 2343, Department of the Interior, 18th and C Streets NW., Washington, DC 20240, or by mail, addressing the Director at the above address.

Nancy A. Marx, Division of Refuge Management, U.S. Fish and Wildlife Service, Washington, DC 20240, is the primary author of this proposed rulemaking document.

List of Subjects

50 CFR Part 32

Hunting, National Wildlife Refuge System, Wildlife, Wildlife refuges.

50 CFR Part 33

Fishing, National Wildlife Refuge System, Wildlife refuges.

Accordingly, it is proposed to amend Parts 32 and 33 of Chapter I of Title 50 of the Code of Federal Regulations as set forth below:

PART 32—[AMENDED]

1. The authority citation for Part 32 is revised as follows and the authority citation following § 32.41 is removed.

Authority: Sec. 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651, sec. 5, 45 Stat. 449, sec. 10, 45 Stat. 1224, sec. 4, 48 Stat. 402, as amended, sec. 4, 48 Stat. 451, as amended, sec. 2, 48 Stat. 1270, sec. 4, 76 Stat. 654, as amended, sec. 4, 80 Stat. 927, sec. 2, 80 Stat. 926; 5 U.S.C. 301, 16 U.S.C. 460k, 664, 668bb, 668dd, 685, 690d, 715i, 718d, 725, 43 U.S.C. 315a; Proclamation 2416, 5 FR 2677, 3 CFR , 1938–1943 Comp., p. 167; 44 U.S.C. 3501 et seq.; E.O. 1014 (January 26, 1909).

PART 33—[AMENDED]

2. The authority citation for Part 33 is revised as follows and the authority citation following § 33.4 is removed.

Authority: Sec. 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651, secs. 5, 10, 45 Stat. 449, 1224, secs. 4, 2, 48 Stat. 402, as amended, 451, 1270, sec. 4, 76 Stat. 654, sec. 4, 80 Stat. 927, sec. 2, 80 Stat. 926; 5 U.S.C. 301, 16 U.S.C. 460k, 664, 668bb, 668dd, 685, 690d, 715i, 718d, 725, 43 U.S.C. 315a; Proclamation 2416, 5 FR 2677, 3 CFR, 1938–1943 Comp., p. 167; E.U. 4467, 6935, and 1014 (January 26, 1909).

3. Section 32.11 would be amended by revising the entry for Alaska and by adding San Bernardino NWR, AZ, San Pablo Bay NWR, CA, Ash Meadows NWR, NV, Bandon Marsh NWR, OR, and Chickasaw NWR, TN, alphabetically by State as follows:

§ 32.11 List of open areas; migratory game birds.

* * * * *

Alaska

See 50 CFR 36.

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Arizona

San Bernardino National Wildlife Refuge.

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California

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San Pablo Bay National Wildlife Refuge.

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Nevada

Ash Meadows National Wildlife Refuge.

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Oregon

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Bandon Marsh National Wildlife Refuge.

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Tennessee

Chickasaw National Wildlife Refuge.

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4. Section 32.21 would be amended by revising the entry for Alaska and by adding San Bernardino NWR, AZ, San Pablo Bay NWR, CA, Ash Meadows NWR, NV, and Chickasaw NWR, TN, alphabetically by State as follows:

§ 32.21 List of open areas; upland game.

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Alaska

See 50 CFR 36.

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Arizona

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San Bernardino National Wildlife Refuge.

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California

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San Pablo Bay National Wildlife Refuge.

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Nevada

Ash Meadows National Wildlife Refuge.

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Tennessee

Chickasaw National Wildlife Refuge.

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5. Section 32.31 would be amended by revising the entry for Alaska and by adding Eufaula NWR, GA, Bear Valley NWR, OR, and Chickasaw NWR, TN, alphabetically by State as follows:

§ 32.31 List of open areas; big game.

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Alaska

See 50 CFR 36.

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Georgia

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Eufaula National Wildlife Refuge.

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Oregon

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Bear Valley National Wildlife Refuge.

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Tennessee

Chickasaw National Wildlife Refuge.

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6. Section 33.4 would be amended by revising the entry for Alaska and by adding Prime Hook NWR, DE, Hanalei and Kakahaia NWRs, HI, Pond Island NWR, ME, Nantucket NWR, MA, Cedar Island and Swanquarter NWRs, NC, Cedar Point and Ottawa NWRs, OH Bandon Marsh NWR, OR, and Johnston Atoll NWR, Pacific Islands Territory, alphabetically by State as follows:

§ 33.4 List of open areas; sport fishing.

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Alaska

See 50 CFR 36.

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Delaware

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Prime Hood National Wildlife Refuge.

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Hawaii

Hanalei National Wildlife Refuge.
Kakahaia National Wildlife Refuge.

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Maine

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Pond Island National Wildlife Refuge.

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Massachusetts

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Nantucket National Wildlife Refuge.

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North Carolina

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Cedar Island National Wildlife Refuge.
Swanquarter National Wildlife Refuge.

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Ohio

Cedar Point National Wildlife Refuge.
Ottawa National Wildlife Refuge.

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Oregon

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Bandon Marsh National Wildlife Refuge.

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Pacific Islands Territory

Johnson Atoll National Wildlife Refuge.

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Dated: May 14, 1986.

P. Daniel Smith,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-12116 Filed 5-29-86; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 51, No. 104
Friday, May 30, 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

Animal and Plant Health Inspection Service

[Docket No. 86-404]

Productivity Improvement Review List and Estimated Dates for Beginning Studies (OMB A-76 Implementation)

AGENCY: Animal and Plant Health Inspection Service (APHIS), USDA.

ACTION: Notice of intent of conduct efficiency reviews or cost comparison studies under guidelines set forth in OMB Circular No. A-76 and OMB Bulletin No. 86-8.

SUMMARY: This notice provides locations and projected dates for starting productivity improvement studies within APHIS during fiscal year 87.

Location and type of activity	Projected review start
1. Los Angeles CA, AIC	Oct. 1986.
2. Newburgh, NY, AIC	Oct. 1986.
3. Fleming Key, FL, AIC	Nov. 1986.
4. Miami FL, AIC	Nov. 1986.
5. Honolulu, HI, AIC	Dec. 1986.

FOR FURTHER INFORMATION CONTACT: Burt C. Hawkins, Assistant Deputy Administrator for Management and Budget, Animal and Plant Health Inspection Service, Department of Agriculture, Room 1133-S, Washington, DC 20250.

SUPPLEMENTARY INFORMATION: Reviews will be conducted under the guidelines of OMB Circular No. A-76, Performance of Commercial Activities and OMB Bulletin 86-8, Productivity Improvement Program. Some of the listed activities may be evaluated in subunits or combined with other units for review. Activities may also be reviewed on the basis of all, some, or none. This is a notice of intent only and not a request for proposals.

Done at Washington, DC, this 22nd day of May 1986.

Larry B. Slagle,

Deputy Administrator for Management and Budget, Animal and Plant Health Inspection Service.

[FR Doc. 85-12118 Filed 5-29-86; 8:45 am]

BILLING CODE 3410-34-M

Forest Service

Environmental Statement for the Pacific Southwest Region

AGENCY: Forest Service, USDA.

ACTION: Availability of documents and notice of public meetings for review of the Pacific Southwest Region Supplement to the Vegetation Management for Reforestation; draft environmental impact statement.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of Agriculture, Forest Service, has prepared a Supplement to the 1983 Draft Environmental Impact Statement for Vegetation Management for Reforestation for the Pacific Southwest Region. The proposal involves implementing a vegetation management program on public lands administered by the Forest Service. The Supplement presents a risk assessment and worst-case analysis of effects on human health for use herbicide. It also evaluates the effects of the various vegetation management methods on soil and water quality, and on fisheries and wildlife habitat.

Copies of the Supplement and the original Draft EIS are available at the following Office: Office of Information, USDA Forest Service, 630 Sansome Street, San Francisco, California 94111.

Reading copies will be placed in all National Forest and Ranger Distric Offices in the Pacific Southwest Region. In addition reading copies will be placed in the following libraries:

I. County Libraries

Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa County, Crescent City Public Library, El Dorado, Fresno, Glenn, Eureka Main Library Dee Sockbeson, Imperial, Inyo, Kern, Documents Librarian, Kings, Lake, Lassen, Los Angeles, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Mono, Monterey, Napa, Nevada, Orange, Placer, Plummas, Riverside, Sacramento, San Benito, San Bernardino, San Diego, San Francisco, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Shasta, Sierra, Public Library Siskiyou County Reference Librarian, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Ventura, Yolo, Yuba

II. Other

California Academy of Sciences-Library; California State Polytechnic University Library Serials Unit; California State University, Chico Library, Government Publications, California State University, Henry Madden Library Government Publications Department, California State University, Sacremento University Library, Colorado State University Morgan Library, Documents Department Fred Schmidt, Fremont Library Bill Goldstein, Humboldt State University Documents Department The Library, Kernivlle Library, Ministry of Forests-Library, Mojave Library, Oakhurst Branch Library, Oakland Public Library, Peninsula Conservation Foundation Libraria, Pomona Public Library Government Documents Department Sheri Silverton, Ridgecrest Library, San Diego Public Library Science and Industry Dept., Santa Maria City Library, State Library Government Documents Section, San Francisco Public Library, San Francisco State University Government Publications J. Paul Leonard Library, San Jose State University Library Government Publications Department, Stanford University Law Library Acquisitions Department, Evergreen St. College The Environmental Resource Center, University of California-LA Public Affairs Service/Local Research Library, University of California Forestry Library, University of California General Library Government Documents Department, University of California Shields Library Government Documents Department, University of California Library Government Documents Department, University of California, San Diego Central University Library Documents Department C-075p, University of California, Santa Barbara Government Publications Department Library, Willows Public Library.

Public meetings to review the content and organization of the Supplement will

be held at 1 PM and again at 7:30 PM at the following locations:

Redding, June 23
Eureka, June 24
Sacramento, June 26
Fresno, June 27
Riverside, June 30

Four public hearings at which formal comment on the Supplement may be presented will be held at 1 PM and again at 7 PM at the following locations:

Sacramento, July 21
Eureka, July 22
Redding, July 23
Riverside, July 28

Special information about these meetings will be made available through media releases and direct mailing to the project mailing list in the near future.

Written comments on the Supplemental DEIS should be *postmarked by August 11, 1986* in order to be included in the public comment analysis. They should be sent to: USDA Forest Service, Office of Information—VM, 630 Sansome Street, San Francisco, California 94111.

FOR FURTHER INFORMATION CONTACT: Michael D. Srago at the above address or by calling (415) 556–2563.

Raymond G. Weinmann,

Assistant Regional Forester for Timber Management.

[FR Doc. 86–12113 Filed 5–29–86; 8:45 am]

BILLING CODE 3410–11–M

Pacific Crest National Scenic Trail, Willamette National Forest, Lane County, Eugene, OR; Trail Relocation

A segment of the Pacific Crest National Scenic Trail will be relocated to better meet the criteria and purpose for which it was established. The change in location is compliance with the provisions of section 7(b) of the National Trails System Act (82 Stat. 919; U.S.C. 1241–1249). The official location of the Pacific Crest National Scenic Trail was published in the **Federal Register**, Vol. 38, No. 19, part II, Tuesday, January 30, 1973.

A Final Environmental Impact Statement examining alternatives for the proposed expansion of the Willamette Pass Ski Area was published on April 29, 1985. The selected alternative called for relocation of the Pacific Crest Trail as described below. That document is on file in the Supervisor's Office, Willamette National Forest, 211 East 7th Avenue, Eugene, OR 97401.

The segment as described in the **Federal Register** is within the Gold Lake Bog Research Natural Area to the east shores of the Rosary Lakes segment. The change in location more fully meets the established criteria than the published route. The change in location is denoted by a dotted line marked on the map entitled Pacific Crest Trail, Oregon #2866. A map showing the relocation is on file in the office of the Forest Superviser, Willamette National Forest, Eugene, Oregon.

The official location is amended as follows: Page 2833, Column 3, Paragraph 2, Lines 3, 4, and 9.

Delete: ". . . intersects Forest Road No. 204 . . . west edge . . ."

The sentences will now read:

"It traverses the west shore of Charlton Lake, then traverses the west side of the crest, east of Waldo Lake, for the next 8 miles. It passes just east of the Gold Lake Bog Research Natural Area, along the east side of Douglas Horse pasture, skirts the east shores of the Rosary Lakes, then abruptly turning to the west, descends into the Odell Lake Basin."

Questions concerning the trail relocation may be addressed to Richard Grace, Recreation Staff Officer, Willamette National Forest, 211 East 7th Avenue, Eugene, OR 97401, telephone (503) 687–6521.

Dated: May 19, 1986.

Gerald W. Gause,

Acting Regional Forester.

[FR Doc. 86–11973 Filed 5–29–86; 8:45 am]

BILLING CODE 3410–11–M

Soil Conservation Service

Pioneer School RC&D Measure, California; Environmental Statement

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Pioneer School RC&D Measure, El Dorado County, California.

FOR FURTHER INFORMATION CONTACT: Mr. Eugene E. Andreuccetti, State Conservationist, Soil Conservation Service, 2121–C 2nd Street, Davis, California 95616–5475, telephone (916) 449–2848.

SUPPLEMENTARY INFORMATION: The environmental assessment of this Federal action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Eugene E. Andreuccetti, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for the project.

This measure concerns a plant for critical area treatment. The planned works of improvement include erosion control practices such as drop inlet pipe structures, diversion trenches, minor grading and shaping, and revegetation of exposed and critically eroding areas.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. The basic data developed during the environmental assessment are on file and may be reviewed by contracting Mr. Eugene E. Andreuccetti.

No administrative action or implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program-Pub. L. 87–703, 16 U.S.C. 590 a-f, q.)

Dated: May 19, 1986.

Paul H. Calverley,

Deputy State Conservationist.

[FR Doc. 86–12190 Filed 5–29–86; 8:45 am]

BILLING CODE 3410–16–M

Middle River Watershed, Georgia; Deauthorization of Federal Funding

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of deauthorization of Federal funding.

SUMMARY: Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83–566, and the Soil Conservation Service Guidelines (7 CFR Part 622), the Soil Conservation Service gives notice of the deauthorization of Federal funding for the Middle River Watershed project, Franklin and Stephens Counties, Georgia, effective on April 14, 1986.

FOR FURTHER INFORMATION CONTACT: B. C. Graham, State Conservationist, Soil Conservation Service, Federal Building Box 13, 355 East Hancock Avenue, Athens, Georgia 30601, telephone: 404–546–2273.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions

of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

April 21, 1986.

B. C. Graham,

State Conservationist.

[FR Doc. 86-12189 Filed 5-29-86; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: May 30, 1986.

FOR FURTHER INFORMATION CONTACT: William L. Matthews or Richard Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5253/2786.

SUPPLEMENTARY INFORMATION:

Background

On August 12, 1985, the Department of Commerce ("the Department") published in the **Federal Register** (50 FR 32556) a notice outlining the procedures for requesting administrative reviews. The Department has received timely request, in accordance with §§ 353.53a(a)(5) and 355.10(a)(2) of the Commerce Regulations, for administrative reviews of various antidumping and countervailing duty orders and findings.

Initiation of Reviews

In accordance with §§ 353.53a(c) and 355.10(c) of the Commerce Regulations, we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. As a result of the orders of the United States Court of International Trade, issued on March 12, April 2, and April 30, 1986, we are also initiating administrative reviews of certain firms in the antidumping finding on elemental sulphur from Canada. We intend to issue the final results of all these reviews no later than May 31, 1987.

Antidumping proceedings and firms	Periods to be reviewed
Elemental Sulphur from Canada:	
Burza Resources	12/82-11/84
Canadian Occidental	12/82-11/84
Canadian Superior Oil	04/84-03/86
Chevron Standard	04/84-03/86
Gulf Oil Canada	04/84-03/86
Home Oil	12/82-11/84
Hudson's Bay Oil & Gas	04/84-03/86
InterRedec	12/82-11/84
Petro-Canada	12/82-11/84
Petro-Canada Exploration	12/82-11/84
Shell Canada Resources	04/84-03/86
Timshel US	12/82-11/84
Steel Jacks from Canada: J.C. Halliman	09/83-08/85
Sodium Nitrate from Chile: SQM	03/84-02/85
Bicycle Speedometers from Japan:	
Asahi Keiki/All exporters	04/78-10/84
Tsuyama/All exporters	11/82-10/84
Bicycle Tires and Tubes from S. Korea: KIK	04/82-06/83
Birch 3-Ply Doorskins from Japan:	
Matsumoko/C.Itoh	02/82-07/83
Nitta Veneer/C.Itoh	02/82-11/82
Sanmoku/C.Itoh	12/82-01/85
Sattsuru Veneer/C.Itoh	12/82-07/83
Tuners (of the Type Used in Consumer Electronic Products) from Japan:	
Alps Electric	12/82-06/22/84
Marubeni	09/84-11/84
Mitsumi	12/82-06/22/84
Murata	09/84-11/84
Shin-Shirasuna	12/81-11/84
Toa Electric	12/82-11/84
PVC Sheet and Film from Taiwan: Eclat	01/84-11/84 02/85-05/85
Elanvital	02/85-05/85
Everlush	06/84-05/85
Fashion Plastics	06/83-09/20/84
Hop Kee Hong	06/83-05/85
K.E. Kingstone	01/85-05/85
Lumay	01/85-05/85
Taiwan Eva	01/85-05/85
Union	06/83-05/85
Titanium Sponge from the U.S.S.R.: Techsnabexport	08/83-07/85

Countervailing duty proceedings	Periods to be reviewed
Leather Wearing Apparel from Argentina	07/83-12/84
Non-rubber Footwear from Argentina	01/84-12/84
Bars and Shapes from Mexico	06/84-09/84
Cotton Sheeting and Sateen from Peru	01/84-12/84
Cotton yarn from Peru	01/84-12/84
Ferrochrom from South Africa	01/83-12/84
Carbon Steel Wire Rod from Trindad/Tobago	01/83-12/84

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)) and §§353.53a(c) and 355.10(c) of the Commerce Regulations (19 CFR 353.53a(c), 355.10(c); 50 FR 32556, August 13, 1985).

Dated: May 22, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR. Doc. 86-12162 Filed 5-29-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-122-047]

Elemental Sulphur From Canada; Reinstatement in Part of Antidumping Finding

AGENCY: International Trade Administration, Import Administration Commerce.

ACTION: Notice of reinstatement in part of antidumping finding.

SUMMARY: On November 7, 1985, the United States Court of Appeals for the Federal Circuit reversed the Department of Commerce decision to revoke the antidumping finding on Canadian elemental sulphur with respect to Shell Canada Resources, Ltd. and Canadian Superior Oil, Ltd. On March 12, 1986, the United States Court of International Trade reversed the Department's revocation and remanded the proceeding for reconsideration consistent with the opinion of the Court of Appeals. On April 2, 1986, the Court of International Trade, in accordance with the Court of Appeals decision, also reversed the Department's decision to revoke the antidumping finding with respect to Chevron Standard, Ltd. On April 30, 1986, the Court of International Trade similarly reversed the Department's revocation with respect to Gulf Oil Canada, Ltd. and Hudson's Bay Oil & Gas, Ltd.

As a result, the Department is reinstating the antidumping finding on elemental sulphur from Canada with regard to merchandise produced and exported by Shell Canada Resources, Ltd., Canadian Superior Oil, Ltd., Chevron Standard, Ltd., Gulf Oil Canada, Ltd., and Hudson's Bay Oil & Gas, Ltd.

EFFECTIVE DATE: May 30, 1986.

FOR FURTHER INFORMATION CONTACT: Sean P. Kelley or Linnea Bucher, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Background

On December 17, 1973, the Treasury Department published in the **Federal Register** (38 FR 34655) a dumping finding with respect to elemental sulphur from Canada. On April 9, 1981, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 21214) the preliminary results of its first administrative review of that finding and tentative determination to revoke the finding with respect to Shell Canada Resources, Ltd., Canadian Superior Oil, Ltd., and

Hudson's Bay Oil & Gas, Ltd. On January 27, 1982, the Department published in the **Federal Register** (46 FR 31911) the final results of its administrative review and revoked the finding with regard to Shell Canada Resources, Ltd. and Canadian Superior Oil, Ltd. On September 9, 1983, the Department revoked the finding with regard to Chevron Standard, Ltd. (48 FR 40760). On January 16, 1984, the Department revoked the finding with regard to Gulf Oil Canada, Ltd. and Hudson's Bay Oil & Gas, Ltd. (49 FR 1920). The revocations applied to unliquidated entries entered, or withdrawn from warehouse, for consumption on or after February 8, 1979.

The petitioner, Freeport Minerals Company (now Freeport-McMoran Inc.), sued the Department in the United States Court of International Trade regarding the revocations. On March 24, 1982, the Court of International Trade granted the Government's motion for summary judgment with regard to Shell Canada Resources, Ltd. and Canadian Superior Oil, Ltd. and thereby affirmed the Department's revocation for those two firms. On November 7, 1985, the Court of Appeals for the Federal Circuit ("CAFC") reversed the lower court's decision and remanded the matter.

On March 12, 1986, the Court of International Trade reversed the Department's revocation and remanded the proceeding for reconsideration consistent with the opinion of the CAFC. On April 2, 1986, the Court of International Trade, under the authority of the CAFC decision, also reversed and remanded the Department's revocation with respect to Chevron Standard, Ltd. On April 30, 1986, the Court of International Trade, under the authority of the same CAFC decision, reversed and remanded the Department's revocation with respect to Gulf Oil Canada, Ltd. and Hudson's Bay Oil & Gas, Ltd.

The Department, in accordance with the orders of the Court of International Trade, reinstates the antidumping finding with regard to merchandise produced and exported by Shell Canada Resources, Ltd., Canadian Superior Oil, Ltd., Chevron Standard, Ltd., Gulf Oil Canada, Ltd., and Hudson's Bay Oil & Gas, Ltd. Further, the Department is ordering the suspension of liquidation of all entries of the merchandise produced and exported by those firms and entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

This reinstatement in part of the antidumping finding is in accordance with the orders of the United States Court of International Trade, issued on March 12, 1986, April 2, 1986, and April 30, 1986, and § 353.54 of the Commerce Regulations (19 CFR 353.54).

Dated: May 22, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-12158 Filed 5-29-86; 8:45 am]

BILLING CODE 3510-D-M

[A-427-010]

Certain Stainless Steel Sheet and Strip Products From France; Intention to Review and Preliminary Results of Changed Circumstances Administrative Review and Tentative Determination To Revoke Antidumping Duty Order

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of intention and preliminary results of changed circumstances administrative review and tentative determination to revoke antidumping duty order..

SUMMARY: The Department of Commerce has received information which shows changed circumstances sufficient to warrant an administrative review, under section 751(b)(1) of the Tariff Act of 1930, of the antidumping duty order on certain stainless steel sheet and strip products from France. The review covers the period from March 1, 1986. The remaining petitioners to this proceeding have notified the Department that they are no longer interested in the antidumping duty order. Their affirmative statement of no interest provides a reasonable basis for the Department to revoke the order. Therefore, we tentatively determine to revoke the order. In accordance with the petitioners' notification, the revocation will apply to certain stainless steel sheet and strip products exported on or after March 1, 1986. Interested parties are invited to comment on these preliminary results and tentative determination to revoke.

EFFECTIVE DATE: March 1, 1986.

FOR FURTHER INFORMATION CONTACT: Linda C. Odom or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-1130/5255.

SUPPLEMENTARY INFORMATION:

Background

On June 22, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 28520) an antidumping duty order on certain stainless steel sheet and strip products from France.

In a letter dated April 11, 1986, Allegheny Ludlum Steel Corporation, Armco, Inc., Carpenter Technology Corporation, Jessop Steel Company, LTV Specialty Steel, Inc., Cyclops Corporation, Washington Steel Corporation, and the United Steelworkers of America, the remaining petitioners in this proceeding, informed the Department that they were no longer interested in the order and stated their support of revocation of the order. Under section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department may revoke an antidumping duty order that is no longer of interest to domestic interested parties.

Scope of the Review

Imports covered by the review are shipments of certain stainless steel sheet and strip products currently classifiable under item 607.7610, 607.9010, 607.9020, 608.4300, and 608.5700 of the Tariff Schedules of the United States Annotated. The review covers the period from March 1, 1986.

Preliminary Results of the Review and Tentative Determination

As a result of our review, we preliminarily determine that the petitioners' affirmative statement of no interest in continuation of the antidumping duty order on certain stainless steel sheet and strip products from France provides a reasonable basis for revocation of the order.

Therefore, we tentatively determine to revoke the order on certain stainless steel sheet and strip product from France effective March 1, 1986. We intend to instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise exported on or after March 1, 1986, without regard to antidumping duties and to refund any estimated antidumping duties collected with respect to those entries.

The current requirement for a cash deposit of estimated antidumping duties will continue until publication of the final results of this review. This notice does not cover unliquidated entries of certain stainless steel sheet and strip products from France which were exported prior to March 1, 1986. The Department will cover any such entries in a separate review, if one is requested.

Interested parties may submit written comments on these preliminary results and tentative determination to revoke within 30 days of the date of publication of this notice, and may request a hearing within five days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. The Department will publish the final results of the review and its decision on revocation, including its analysis of issues raised in any such written comments or at a hearing.

This intention to review, administrative review, tentative determination to revoke, and notice are in accordance with sections 751(b) and (c) of the Tariff Act (19 U.S.C. 1675(b), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Dated: May 27, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary Import Administration.

[FR Doc. 86-12159 Filed 5-29-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-428-013]

Certain Stainless Steel Sheet and Strip Products From the Federal Republic of Germany; Intention To Review and Preliminary Results of Changed Circumstances Administrative Review and Tentative Determination To Revoke Antidumping Duty Order

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of intention to review and preliminary results of changed circumstances administrative review and tentative determination to revoke antidumping duty order.

SUMMARY: The Department of Commerce has received information which shows changed circumstances sufficient to warrant an administrative review, under section 751(b)(1) of the Tariff Act of 1930, of the antidumping duty order on certain stainless steel sheet and strip products from the Federal Republic of Germany. The review covers the period from March 1, 1986. The remaining petitioners to this proceeding have notified the Department that they are no longer interested in the antidumping duty order. Their affirmative statement of no interest provides a reasonable basis for the Department to revoke the order. Therefore, we tentatively determine to revoke the order. In accordance with the petitioners' notification, the revocation will apply to certain stainless steel sheet and strip products exported on or after March 1, 1986. Interested parties are invited to comment on these preliminary results and tentative determination to revoke.

EFFECTIVE DATE: March 1, 1986.

FOR FURTHER INFORMATION CONTACT: Linda C. Odom or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-1130/5255.

SUPPLEMENTARY INFORMATION:

Background

On June 23, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 28680) an antidumping duty order on certain stainless steel sheet and strip products from the Federal Republic of Germany.

In a letter dated April 14, 1986, Allegheny Ludlum Steel Corporation, Armco, Inc., Carpenter Technology Corporation, Jessop Steel Company, LTV Specialty Steel Inc., Cyclops Corporation, Washington Steel Corporation, and the United Steelworkers of America, the remaining petitioners in this proceeding, informed the Department that they were no longer interested in the order and stated their support of revocation of the order. Under section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department may revoke an antidumping duty order that is no longer of interest to domestic interested parties.

Scope of the Review

Imports covered by the review are shipments of stainless steel sheet and strip products either hot- or cold-rolled, excluding hot- or cold-rolled stainless sheet and strip not over 0.01 inch in thickness, currently classifiable under item 607.7610. 607.9010, 607.9020, 608.4300, and 608.5700 of the Tariff Schedules of the United States Annotated. The review covers the period from March 1, 1986.

Preliminary Results of the Review and Tentative Determination

As a result of our review, we preliminarily determine that the petitioners' affirmative statement of no interest in continuation of the antidumping duty order on certain stainless steel sheet and strip products from the Federal Republic of Germany provides a reasonable basis for revocation of the order.

Therefore, we tentatively determine to revoke the order on certain stainless steel sheet and strip products from the Federal Republic of Germany effective March 1, 1986. We intend to instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise exported on or after March 1, 1986, without regard to antidumping duties and to refund any estimated antidumping duties collected with respect to those entries. The current requirement for a cash deposit of estimated antidumping duties will continue until publication of the final results of this review. This notice does not cover unliquidated entries of certain stainless steel sheet and strip products from the Federal Republic of Germany which were exported prior to March 1, 1986. The Department will cover any such entries in a separate review, if one is requested.

Interested parties may submit written comments on these preliminary results and tentative determination to revoke within 30 days of the date of publication of this notice, and may request a hearing within five days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. The Department will publish the final results of the review and its decision on revocation, including its analysis of issues raised in any such written comments or at a hearing.

This intention to review, administrative review, tentative determination to revoke, and notice are in accordance with sections 751 (b) and (c) of the Tariff Act (19 U.S.C. 1675 (b), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Dated: May 22, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 86-12160 Filed 5-29-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-428-005]

Tool Steel From the Federal Republic of Germany; Intention To Review and Preliminary Results of Changed Circumstances Administrative Review and Tentative Determination To Revoke Antidumping Duty Order

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of intention to review and preliminary results of changed circumstances administrative review and tentative determination to revoke antidumping duty order.

SUMMARY: The Department of Commerce has received information which shows changed circumstances sufficient to warrant an administrative review, under section 751(b)(1) of the Tariff Act of 1930, of the antidumping duty order on tool steel from the Federal Republic of Germany. The review covers the period from March 1, 1986. The remaining petitioners to this proceeding have notified the Department that they are no longer interested in the antidumping duty order. Their affirmative statement of no interest provides a reasonable basis for the Department to revoke the order. Therefore, we tentatively determine to revoke the order. In accordance with the petitioners' notification, the revocation will apply to all tool steel exported on or after March 1, 1986. Interested parties are invited to comment on these preliminary results and tentative determination to revoke.

EFFECTIVE DATE: March 1, 1986.

FOR FURTHER INFORMATION CONTACT:

Linda C. Odom or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–1130/5255.

SUPPLEMENTARY INFORMATION:

Background

On July 25, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 33730) an antidumping duty order on tool steel from the Federal Republic of Germany.

In a letter dated April 22, 1986, Al Tech Specialty Steel Corporation, Columbia Tool Steel Company, Carpenter Technology Corporation, Crucible Specialty Metals Division of Colt Industries, Inc., and Latrobe Steel Company, the remaining petitioners in this proceeding, informed the Department that they were no longer interested in the order and stated their support of revocation of the order. Under section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department may revoke an antidumping duty order that is no longer of interest to domestic interested parties.

Scope of the Review

Imports covered by the review are shipments of tool steel currently classifiable under item 606.9100, 606.9105, 606.9110, 606.9300, 606.9400, 606.9505, 606.9512, 606.9514, 606.9520, 606.9525, 606.9535, 606.9542, 606.9544, 606.9546, 606.9548, 607.2800, 607.3200, 607 3405, 607.3420, 607.4600, 606.4800, 607.5405, and 607.5420 of the Tariff Schedules of the United States Annotated. The review covers the period from March 1, 1986.

Preliminary Results of the Review and Tentative Determination

As a result of our review, we preliminarily determine that the petitioners' affirmative statement of no interest in continuation of the antidumping duty order on tool steel from the Federal Republic of Germany provides a reasonable basis for revocation of the order.

Therefore, we tentatively determine to revoke the order on tool steel from the Federal Republic of Germany effective March 1, 1986. We intend to instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise exported on or after March 1, 1986, without regard to antidumping duties and to refund any estimated antidumping duties collected with respect to those entries. The current requirement for a cash deposit of estimated antidumping duties will continue until publication of the final results of this review. This notice does not cover unliquidated entries of tool steel from the Federal Republic of Germany which were exported prior to March 1, 1986. The Department will cover any such entries in a separate review, if one is requested.

Interested parties may submit written comments on these preliminary results and tentative determination to revoke within 30 days of the date of publication of this notice, and may request a hearing within five days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. The Department will publish the final results of the review and its decision on revocation, including its analysis of issues raised in any such written comments or at a hearing.

This intention to review, administrative review, tentative determination to revoke, and notice are in accordance with sections 751(b) and (c) of the Tariff Act (19 U.S.C. 1675(b), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Dated May 22, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary Import Administration.

[FR Doc. 86–12161 Filed 5–29–86 8:45 am]

BILLING CODE 3510–DS–M

[C–583–504]

Final Negative Countervailing Duty Determination; Oil Country Tubular Goods From Taiwan

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: NOTICE.

SUMMARY: We determine that no benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters, of oil country tubular goods (OCTG) in Taiwan. The net subsidy is 0.11 percent *ad valorem*. This rate is *de minimis*, and therefore this determination is negative. We have notified the United States International Trade Commission (ITC) of our determination.

EFFECTIVE DATE: May 30, 1986.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita or Loc Nguyen Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377–0189 (LaCivita) or 377–0167 (Nguyen).

SUPPLEMENTARY INFORMATION:

Final Determination

Based on our investigation, we determine that the following programs are countervailable:

- Preferential Export Financing.
- Export Loss Reserves.

We determine the net countervailable benefits for OCTG to be 0.11 percent *ad valorem*. Although we have determined these programs to be countervailable, the respondent received *de minimis* benefits during the review period. Therefore, we determine that no benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers or exporters of OCTG in Taiwan.

Case History

On July 22, 1985, we received a petition in proper form filed by the Lone Star Steel Company and CF & I Steel Corporation, producers of OCTG. In compliance with the filing requirements of § 355.26 of our regulations (19 CFR 355.26), the petition alleged that manufacturers, producers or exporters of OCTG in Taiwan directly or indirectly receive benefits which constitute subsidies within the meaning of section 701 of the Act, and that these imports materially injure, or threaten

material injury to, a U.S. industry. In addition, the petition alleges that "critical circumstances" exist within the meaning of section 703(e)(1) of the Act.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on August 12, 1985, we initiated such and investigation (50 FR 33384).

Since Taiwan is entitled to an injury determination under section 701(b) of the Act, the ITC is required to determine whether imports of the subject merchandise from Taiwan materially injure, or threaten material injury to, U.S. industry. Therefore, we notified the ITC of our initiation. On September 5, 1985, the ITC preliminarily determined that there is a reasonable indication that these imports materially injure a U.S. industry (50 FR 37066).

On August 20, 1985, we presented a questionnaire concerning the petitioners' allegations to the American Institute on Taiwan in Washington, DC. Responses to the questionnaire were received on September 20 and 23, 1985.

There is only one known producer of OCTG in Taiwan, the Far East Machinery Company, Ltd. (FEMCO). China Steel Corporation (China Steel), a state-owned supplier of pipe-and-tube inputs, responded to the Department's questionnaire concerning preferentially-priced inputs.

On September 23, 1985, we received a timely request by petitioners for an extension of the deadline date for the preliminary determination. An extension was granted on September 26, 1985 (50 FR 40580). We stated that we expected to issue our preliminary determination by November 29, 1985.

Verification was conducted in Taiwan from October 15, 1985, to November 5, 1985.

On November 29, 1985, we issued our preliminary negative determination.

Our notice of preliminary determination gave interested parties an opportunity to submit oral and written views. A hearing was not held because no interested party requested one in this case. Written views were received from petitioners on February 3 and 14, 1985, from respondents on February 4 and 14, 1985, and from China Steel on February 3, 1985.

On December 4, 1985, petitioners filed a request to extend the deadline date for a final determination in the countervailing duty investigation to correspond to the date of the final determination in the antidumping investigation, pursuant to section 606 of the Trade and Tariff Act of 1984. This request was granted on January 27, 1986 (51 FR 3377).

On January 16, 1986, respondents requested a delay on the deadline for the antidumping duty determination. Therefore, pursuant to section 735(a)(2) of the Act, we granted a postponement of the final antidumping and countervailing duty determinations on February 22, 1986 (51 FR 7308). We stated that we expected to issue a final determination by May 21, 1986. On April 16, 1986, the United States Steel Corporation (U.S. Steel) filed comments on our preliminary determination.

Scope of Investigation

The products covered by this investigation are "oil country tubular goods," which are hollow steel products of circular cross-section intended for use in drilling for oil or gas. These products include oil well casings, tubing, and drill pipe of carbon or alloy steel, whether welded or seamless, manufactured to either American Petroleum Institute (API) or non-API (such as proprietary) specifications as currently provided for in the *Tariff Schedules of the United States, Annotated* (TSUSA) under items 610.3216, 610.3219, 610.3233, 610.3234, 610.3242, 610.3243, 610.3249, 610.3252, 610.3254, 610.3256, 610.3258, 610.3262, 610.3264, 610.3721, 610.3722, 610.3751, 610.3925, 610.3935, 610.4025, 610.4035, 610.4210, 610.4220, 610.4225, 610.4230, 610.4235, 610.4240, 610.4310, 610.4320, 610.4325, 610.4335, 610.4942, 610.4944, 610.4946, 610.4954, 610.4955, 610.4956, 610.4957, 610.4966, 610.4967, 610.4968, 610.4969, 610.4970, 610.5221, 610.5222, 610.5226, 610.5234, 610.5240, 610.5242, 610.5243 and 610.5244. This investigation includes OCTG that are in both finished and unfinished condition.

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the current investigation. These principles are described in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina; Final Affirmative Countervailing Duty Determination and Countervailing Duty Order," which was published in the April 26, 1984, issue of the **Federal Register** (49 FR 18006).

For purposes of this determination, the period for which we are measuring subsidies, the review period, is calendar year 1984.

Based upon our analysis of the petition, the responses to our questionnaires submitted by the Taiwan authorities, FEMCO and China Steel, the verification, the amended response submitted after verification, and the briefs submitted by interested parties, we determine the following:

I. Programs Determined to be Countervailable

We determine that the following programs provide countervailable benefits to manufacturers, producers or exporters of OCTG in Taiwan:

A. Preferential Export Financing

The Export Loan Discount Regulations of the Central Bank of China permit registered exporters in possession of a letter of credit to apply for low-cost export loans covering up to 85 percent of the value of the export transaction. Export loans are arranged through authorized foreign-currency banks, which may apply for an interest-rate reduction from the Central Bank. Exporters settle the loan with foreign exchange within 180 days or pay an interest-rate penalty on the full amount of the loan.

The Central Bank sets the maximum and minimum interest rates for commercial lending in Taiwan. Export loans were set at rates equal to or below the minimum rates established for commercial lending during the review period. Because the rates given by commercial banks are near the maximum interest rate set by the Central Bank and because no further information is available regarding average commercial lending rates in Taiwan, we used the maximum lending rates set by the Central Bank as our short-term commercial benchmark.

FEMCO obtained export loans to finance exports of the products under investigation to the United States. Because these loans are contingent upon export performance and provide funds to borrowers at interest rates lower than those available for other purposes, we determine that this program confers a benefit which constitutes an export subsidy.

To calculate the benefit, we compared the Central Bank's export-loan rate with its maximum short-term loan rate. We then multiplied the difference by the principal amount and allocated the benefit over the value of FEMCO's 1984 exports to the United States of the product under investigation. The net subsidy is 0.10 percent *ad valorem*.

B. Export Loss Reserves

Article 31 of the Statute for Encouragement of Investment (SEI) permits exporters to establish an export loss reserve of up to one percent of the previous year's export exchange settlement to be used exclusively to compensate export losses. Companies treat the export loss reserve as a business expense and deduct it from taxable income in one year, then settle

the account and carry the reserve funds forward as taxable income for the next year. FEMCO received benefits from export loss reserves during the review period.

Because this program is contingent upon export sales, we determine that it confers a benefit which constitutes an export subsidy. To calculate the benefit received in 1984, we treated tax savings from the export loss reserve as a one-year interest-free loan received in mid-1983 at the time the income tax forms were filed. We compared the interest-free rate with the maximum lending rate set by the Central Bank and divided the benefit by the value of FEMCO's total 1984 exports and found the net subsidy to be 0.01 percent *ad valorem*.

II. Programs Determined Not to Confer Subsidies

We determine that the following programs do not confer subsidies on the manufacturers, producers or exporters of OCTG in Taiwan:

A. Business Tax Exemptions for Export Sales

The authorities on Taiwan levy a business tax on selling goods, rendering services or other profit seeking activities within the territory of Taiwan. Article 29 of the SEI exempts export sales, which include sales to trading companies and to manufacturers for further processing before export, from the business tax. The amount of the exemption equals the amount of business tax due on each sale destined for export. Companies pay the business tax monthly and receive exemptions for export at that time. However, if the export remains unconfirmed at the time the taxes are due, or, if the goods are sold to trading companies or to other manufacturers for further processing before export, companies initially report the sale as a domestic sale, then apply for the business tax exemptions at the time of export. Such exemptions take the form of a rebate of taxes paid. Under the Act, the non-excessive remission of indirect taxes levied at the final stage is not considered a subsidy. We verified that the amount of the exemption or rebate is not greater than the amount of business tax due; therefore, we determine that this program does not confer countervailable benefits on manufacturers, producers or exporters of OCTG within the meaning of the countervailing duty law.

B. Stamp Tax Reductions

The authorities on Taiwan levy a stamp tax on sales invoices. Article 33 of the SEI permits the reduction of the stamp tax from 0.4 percent to 0.1 percent for all invoices issued by a profit-seeking enterprise for transactions exempt from the business tax. The stamp tax reduction is less than the amount of stamp tax due on each sale destined for export. Under the Act, the non-excessive remission of indirect taxes levied at the final stage is not considered a subsidy. Because we verified that the amount of the reduction is not greater than the amount of the stamp tax due, we determine that this program does not confer countervailable benefits within the meaning of the countervailing duty law.

C. Preferential Prices for Raw Materials

Petitioners alleged that the Taiwan authorities direct China Steel to provide coil at preferential prices to exporters.

China Steel, a state-owned corporation and a supplier of pipe-and-tube inputs, maintains a two-tiered pricing policy. The higher first-tier price is applicable to domestic producers who manufacture goods for the Taiwan market. It is based on the landed, duty-paid price of imported hot-rolled coil. The lower second-tier price is offered to manufacturers who purchase coil to produce export products and is based on the landed, duty-free price of hot-rolled coil.

Under item (d) of the Illustrative List of Export Subsidies annexed to the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade, a price preference for inputs used in the production of export goods constitutes a subsidy only if the preference lowers the price below world-market levels (*See, Final Negative Countervailing Duty Determination: Certain Steel Wire Nails from the Republic of Korea*, 47 FR 39549). Based on an examination of China Steel's second-tier prices for hot-rolled coil used in the production of OCTG, and of the World Market prices for such coil, we found that China Steel's prices were at world-market levels; therefore, we determine that China Steel's two-tiered pricing policy does not confer a counteravailable benefit within the meaning of the countervailing duty law.

D. Preferential Income Tax Ceiling—25 Percent

Petitioners alleged that manufacturers, producers or exporters of OCTG in Taiwan benefit from a preferential income tax ceiling. Article 15 of the SEI permits productive enterprises and big trading companies to pay no more than 25 percent in corporate income taxes on income exceeding NT$500,000 rather than the 35 percent required by Taiwan's graduated corporate income tax law.

Article 15 benefits are available to all productive enterprises, defined in the SEI as stock companies engaged in manufacturing, handicrafts, mining, agriculture, forestry, fishery, animal husbandry, transportation, warehousing public utilities, public facility construction and development, public housing construction, technical services, hotels and heavy machinery construction.

In prior cases, we found this program to be countervailable because respondents were unable to demonstrate that these benefits were not limited to a specific enterprise or industry, or group of enterprises or industries. However, in the *Final Negative Countervailing Duty Determination: Welded Carbon Steel Line Pipe from Taiwan* (50 FR 53363) (*Line Pipe*), we determined that these benefits were not limited to a specific industry or enterprise or group of industries or enterprises; therefore, we determine that this program does not confer a subsidy within the meaning of the countervailing duty law.

E. Tax Credit for Investment in Production Equipment

Under Article 10 of the SEI, productive enterprises may deduct from income tax payable an amount of up to 15 percent of the value of capital equipment purchased during the year. In the event that the amount of the tax credit exceeds the value of income tax payable, the balance may be carried forward for up to four subsequent years.

Article 10 benefits are available to all productive enterprises defined above. In prior cases, we found this program to be countervailable because respondents were unable to demonstrate that these benefits were not limited to a specific enterprise or industry, or group of enterprises or industries. However, in *Line Pipe*, we determined that these benefits are not limited to a specific enterprise or industry, or group of enterprises or industries; therefore, we determine that this program does not confer a subsidy within the meaning of the countervailing duty law.

III. Programs Determined Not to be Used

We determine that the following programs are not used by the manufacturers, producers, or exporters of OCTG in Taiwan:

A. Preferential Income Tax Ceiling—22 Percent

Article 15 of the SEI also permits enterprises engaged in the basic metal production industry, heavy machinery industry, petrochemical industry or other important productive enterprises which conforms with the needs for development of economic and national defense industries and are capital-intensive and/or technology-intensive in nature to use a marginal tax rate of no more than 22 percent. We verified that FEMCO did not use the 22-perent tax ceiling.

B. Accelerated Depreciation and Tax Holiday

Article 6 of the SEI permits newly-established productive enterprises to select one of the following benefits: (1) A tax holiday of up to five years provided that the company depreciates its assets according to Taiwan's Service Life of Fixed Assets; or (2) accelerated depreciation on the service life of machinery, equipment and buildings, construction facilities, and communication and transportation facilities. In addition, Article 6 permits expanding enterprises to select (1) a tax-holiday of up to four years on the income derived from increased capacity, if it depreciates its assets according to Taiwan's Service Life of Fixed Assets, or (2) a rapid depreciation of the newly purchased equipment beginning in the year in which the machines begin operation.

We verified that FEMCO neither claimed accelerated depreciation nor took a tax holiday during the period of review.

C. Duty Exemptions and Deferrals on Imported Equipment

Article 21 of the SEI allows productive enterprises to pay import duties in a series of installments beginning one year from the date of importation on selected machinery and equipment that is not manufactured domestically. In addition, qualified enterprises may be exempt from paying import duties on selected machinery and equipment which is used for the establishment or expansion of an approved project or for research and development.

We verified that FEMCO did not receive duty exemptions or deferrals.

D. Preferential Long-Term Loans

Article 84 of the SEI permits the Executive Yuan to establish and administer a special development fund to promote investments of interest to national economic development. We verified that FEMCO did not use Article 84 financing with respect to U.S. sales of the products under investigation.

Petitioners' Comments

Comment 1: Petitioners allege that the Department did not conduct a complete verification of FEMCO's short-term loan history due to the Central Bank's refusal to allow the Department to examine its discount loan records. They maintain that because the Department was unable to examine the Central Bank's records, it was unable to confirm whether FEMCO reported all of its subsidized short-term loans. Petitioners further argue that since all of FEMCO's exports of OCTG to the U.S. meet the criteria for low-cost export financing, it is reasonable to believe that FEMCO received export financing for all of its OCTG export sales. Petitioners request that the Department use best information available to determine that FEMCO received preferential export financing for all of its OCTG exports to the United States.

DOC Position: We disagree. The Department conducted a complete verification of FEMCO's loan transactions (see FEMCO Verification Report). Furthermore, the Department examined that loan ledgers regarding commercial and export financing at the branch of the International Commercial Bank of China (ICBC) which FEMCO uses.

The ICBC's records matched those reported by FEMCO with respect to the dates of disbursement and repayment of principal and interest and with respect to the terms and conditions of all such loans; therefore, the Department maintains that FEMCO's loan reporting was accurate and complete and, as such, should be sole basis for determining whether a subsidy was received.

Comment 2: Petitioners allege that the Department did not verify the lending rates charged by independent commercial banks in Taiwan, nor whether these banks require compensating balances in return for granting commercial loans. U.S. Steel, an interested party to the proceeding, further contends that the benchmark used to quantify benefits on short-term export loans should recognize that compensating balances requirements increase effective interest rates, citing the preliminary affirmative countervailing duty determination *Certain Steel Products from Brazil* (49 FR 17988, 17991). Petitioners and U.S. Steel request that the Department use best information available to construct a benchmark assuming the existence of compensating balances to raise the benchmark to the effective commercial lending rate.

DOC Position: We disagree. The Department did verify the minimum and maximum lending rates set by the Central Bank to which all commerical banks must adhere (See Government Verification Report). Because there was no allegation of, and we found no evidence of, a uniform requirement for compensating balances and no government publication gives a definitive measure of the extent to which compensating balances are actually used, we have determined not to use compensating balances in calculating our benchmark interest rate.

Comment 3: Petitioners allege that FEMCO may have qualified for a preferential income tax ceiling of 22 percent under the Statute for Encouragement of Investment (SEI). They further allege that because the authorities on Taiwan refused to provide a list of all companies receiving such financing, the Department should infer that FEMCO was among the companies on that list. Petitioners note that FEMCO's original tax return held by the City Tax Administration listed the company's tax rate whereas the copy held by FEMCO did not provide this information; therefore, petitioners argue that the Department should use the best information available to assume that FEMCO received the ceiling rate of 22 percent.

DOC Position: We disagree. FEMCO does not qualify for the 22-percent rate under Article 2.1 of the Categories and Criteria for Special Encouragement of Important Productive Enterprises. Furthermore, the Department examined FEMCO's tax forms kept on file at the City Tax Administration which reported tha FEMCO paid taxes at the 25-percent rate. Since this is the tax form filed with the tax authorities, this adequately establishes that the firm paid taxes at the 25-percent rate. Therefore, we maintain that FEMCO did not receive the more favorable 22-percent tax rate.

Comment 4: Petitioners argue that the Department should countervail the SEI's provision of a 25-percent tax rate to all productive enterprises as defined in Article 3 of the SEI. Petitioners maintain that the 25-percent rate is not generally available because various industries, and "non-productive" activities, such as interest income, are excluded from using this rate.

DOC Position: We disagree. Eligibility for the programs covers a wide variety of industries including those in the manufacturing, service, and agricultural sectors. Therefore, we have determined that benefits under this program are not

limited to a specific enterprise or industry, or group of enterprises or industries within the meaning of the Act. (See *Analysis of Programs* section of this notice.)

Comment 5: Petitioners allege that during verification, the Department determined that carbon and alloy steel seamless pipes, including OCTG, were among the metallurgical products qualifying for accelerated depreciation under Artilce 6 of the SEI. They further allege that the Department failed to properly verify this program because the Ministry of Finance, which authorizes the benefits and "would naturally be presumed to maintain a list," informed the Department that a list of Article 6 beneficiaries does not exist.

DOC Position: We disagree. Petitioners incorrectly quote the verification report with respect to the findings on OCTG. The OCTG that FEMCO produces is neither a carbon steel seamless pipe nor an alloy steel seamless pipe, and therefore, expansion or establishment of its OCTG facilities does not qualify for such benefits.

Furthermore, the Department cannot consider a verification deficient based on the presumption that a government agency should maintain a list of its beneficiaries. The Department examined FEMCO's depreciation schedules to determine utilization of the accelerated depreciation provision of Article 6 of the SEI. Upon examination of these records, and those at the City Tax Administration, we found no evidence that this provision had been used.

Comment 6: Petitioners allege that the Department's verification of FEMCO's use of the tax holiday provision of Article 6 of the SEI was inadequate. The Department learned at verification that FEMCO had approval of a four-year tax holiday stemming from the 1982 purchase of specific machinery. Petitioners allege that since FEMCO did not volunteer this information in its questionnaire response, and that, since it is difficult to believe that FEMCO would not have taken advantage of other benefits of Article 6 of the SEI, the Department should assume that FEMCO received a tax holiday upon introduction of its OCTG capacity.

DOC Position: We disagree. The Department verified at the local tax authorities, and at FEMCO, that FEMCO did not take a tax holiday in conjunction with its purchase of the approved capital equipment.

Comment 7: Petitioners fully support the arguments made by the Committee of Pipe and Tube Imports ("CPTI"), petitioners in the countervailing duty investigation of welded carbon steel line pipe from Taiwan, with respect to China Steel's provision of inputs at three price levels. (*See Final Negative Countervailing Duty Determination* 50 FR 53363). FEMCO was a respondent company in this investigation. The first-tier price is based on the CIF landed duty-paid price of imported coil for producers selling domestically. The second-tier price is based on the CIF landed duty-free price of imported coil for producers selling for export. The third-tier price is a variance price lowering the second-tier price to compensate for declining world prices. In particular, petitioners believe that the prices of China Steel's inputs should have been compared to the actual price that domestic users such as FEMCO paid for their imported inputs in order to determine if the China Steel sales provided a subsidy as argued by CPTI.

DOC Position: Under item (d) of the Illustrative List of Export Subsidies annexed to the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade, a price preference for inputs used in the production of export goods constitutes a subsidy only if the preference lowers the price below "those commercially available on the world market to their exporters", *i.e.*, below world-market levels. Accordingly, in determining whether China Steel's prices were preferential, we compared not only the actual prices FEMCO paid China Steel to the actual prices FEMCO paid for imported coil, but also compared the prices FEMCO paid China Steel to generally available world-market prices for coil. In so doing, we found that the prices were at or above the benchmark prices. Therefore, there was no subsidy.

Comment 8: Petitioners maintain that the Department was unable to verify the price FEMCO paid for its hot-rolled coil from China Steel, and hence, must use best information to determine that FEMCO purchased hot-rolled coil for OCTG at the variance, or lowest, price.

DOC Position: The Department examined FEMCO's contract with China Steel for API hot-rolled coil used to make OCTG; we traced this purchase through its invoice, transfer voucher and ledger entry. We determined that the price paid was above the world-market price.

Comment 9: U.S. Steel argues that the proper benchmark interest rate to quantify the subsidy rate for short-term export loans should include nonbank financing. They cite the final affirmative countervailing duty determinations on *Cold Rolled Sheet from Korea* (49 FR 47284, 47287), *Cold Rolled Sheet from Argentina* (49 FR 18006, 1807), and *Wire Rod from Saudi Arabia* (51 FR 4206, 4208) as cases where the Department determined the benchmark by weight averaging the interest rates on short-term domestic credit, both bank and nonbank, as the best approximation of what firms pay for financing, absent preferential export loans.

DOC Position: In the cases cited by U.S. Steel, we did not use average of bank and non-bank credits as our benchmark. In the Korean case, we used the weighted-average cost of all short-term credit to measure the preference built into the government's rediscount mechanism for short-term export loans. In that investigation, we still used the government-mandated ten-percent interest rate as our short-term interest-rate benchmark for other programs. In the Saudi Arabian case, we looked only to long-term loan programs and used an average of commerical bank lending rates and generally-available government lending rates. Our normal practice is to look to the lending rates available in the country from either commercial banks or generally-available government sources. If the government mandates an interest-rate ceiling, as it does in Taiwan, we would still use those rates provided they were generally available.

Comment 10: U.S. Steel argues that the state-owned China Steel Corporation (China Steel) provides hot-rolled coil at preferential prices to OCTG exporters. They allege that the authorities on Taiwan restrict coil imports, thus requiring producers of OCTG in Taiwan to buy the domestic coil. They contend that, because of this import restriction, it is irrelevant as a matter of law and policy whether China Steel's preferentially-priced coil (for export use) is sold at, above, or below world prices.

DOC Position: There is no evidence that the authorities on Taiwan restrict imports. We verified that FEMCO did import hot-rolled coil; therefore, we need not address whether a prohibition on the importation of a product makes comparison to world market-prices irrelevant. Finally, comparison to world-market prices is consistent with the law and with paragraph (d) of the Annex to the Subsidies Code.

Comment 11: U.S. Steel argues that a subsidy is being provided to FEMCO in the form of reduced electricity rates by the state-run Taiwan Power Co. and that this should be included in the final determination because the Department's practice is to consider program-wide changes that occur prior to the preliminary determination.

DOC Position: U.S. Steel did not submit this allegation until 30 days

before the final determination. There was ample opportunity to submit this allegation in time for the Department to investigate. Since this allegation was submitted far too late to be investigated, we have not done so. In addition, as a general rule, we may take into account program-wide changes which occur after the period of investigation and before the preliminary determination if we have verified information on the change and the magnitude of the resulting subsidy. We do not have verified information that FEMCO has received benefits that constitute a subsidy in the form of reduced electricity rate by the state run Taiwan Power Co.; therefore, we cannot include this in our final determination.

Comment 12: U.S. Steel alleges that subsidies are also being provided to the steel industry in Taiwan by the Ministry of Economic Affairs (MOEA) in a plan that allows the industry to extend the period of bank checks and to pay tariffs at a date subsequent to importation of machinery and other plant facilities. They content that the MOEA will also ask local banks to be lenient in approving loans to the steel industry. U.S. Steel argues that since this program, and the one discussed in Comment 4, were adopted in mid-1985, before the Department's preliminary determination, they should be included in the subsidy rate for this final determination.

DOC Position: See our response to Petitioner's eleventh comment.

Respondent's Comments

Comment 1: Respondent argues that in regard to the Preferential Export Financing Program, the Department should use the number of days outstanding, and not assume a full 180-day term, when calculating the benefits for short-term loans.

DOC Position: We agree. Our short-term loan methodology includes the number of days outstanding as one of the variables in the formula for calculating a subsidy rate. We verified the number of days each loan was outstanding and used this in the calculation.

China Steel's Comments

Comment 1: China Steel asserts that the world-market price for coil is the price available to customers in the position of the respondents, which in this investigation is the price available to Southeast Asian coil users on the open world market.

DOC Position: We disagree. See our response to Petitioner's seventh and eighth comment.

Comment 2: China Steel argues that the appropriate price comparison for world-market-price analysis is between China Steel's base price for hot-rolled coil and the base price for hot-rolled coil offered by foreign suppliers.

DOC Position: We disagree. In this case, the appropriate price comparison is between the final F.O.B. price offered by foreign suppliers for each grade, quality, and size of hot-rolled coil and between China Steel's second-tier ex-works price of the comparable grade, quality and size of hot-rolled coil.

Comment 3: China Steel argues that a restriction on imports, as alleged by U.S. Steel, does not constitute a countervailable subsidy *per se*, rather, U.S. countervailing duty law determines whether inputs are preferentially priced by reference to world market price.

DOC Position: See our response to Petitioners' tenth comment.

Final Negative Determination of Critical Circumstances

Petitioners alleged that imports of OCTG from Taiwan present "critical circumstances." Under section 703(e)(1) of the Act, critical circumstances exist when the Department has a reasonable basis to believe or suspect that (1) the alleged subsidy is inconsistent with the Agreement on Interpretation and Application of Articles VI, XVI, ad XXIII of the General Agreement of of Tariffs and Trade ("the Subsidies Code"), and (2) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period. We generally consider the following concerning massive imports: (1) The volume and value of the imports; (2) seasonal trends; and (3) the share of domestic consumption accounted for by the imports.

Based upon our analysis, the export subsidies bestowed upon OCTG in Taiwan are *de minimis*. Accordingly, we preliminarily determined that these subsidies are not inconsistent with the Subsidies Code.

Since we have determined that the subsidies are not inconsistent with Code commitments, we need not determine whether there have been massive imports. Accordingly, we determine that "critical circumstances" do not exist with respect to OCTG from Taiwan.

Verification

In accordance with 776(a) of the Act, we conducted a verification of the information provided in the questionnaire response. During verification, we followed normal verification procedures, including meeting with government officials and inspection of documents, as well as on-site inspection of the companies producing and exporting the merchandise under investigation to the U.S.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. Since this determination is negative, the investigation will be terminated upon the publication of this notice in the **Federal Register**. Hence, the ITC is not required to make a final injury determination.

This notice is published pursuant to section 705(d) of the Act (19 U.S.C. 1671d(d)).

Paul Freedenberg,

Asssitant Secretary for Trade Administration.

May 21, 1986.

[FR Doc. 86-12163 Filed 5-29-86; 8:45 am]

BILLING CODE 3510-DS-M

Automated Manufacturing Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Automated Manufacturing Equipment Technical Advisory Committee will be held June 18, 1986, 9:30 a.m., Herbert C. Hoover Building, Room 3407, 14th Street and Constitution Avenue NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to automated manufacturing equipment and related technology.

Agenda:

1. Opening remarks by the Chairman
2. Presentation of papers or comments by the public
3. Numerical Control Equipment
4. Precision Inspection Equipment
5. Sensory Control Systems
6. Electric Arc Devices/Isostatic Presses
7. Local Area Networking

Executive Session

8. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria realted thereto.

The general session of the meeting 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 January 10, 1986,

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, call 202/377–4959.

Dated: May 27, 1986.

Margaret A. Cornejo,

Director, Technical Support Staff, Office of Technology and Policy Analysis.

[FR Doc. 86–12146 Filed 5–29–86; 8:45 am]

BILLING CODE 3810–DT–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amending the List of Exempt Textile Products Imported from Colombia

May 27, 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 30, 1986. For further information contact Nathaniel Cohen, Trade Reference Assistant, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

Effective on May 30, 1986, under the terms of the Bilateral Cotton, Wool and Man-made Fiber Textile Agreement of July 1, and August 1, 1982, as amended, between the Government of the United States and Colombia, the exempt certification mechanism established for certain textile products produced in Colombia is being amended to include "Molas" and "Santa Rosa tapestries" on the agreed list of exempt items. A complete list of currently exempt items is published as an enclosure to the letter to the Commissioner of Customs which follows this notice.

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 27, 1986.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of July 20, 1976 from the Chairman of the Committee for the Implementation of Textile Agreements that directed you to prohibit, under certain specified conditions, entry into the United States for consumption and withdrawal from warehouse for consumption, of certain cotton, wool and man-made fiber textile products, produced or manufactured in Colombia, for which the Government of Colombia had not issued an appropriate export visa or certification for exemption.

Effective on May 30, 1986, the directive of July 20, 1976 is hereby further amended to add "Molas" and "Santa Rosa Tapestries" to the agreed list of exempt items. To qualify for exemption as folklore items both must contain a folklore subject and be imported in a condition for use as a household furnishing. They may not be imported as folklore items if they must be cut to make an article of household furnishing. Neither article may be imported as fabric or as shirt or jacket material. A complete and current list of "Colombian Traditional Folklore Handicraft Textile Products" is enclosed.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

Colombian Traditional Folklore Handicraft Textile Products

"Colombia Items" are traditional Colombian products, cut, sewn, or otherwise fabricated by hand in cottage units of the cottage industry. The following is the agreed upon list of such items:

(1) *Bedspread.*

Bedspread made on manual loom.

(2) *Blouse with crochet knitted neck.*

A blouse made of greige cloth heavily decorated around the neck, extending down the front and around the sleeves with *hand crocket* work. This blouse also has embroidered panels extending down the front on either side of the crochet work.

(3) *Embroidered Blouse.*

Hand cut and hand sewn blouse with extensive hand embroidery on the upper front and lower portions.

(4) *Embroidered Skirt.*

Hand cut and hand sewn skirt with extensive hand embroidery.

(5) *Blankets, Hand Woven.*

These colorful blankets are hand woven from wool, cotton or wool and cotton, heavy yarns to form striped or block patterns. The ends may be finished with spangles formed by the ends of the yarn and knotted, or may be hemmed.

(6) *Indian Embroidered Cloth.*

Cloth panels hand embroidered with various crude and colorful Indian scenes. Generally these cloths are used as wall hangings.

(7) *Typical Colombia Dress.*

An ankle length dress with a very wide skirt trimmed with wide handmade lace. The entire dress is hand cut and hand sewn and is a typical dress for gaiety affairs.

(8) *Typical Guajira Dress.*

A traditional loose fitting women's garment formed by a folded rectangular piece of fabric with a hole or slot in the center for the head, with intricate embroidery around the neck. This dress is made similar to a ruana, but has the outer edges sewn together except for slots for the hands and arms, and has closures on the front.

(9) *Typical Mapale Dress.*

A knee length dress consisting of very wide skirt having a row of heavy ruffles around the blouse portion and two bands of wide ruffles forming the skirt. A very gay colored festival dress.

(10) *Typical Mestiza Dress.*

A native handmade dress with wide neckline, ruffled collar and wide skirt and with ruffles on the lower part of the skirt.

(11) *Hammock.*

Multicolored stripped hammocks made by hand from coarse fabrics. Ends are formed and reinforced with strong rope.

(12) *Jacket, hand knitted.*

Wholly hand knitted jacket. These jackets are usually knitted from wool yarns. Patched pockets, also hand knitted, are hand sewn to the garment.

(13) *Jacket of hand loomed fabric.*

These jackets are wholly hand made from hand loomed fabrics. Patched pockets, also of hand loomed fabric, are hand sewn to the garment.

(14) *Ruana.*

A cloak made from a heavy rectangular piece of fabric or a blanket with hole in the center for the head to pass through. This is a typical garment worn by men, women and children throughout the higher and cooler altitudes of Colombia. The men's ruana will generally have no fringes. Women's ruanas may have fringes and are sometimes slit from the neck opening to the edge to permit the wearer to put it on as a cape.

Children's ruanas sometimes have a collar around the opening with draw strings for a close fit. These garments are sometimes known as ponchos.

(15) *Rugs, hand woven or hand knotted.*

These rugs are usually made from wool yarns and are either wholly hand woven or hand knotted. They are generally square or rectangular in shape and are in colorful designs.

(16) *Macrame Shawl.*

Hand made shawls wholly of macrame lace or with macrame lace edge. The shawls are in various colors with the typical long fringe around the lower edges.

(17) *Sweaters and Cardigans, hand knitted.*
Wholly hand knitted sweaters and cardigans, generally a bulky knit with decorative vertical patterns.
(18) *Table Cloths and Napkins, embroidered.*
Table cloths and napkins cut and hemmed by hand and extensively embroidered by hand.
(19) *Colorful waist band.*
Hand plaited waist bands in multicolors. These are sometimes sewn together to form wide bands.
(20) *Wall hangings, rectangular.*
A colorful wall hanging made from coarse yarns connected to decorative crudely woven bands. These are hand made and come in various sizes.
(21) *Wall hanging, tree.*
Tree shaped wall hangings formed by connecting together crudely woven bands in graduated sizes with coarse yarns to form the outline of a tree. The wall hanging is decorated with small balls of cotton fiber.
(22) *Indian Color Knapsack.*
Knapsack made with belt like woven or plaited strap and multicolored bag, to be worn on the shoulder.
(23) *Pillow Covers, Embroidered by hand.*
Covers for throw pillow containing extensive hand embroidery covering 50 percent or more of the outer surface of the cover.
(24) *Hand made macrame handbags.*
(25) *Molas.*
Hand appliqued layers of different colors, forming geometric and abstract designs, made of cotton material.
(26) *Santa Rosa Tapestries, Bedspreads and Pillowcases.*
Tapestries, bedspreads and pillowcases, of vivid colors, with hand appliqued figures forming landscapes and folk scenes, made of cotton material.

[FR Doc. 86-12148 Filed 5-29-86; 8:45 am]
BILLING CODE 3510-DR-M

Adjusting Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Mexico

May 27, 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 27, 1986. For further information contact Ann Fields, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce (202) 377-4212.

Background

A CITA directive dated February 4, 1986 (51 FR 4781) established limits for certain specified categories of cotton, wool and man-made fiber textile products, including Categories 359 pt. 633, 641 and 647/648, produced or manufactured in Mexico and exported during the six-month period which began on January 1, 1986 and extends through June 30, 1986. The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of February 26, 1979, as amended and extended, under the terms of which these limits were established, also includes provisions for the carryover of shortfalls from the previous agreement year in certain categories (carryover). Under the foregoing provision of the bilateral agreement and at the request of the Government of Mexico, the limits established for the aforementioned categories are being increased for carryover, as available, for goods exported during the six-month period which began on January 1, 1986 and extends through June 30, 1986.

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).

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 27, 1986.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of February 4, 1986 from the Chairman of the Committee for the Implementation of Textile Agreements concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Mexico and exported during the six-month period which began on January 1, 1986 and extends through June 30, 1986.[1]

[1] The Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of February 26, 1979, as amended and extended, provides, in part, that: (1) Specific limits and sublimits may be exceeded by not more than seven percent for swing in any agreement period; (2) these same limits may be adjusted for carryforward and carryover up to 11 percent of the applicable category limit or sublimit; and (3) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement. Effective on May 27, 1986, paragraph 1 of the directive of February 4, 1986 is hereby amended to include the following adjusted restraint limits:

Category	Adjusted 6-month restraint limit [1]
359pt.[2]	520,119 pounds.
633	39,183 dozen.
641	235,675 dozen.
647/648	832,500 dozen of which not more than 444,000 dozen shall be in Category 647 and not more than 444,000 dozen shall be in Category 648.

[1] The limit has not been adjusted to reflect any imports exported after December 31, 1985.
[2] In Category 359, only T.S.U.S.A. numbers 381.0822, 381.6510, 384.0928, and 384.5227.

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,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-12147 Filed 5-29-86; 8:45 am]
BILLING CODE 3510-DR-M

Limits for Certain Cotton Textile Products Produced or Manufactured in Turkey

May 27, 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 30, 1986. For further information contact Ann Fields, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

On September 6, 1985, a notice was published in the **Federal Register** (50 FR 36462), which established import restraint limits for women's, girls' and infants' cotton coats in Category 335 and men's and boys' cotton shirts in Category 340, produced or manufactured in Turkey and exported during the twelve-month period which began on May 30, 1985 and extends through May 29, 1986. These limits filled on November 6, 1985 (Cat. 340) and December 16, 1985 (Cat. 335).

On December 24, 1984 a notice was published in the **Federal Register** (49 FR 49879) announcing that, as of January 1, 1985, the Committee for the Implementation of Textile Agreements, in order to prevent market disruption, would direct the U.S. Customs Service, as appropriate, to permit entry into the United States for consumption, or withdrawal from warehouse for consumption, of such goods which were exported during a prior restraint period in excess of the restraint limit

established for that period at a prescribed rate during the following period. CITA has decided, in the case of imports in Categories 335 and 340, exported from Turkey on and after May 30, 1985 and extending through May 29, 1986, to direct Customs to permit entry in amounts not to exceed 8,415 dozen (Cat. 335) and 50,075 dozen (Cat. 340) during each of the thirty-day periods stipulated in the letter to the Commissioner of Customs which follows this notice.

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).

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 27, 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. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed, effective on May 30, 1986, to permit entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 335 and 340, produced or manufactured in Turkey and exported during the twelve-month period which began on May 30, 1985 and extends through May 29, 1986, which were in excess of the limits established for that period, in the following amounts per category in each thirty-day period:

Category	Amount to be entered
335	8,415 dozen.
340	50,075 dozen.

The thirty-day periods shall be as follows:
May 30–June 28, 1986
June 29–July 28, 1986
July 29–August 27, 1986
August 28–September 26, 1986
September 27–October 26, 1986

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 of 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,

William H. Houston, III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86–12213 Filed 5–28–86; 9:39 am]

BILLING CODE 3510-DR-M

CONSUMER PRODUCT SAFETY COMMISSION

Notification of Request for Extension of Approval for Information Collection Requirements—Export of Noncomplying Products

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1981 (44 U.S.C. Chapter 35), the Consumer Product Safety Commission (CPSC) has submitted to the Office of Management and Budget a request for extension of approval, through June 30, 1989, of information collection requirements applicable to exporters.

Three statutes administered by CPSC—the Consumer Product Safety Act, the Federal Hazardous Substances Act, and the Flammable Fabrics Act—contain requirements on the exportation of noncomplying products, those that fail to comply with a safety regulation issued under one of the acts. The requirements are implemented by regulations at 16 CFR Part 1019. Exporters must notify the CPSC of their intention to export noncomplying products and the CPSC must, in turn, notify the countries of destination.

The notification information consists of the name, address, and telephone number of the exporter, the name and address of each consignee, the quantity and a description of the products to be exported, an identification of the applicable safety requirements, and the anticipated date of shipment and port of destination. The requirements are designed to assure that foreign countries are able to make informed choices about whether to allow into their territories products that are prohibited from commerce in the United States. Foreign countries use the collected information to make that determination, and the CPSC uses the information to fulfill its reporting obligations to the foreign countries.

The information must be submitted by exporters only when they intend to export noncomplying products. At that time, the information would be readily available to them.

Additional Details About the Request for Extension of Collection of Information

Agency address: Consumer Product Safety Commission, 1111 18th Street NW., Washington, DC 20207.

Title of information collection: Procedures for Export of Noncomplying Products. 16 CFR Part 1019.

Type of request: Extension of approval of information collection requirements contained in regulations.

Frequency of collection: Occasional reporting of information.

General description of respondents: Exporters of consumer products.

Estimated number of respondents: 20.

Estimated number of hours for all respondents: 100.

Comments: Comments on this request for extension of approval of information collection requirements should be addressed to Andy Velez-Rivera, Desk Officer, Office of Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, telephone: (202) 395–7340. Copies of the request for extension of approval of information collection requirements are available from Francine Shacter, Office of Budget, Program Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207, telephone: (301) 492–6529.

This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Dated: May 22, 1986.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 86–12117 Filed 5–29–86; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Engineers Corps, Department of the Army

Intent to Prepare a Draft Environmental Impact Statement for a Flood Control Project for Fort Wayne and Vicinity, IN

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS).

SUMMARY:

Proposed Action

A flood control project for Fort Wayne, Indiana, and vicinity is being studied to resolve flooding problems. Recognizing the economic, social and cultural problems caused by recurring floods in Fort Wayne and its vicinity, Congress provided the authority for this study by Resolution of the Committee on Public Works, House of Representatives, Congress of the United States, dated 20 October 1972.

Alternatives

A number of alternatives for flood control at Fort Wayne and vicinity have been formulated; both structural and nonstructural alternatives were included. Twelve alternative plans were identified to meet the identified problems and opportunities of the study area. Following evaluation at the Reconnaissance study stage, six alternatives are considered viable. Six alternatives, including the No Action alternative would be addressed in detail in the proposed Draft Environmental Impact Statement:

(1) No Action. Without project condition, no Federal action would be taken.

(2) 40 Percent Trier Ditch Diversion with Channel Modification. This alternative calls for construction of a Trier Ditch Cut-off that would carry 40 percent of the design flood peak discharge of the St. Marys River; channel modification of the Maumee River from Bruick Road to the confluence with the St. Marys River, of the St. Joseph River from Constance Avenue to its mouth, and of the St. Marys River from the confluence to Fairfield Ditch, and construction of levees where economically beneficial.

(3) 40 Percent Trier Ditch Diversion with Levee and Floodwall Protection. This alternative calls for construction of a Trier Ditch Cut-off which would carry 40 percent of the design flood peak discharge of the St. Marys River; channel modification of the Maumee River channel downstream of Trier Ditch and of the St. Joseph River from the mouth to Constance Avenue; construction of levees as necessary from U.S. (on the Maumee River) to Baer Field Thruway (on the St. Marys River); and floodplain evacuation and recreational development of selected areas.

(4) 80 Percent Trier Ditch Diversion. This alternative calls for construction of a Trier Ditch Cut-off that would carry 80 percent of the design flood peak discharge of the St. Marys River and channel modification of the Maumee River downstream from Trier Ditch and of the St. Joseph River from Constance Avenue to its mouth.

(5) Total Levee and Floodwall Protection. This alternative proposes to protect flood prone areas by constructing levees and/or increasing the heights of existing levees to a sufficient elevation to alleviate floodling.

(6) Flood Plain Evacuation with Wetland Retention. This alternative would include evacuation and restoration of the floodway fringe and improvement of existing levees to certificable standards. In addition, sites on Trier Ditch would be evaluated to determine their potential for wetland development for flood storage purposes.

Scoping Process

a. Public Involement. A public workshop was held on December 7, 1983 at Fort Wayne. The purpose of this workshop was to afford an opportunity to all parties to express their views concerning the need for flood protection in the Fort Wayne area. A reconnaissance report for Flood Control at Fort Wayne and vicinity, Indiana, was completed in June 1984 and distributed for public review and comment. Meetings have been held with Federal, state and local interests to discuss various aspects of the study, most recently a planning meeting in November 1985. This meeting included representatives of all interested agencies and allowed them to express any concerns with the above alternatives. Other public workshops, public meetings and informal planning meetings will be held throughout the study process to insure complete consideration of public interests. Coordination with Federal, State and local officials has been, and will continue to be, maintained.

b. Significant issues to be addressed in the EIS are:

(1) Water quality impacts to the St. Joseph River, St. Marys River, Maumee River and their tributaries, as a consequence of the proposed flood control alternatives.

(2) Nature of bottom sediment material to be disturbed or removed and the location of potential disposal sites.

(3) Impacts of alternatives on fish and wildlife resources, and historical/archaeological resources.

(4) Social and economic impacts of the proposed alternatives.

c. Other Environmental Review and Consultation Requirements—This project will be reviewed for compliance with the following: The Fish and Wildlife Act of 1956; Fish and Wildlife Coordination Act of 1958; National Historic Preservation Act of 1968; National Environmental Policy Act of 1969; Endangered Species Act of 1973; Water Resources Development Act of 1976; Executive Order 11990, Wetlands Protection, May 1977; Executive Order 11988, Floodplain Management, May 1977; Clean Air Act of 1977; Clean Water Act of 1977; Corps of Engineers, Department of Army, 33 CFR Part 230, Environmental Quality; Corps of Engineers, Department of Army, Policy and Procedures for Implementing NEPA (ER 200–2–2).

Estimated Date of Environmental Impact Statement Release

It is anticipated that the Draft Environmental Impact Statement will be available to the public in October 1986.

Address

Questions about the proposal action and Environmental Impact Statement can be answered by Ms. Florence Bissell, Environmental Analysis Branch, U.S. Army Corps of Engineers, Box 1027, Detroit, Michigan 48231.

Dated: May 22, 1986.

Robert F. Harris,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 86–12180 Filed 5–29–86; 8:45 am]

BILLING CODE 3710-GA-M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

College Housing Program; Application Notice for New Awards for Fiscal Year 1986

Applications are invited for new projects under the College Housing Program for fiscal year 1986.

This program is authorized under Title IV of the Housing Act of 1950, 12 U.S.C. 1749–1749d, and administered by the Secretary of Education under section 306

of the Department of Education Organization Act, 20 U.S.C. 3446.

Under this program, the Secretary is authorized to award low-interest loans to assist eligible institutions (1) in providing housing and other educational facilities for students and faculty members, and (2) in conserving energy and reducing related operating costs.

Closing Date for Transmittal of Applications

Applications for awards must be mailed or hand-delivered on or before June 30, 1986.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Attention: 84.142, Division of Higher Education Incentive Programs, 400 Maryland Avenue, SW., (ROB-3, Room 3022), Washington, DC 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping lable, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office. An applicant is encouraged to use registered or at least first class mail.

Applications Delivered by Hand: An application that is hand-delivered must be taken to the U.S. Department of Education, Division of Higher Education Incentive Programs, Room 3022, Regional Office Building 3, 7th and D Streets, SW., Washington, DC between 8:00 a.m. and 4:30 p.m. (Washington, DC time) daily except Saturdays, Sundays, or Federal holidays. Applications that are hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: The College Housing Program provides three precent interest loans to postsecondary educational institutions for the construction, rehabilitation or acquisition of student and faculty housing and related facilities, and for conserving energy and reducing related operating costs in existing facilities. The maximum amount that may be borrowed by an institution is $3,500,000, and the minimum amount is $100,000.

The program regulations specify selection criteria for the two types of loans available under this program. All applications are ranked according to the criteria contained in 34 CFR 614.31 and 614.32.

Available Funds: The Secretary is authorized to make available for new college housing loan commitments in fiscal year 1986, the amount of income from repayments, less expenses, up to a ceiling of $57,420,000. This amount reflects the 4.3 percent reduction in budget authority effected by the Balanced Budget and Deficit Control Act of 1985 (Gramm-Rudman-Hollings). Twenty-five percent of the available funds will be apportioned for energy conservation loans and seventy-five percent of the available funds will be apportioned for housing loans. These estimates do not bind the U.S. Department of Education to a specific number of loans or to the amount of any loan, unless that amount is otherwise specified by statute or regulations. However, the Administration has proposed to withdraw authority to make new loans in fiscal year 1986. Applicants should prepare and submit applications pending further notice.

In accordance with the program regulations (34 CFR 614.34), the Secretary may deviate from the rank order of applications, as necessary, to ensure that not less than 10 percent of total funds available and not less than 10 percent of the number of loans made are reserved for applications from Historically Black Colleges.

Application Forms: Application packages will not be mailed routinely to all institutions of higher education. Copies may be obtained by writing to the Division of Higher Education Incentive Programs, U.S. Department of Education, 400 Maryland Avenue, SW., (ROB-3, Room 3022), Washington, DC 20202, Telephone: (202) 245-3253.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information package is only intended to aid applicants in applying for assistance under this program. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or performance requirement beyond those imposed under the statute and regulations. The application form is approved by the Office of Management and Budget under control number 1840-0095.

Applicable Regulations: The regulations applicable to this program are as follows:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74, Subpart P; Part 75, §§ 75.600-73.615 (Construction); and Part 77, § 77.1 (Definitions).

(b) The regulations governing intergovernmental review of programs and activities in 34 CFR Part 79.

(c) The regulations governing the College Housing Programs in 34 CFR Part 614.

Intergovernmental Review: On June 24, 1983, the Secretary published in the Federal Register final regulations (34 CFR Part 79, published at 48 FR 29158 et seq.) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Implements section 401 of the Intergovernmental Cooperation Act of 1968 (31 U.S.C. 6506) and section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334);
- Allows States after consultation with local officials to establish their own process for review and comment on proposed Federal financial assitance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A-95.

For programs subject to section 204 of the Demonstration Cities and Metropolitan Development Act, State review and comment is obtained in accordance with the procedures set forth in that Act.

This program is listed in the Department's regulations as subject to section 204. Accordingly any applicant whose project comes within the crtieria of section 204 should immediately contact the State Single Point of Contact established under the Executive Order and follow the procedures established in that state to meet requirements of section 204.

Section 204 requires that—

1. Each application be accompanied by comments and recommendations from the areawide agency;

2. Each application contain a statement by the applicant that such comments and recommendations have been considered prior to formal submission of the application; and

3. In the absence of comments and recommendations, the applicant certifies that the areawide agency was provided at least 60 days to comment on the application and did not do so.

Any applicant subject to section 204 must submit its application by the June 30 closing date and shall supplement its application with the comments or assurances required by section 204 by July 31, 1986.

Special Procedures: On or before the closing date for submitting its application to the Secretary, the applicant shall submit a copy of its application to the appropriate State agency for postsecondary education for review. Comments, if any, are to be addressed to the Division of Higher Education Incentive Programs, U.S. Department of Education, 400 Maryland Avenue, SW., (ROB–3, 3022), Washington, DC 20202. Comments must be received within 20 days after the closing date if they are to be considered.

Technical Assistance Workshops: Applicants are invited to participate in technical assistance workshops to be held in five regional locations to assist applicants in application preparation. The workshops will take place in San Francisco on June 10, Dallas on June 13, Atlanta on June 17, Washington, DC on June 17, and Cincinnati on June 19. For specific information on these workshops, please contact the Division of Higher Education Incentive Programs on (202) 245–3253.

Further Information: For further information, contact the Division of Higher Education Incentive Programs (College Housing Program), Department of Education, 400 Maryland Avenue, SW (ROB–3, 3022), Washington, DC 20202. Telephone: (202) 245–3253.

(12 U.S.C. 1749d)

(Catalog of Federal Domestic Assistance Number 84.142, College Housing Program)

Dated: May 27, 1986.

William J. Bennett,

Secretary of Education.

[FR Doc. 86–12204 Filed 5–29–86; 8:45 am]

BILLING CODE 4000–01–M

Assessment Policy Committee, National Assessment of Educational Progress; Meeting

AGENCY: Department of Education.

ACTION: Notice of meeting.

SUMMARY: The Secretary of Education has scheduled a meeting of the Assessment Policy Committee of the National Assessment of Educational Progress (NAEP). The purpose of the meeting is to provide guidance and direction to the Office of Educational Research and Improvement supported NAEP project. The entire meeting will be open to the public.

DATE: May 31, 1986, 8:30 a.m. to 3:00 p.m.

Location: Henry Chauncey Conference Center, Educational Testing Service, Princeton, New Jersey.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Barton, Liaison-APC, National Assessment of Educational Progress, CN 6710, Princeton, NJ 08541–6710, telephone: (800) 223–0267.

SUPPLEMENTARY INFORMATION: One of the primary purposes of NAEP is to assess the performance of children and young adults in the basic skills of reading, mathematics, and communications. The Assessment Policy Committee (APC) is established by section 405(k)(2)(A) of the General Education Provisions Act, 20 U.S.C 1221e(k)(2)(A). The committee is responsible for the design of NAEP including the selection of learning areas to be assessed, the development and selection of goal statements and assessment items, the assessment methodology, and the form and content of the reporting and dissemination of the assessment results. The committee is also responsible for the implementation of studies to evaluate and improve the form and utilization of the National Assessment.

The Agenda for the meeting includes—

- Content of the 1987–88 assessment;
- Policy on the release of assessment exercises;
- Prior review by OERI of NAEP publications;
- Report of the Technical Advisory Committee;
- Expiring terms of members;
- Planning for NAEP's future;
- Status of upcoming NAEP reports.

To assure adequate seating arrangements and to obtain an advance copy of the final agenda, individuals wishing to attend may contact Mr. Paul Barton at the address above.

Dated: May 28, 1986.

(Catalog of Federal Domestic Assistance Number 84.117, Educational Research and Improvement)

Chester E. Finn, Jr.,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 86–12291 Filed 5–29–86; 8:45 am]

BILLING CODE 4001–01–M

DEPARTMENT OF ENERGY

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Switzerland Concerning Civil Uses of Atomic Energy, as amended.

This subsequent arrangement would give approval, which must be obtained under the above-mentioned agreements for the following transfer of special nuclear materials of United States origin, or of special nuclear materials produced through the use of materials of United States origin, as follows: From Switzerland to France (Compagnie Generale des Matieres Nucleaires) for the purpose of reprocessing 64 irradiated fuel assemblies, containing 11,289 kilograms of uranium enriched to 0.91% in U-235 and 94 kilograms of plutonium from the Muhleberg power station. This subsequent arrangement is designated as RTD/EU(SD)–59. The Department of Energy has received letters of assurance from the Government of Switzerland that the recovered uranium and plutonium will be stored in France, and will not be transferred from France, nor put to any use, without the prior consent of the United States Government.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice and after fifteen days of continuous session of the Congress, beginning the day after the date on which the reports required by section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) are submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above shall run concurrently.

For the Department of Energy.

Dated: May 23, 1986.

George J. Bradley, Jr.,

Acting Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 86-12126 Filed 5-29-86; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. ERA-FC-85-025; OFP Case No. 61050-9254-22-22]

Powerplant and Industrial Fuel Use; Order Granting Alaska Electric Generation and Transmission

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Order Granting Alaska Electric Generation and Transmission, Cooperative, Exemption from Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that it has granted a permanent reliability of service exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* ("FUA" of "the Act"), to Alaska Electric Generation and Transmission, Cooperative (AEG&T or "the petitioner"), of Palmer, Alaska. The permanent reliability of service exemption for a proposed new electric powerplant permits the use of a natural gas-fired combustion turbine with a nameplate rating of 39 MW, that will operate as a simple-cycle combustion turbine unit to produce electrical power at AEG&T's plant at Soldotna, Alaska. The new unit, identified as Soldotna powerplant unit No. 2, is expected to commence operation to meet load forecast electrical demands commencing in the winter of 1988. The final exemption order and detailed information on the proceeding are provided in the **SUPPLEMENTARY INFORMATION** section, below.

DATES: The order shall take effect on July 29, 1986.

The public file containing a copy of the order, other documents, and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, DC 20585, Monday through Friday, 9:00 a.m. to 5:00 p.m., except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Frank Duchaine, Coal & Electricity Division, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA-045, Washington, DC 20585 Telephone (202) 252-8233

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6A-113, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone (202) 252-6749

SUPPLEMENTARY INFORMATION: AEG&T proposes to install a new combustion turbine powerplant unit at Soldotna, Alaska. The new unit will operate as a baseload intergrated system producing electricity to meet forecast demands commencing with the winter of 1987-88.

The major equipment component will be a packaged combustion turbine powerplant, similar to a simple-cycle type, having an ISO base rating of approximately 39,000 kW when firing natural gas. Heat rate is anticipated to be 11,000 Btu/kWh, and planned capacity factor is 30 percent.

Natural gas will be the primary fuel; distillate oil may be used as backup fuel for emergency purposes only. Natural gas consumption, at base rated load, will be approximately *7200* standard cubic feet per minute. Fuel oil consumption, when firing oil, will be at a rate of approximately 55 gpm at base rated load.

Basis for Permanent Exemption Order

The permanent exemption order is based upon evidence in the record including AEG&T's certification to ERA, in accordance with 10 CFR 503.40(a)(c), that:

1. AEG&T is not able to construct an alternate fuel fired powerplant in time to prevent an impairment of reliability of service;

2. Despite diligent good faith efforts, AEG&T is not able to make the demonstraiton necessary to obtain a permanent exemption for lack of alternate fuel supply, site limitations, environmental requirements, inadequate capital, or State and local requirements in the time required to prevent an impairment of reliability of service;

3. No alternate power supply exists; and

4. Use of mixtures is not feasible.

Procedural Requirements

In accordance with the procedural requirements of section 701(c) of FUA and 10 CFR 501.3(b), ERA published its Notice of Acceptance of Petition and Availability of Certification in the **Federal Register** on September 20, 1985, commencing a 45-day public comment period.

A copy of the petition was provided to the Environmental Protection Agency for comments as required by section 701(f) of the Act. During the comment period, interested persons were afforded an opportunity to request a public hearing. The comment period closed on November 4, 1985; no comments were received and no hearing was requested.

NEPA Compliance

After review of the petitioner's environmental impact analysis, together with other relevant information, ERA has determined that the granting of the requested exemption does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act.

Order Granting Permanent Reliability of Service Exemption

Based upon the entire record of this proceeding, ERA has determined that AEG&T has satisfied the eligibility requirements for the requested permanent reliability of service exemption, as set forth in 10 CFR 503.40. Therefore, pursuant to section 212(c) of FUA, ERA hereby grants a permanent reliability of service exemption to AEG&T to permit the use of natural gas as the primary energy source for its proposed facility in Soldotna, Alaska.

Pursuant to section 702(c) of the Act and 10 CFR 501.69, any person aggrieved by this order may petition for judicial review thereof at any time before the 60th day following the publication of this order in the **Federal Register.**

Issued in Washinton, DC on May 14, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-12130 Filed 5-29-86; 8:45 am]

BILLING CODE 6450-01-M

Proposed Remedial Order to Thetis Energy Corporation

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Proposed Remedial Order to Thetis Energy Corporation.

SUMMARY: Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Thetis Energy Corporation, John C. Rudolph, President, 1726 Cole Boulevard, Suite 325, Golden, Colorado 80401. This Proposed Remedial Order alleges pricing violations in the amount of $145,240.19 plus interest, in connection with the sale of crude oil at prices in excess of those permitted

under 10 CFR Part 212 during the time period June 1, 1979 through December 31, 1980. The effect of the alleged violations is nationwide..

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: Office of Freedom of Information Reading Room, United States Department of Energy, Forrestal Building, Room 1E–190, 1000 Independence Avenue, SW., Washington, DC 20585.

Within fifteen (15) days of publication of this Notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, United States Department of Energy, Forrestal Building, Room 6F–078, 1000 Independence Avenue, SW., Washington, DC 20585, in accordance with 10 CFR 205.193. The Notice shall be filed in duplicate, shall briefly describe how the person would be aggrieved by issuance of the Proposed Remedial Order as a final order and shall state the person's intention to file a Statement of Objections.

Pursuant to 10 CFR 205.193(c), a person who files a Notice of Objection shall on the same day serve a copy of the Notice upon:

Sandra K. Webb, Director, Economic Regulatory Administration, U.S. Department of Energy, One Allen Center, Suite 610, 500 Dallas Street, Houston, Texas 77002

and upon:

Carl A. Corrallo, Solicitor, Economic Regulatory Administration, U.S. Department of Energy, Room 3H–017, RG–15, 1000 Independence Avenue, SW., Washington, DC 20585

Issued in Houston, Texas on the 25th day of April, 1986.

Sandra K. Webb,

Director, Houston Office, Economic Regulatory Administration.

[FR Doc. 86–12129 Filed 5–29–86; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals

Special 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 $4,652,548.54 (plus accrued interest) obtained from three crude oil producers: Windsor Gas Corporation, Union Oil Company of California, and Timco Oil Company, Case Nos. KEF–0002, KEF–0004, KEF–0006. The funds will be distributed in accordance with the DOE Policy of Restitution for Crude Oil Overcharges.

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 Decision and Order set out below. The Decision and Order sets forth the procedures that the DOE has formulated to distribute monies obtained from three crude oil producers: Windsor Gas Corporation (Windsor), Union Oil Company of California (Union), and Timco Oil Company (Timco). Each firm remitted monies to the DOE to settle possible pricing violations with respect to its sales of crude oil. Additional information on each firm is contained in the Appendix to the Decision and Order. The firms' payments are being held in three separate interest-bearing escrow accounts pending distribution by the DOE.

The DOE had decided that the distribution of the monies received from Windsor, Union, and Timco will be governed by the DOE Policy of Restitution for Crude Oil Overcharges, 50 FR 27400 (1985). That policy states that all overcharge funds associated with crude oil miscertifications should be held in escrow pending Congressional action.

Dated: May 22, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

May 22, 1986.

Names of Cases: Windsor Gas Corporation, Union Oil Company of California, Timco Oil Company

Dates of Filings: October 16, 1935, October 16, 1985, October 18, 1985

Case Numbers: KEF–0002, KEF–0004, KEF–0006

Pursuant to the Department of Energy (DOE) procedural regulations, 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 distribute funds received as the result of enforcement proceedings involving alleged violations of DOE regulations. This Decision and Order addresses the ERA's request that the OHA formulate procedures to distribute $4,652,548.54 plus interest received from the following three companies: Windsor Gas Corporation (Windsor); Union Oil Company of California (Union); the Timco Oil Company (Timco) (hereinafter referred to collectively as "the three firms").

As crude oil producers, each of the three firms was subject to the DOE's Mandatory Petroleum Price Regulations. The ERA's audit of each firm revealed that it may have violated those regulations in its crude oil sales. The DOE's disputes with Timco and Union were settled when these firms signed separate Consent Orders, agreeing to pay specified sums of money to the DOE. Neither Timco nor Union has admitted to any violations of the regulations. [1] Windsor, however, was found to have violated the regulations in a Decision and Order issued by the OHA. *Windsor Gas Corp.*, 8 DOE ¶ 83,038 (1981), *aff'd*, 25 FERC ¶ 61,254 (1983). Pursuant to the OHA's Decision, Windsor was required to refund its overcharges. The three firms' payments are currently being held in separate interest-bearing escrow accounts pending distribution by the DOE. Additional information about the three firms' payments is set forth in the Appendix to this Decision and Order.

On March 20, 1986, the OHA issued a Proposed Decision and Order setting forth its tentative conclusions concerning distribution of the Windsor, Union, and Timco monies. 51 FR 11100 (April 1, 1986). The OHA concluded that since the monies were received in settlement of alleged crude oil overcharges and the DOE has set a policy for the distribution of all crude oil refunds, the monies received from Windsor, Union, and Timco should be distributed in accordance with DOE Policy. *Cf.* 50 FR 27400 (1985)

The OHA solicited comments to the Proposed Decision and 14 interested parties submitted such comments. Each of the commenters argue that OHA should not follow the DOE Policy in this case. Since all of the comments are directed at the DOE Policy, we will discuss the Policy in greater detail before addressing the comments received.

[1] In 1983, the OHA issued a Decision and Order ruling that Timco violated the regulations. *Timco Oil Co.*, 10 DOE ¶ 83,025 (1983). Timco appealed this Decision but entered into a Consent Order before the appeal was ruled upon.

The DOE Crude Oil Policy

Under the DOE Policy no claims for direct restitution will be accepted if those claims are based on crude oil overcharges. Instead, such overcharge funds will be held in escrow to afford Congress the opportunity to select the means of making indirect restitution.

The DOE Crude Oil Policy arose out of a report which the OHA issued in the Stripper Well Exemption Litigation. *Report of the Office of Hearings and Appeals, In Re: The Department of Energy Stripper Well Exemption Litigation*, MDL No. 378 (D. Kan. filed June 21, 1985), Fed. Energy Guidelines ¶ 90,507 (1985). That Report concluded that the Entitlements Program spread the effects of crude oil miscertifications throughout the crude oil industry.[2] From the OHA's findings, the Deputy Secretary of Energy concluded that an indirect means of effectuating restitution was appropriate in crude oil refund proceedings. Therefore, on June 21, 1985, the Deputy Secretary established the DOE Policy of restitution for Crude Oil Overcharges. 50 FR 27400 (July 2, 1985). The policy statement announced that the DOE would maintain overcharge monies in escrow to afford Congress the opportunity to select the means of making indirect restitution. Should Congress decline to act on the issue by the fall of 1986, the DOE stated that the funds should be paid to the miscellaneous receipts accounts of the United States Treasury in order to benefit all Americans.

In June 1985, the OHA issued an order announcing that it intended to follow the DOE Policy. 50 FR 27402 (July 2, 1985). The OHA solicited and considered comments to that announcement and determined that it would apply to DOE Policy in all special refund cases involving crude oil. *Amber Refining, Inc.*, 13 DOE ¶ 85,217 (1985) (*Amber*).

With this background in mind, we turn to the comments submitted to our proposal to distribute the Windsor, Union, and Timco monies in accordance with the DOE Policy.

[2] The Crude Oil Entitlements Program, part of the DOE's system of mandatory petroleum price and allocation controls, was in effect from November 1974 through January 1981. The program was intended to equalize access to the benefits of crude oil price controls among all domestic refiners and their downstream customers. To accomplish this end, refiners were required to make transfer payments among themselves through the purchase and sale of entitlements. Because of the manner in which the program worked, it had the effect of dispersing overcharges resulting from crude oil miscertifications throughout the domestic refining industry. *Amber Refining, Inc.*, 13 DOE ¶ 85,217 (1985).

Comments to the Proposed Decision

In response to the Proposed Decision and Order in this case, the OHA received comments from 14 parties. While all of the comments argue that the Windsor, Union, and Timco monies should not be distributed in accordance with the DOE Policy, none of the comments presents any reason why the Policy is inapplicable to these funds. Rather, the comments suggest that alternative methods of restitution are preferable. For example, the States of Arkansas, California, Delaware, Iowa, Louisiana, North Dakota, Rhode Island, Utah and West Virginia and the Commonwealth of Pennsylvania argue that state governments are the most appropriate recipients of refund monies not designated for readily identifiable injured parties. Four end-users argue that end-users should be allowed to present and prove claims for refunds.[3]

We have reviewed each of the comments submitted in this proceeding. However, we cannot agree with the views which these comments present. In light of our Decision in *Amber*, we have determined that the funds obtained from Windsor, Union, and Timco should be pooled with other crude oil funds for distribution in accordance with departmental policies. Each of the parties who commented in this proceeding also submitted comments to the OHA in *Amber* or in *In Re: Stripper Well Litigation*. Therefore, their views were known to the OHA prior to its decision to apply the DOE Policy in crude oil refund proceedings. As we stated in *Amber*, there is no merit to comments which disagree with the OHA implementation of DOE policies. *Amber*, 13 DOE at 88,569. The DOE Policy is based upon our fact-finding in the OHA Stripper Well Report and is within the DOE's restitutionary authority. OHA's delegation expressly subjects it to Departmental policies and determinations such as this one are governed by Departmental policy. *Id.*

It Is Therefore Ordered That:

The refund amount obtained from Windsor Gas Corporation pursuant to the Remedial Order issued on October 23, 1981 and the refund amounts obtained from Union Oil Company of California and Timco Oil Company pursuant to Consent Orders entered into with the Economic Regulatory Administration on June 13, 1985 and October 22, 1984, shall be distributed in the manner set forth in the foregoing Decision and Order.

George B. Breznay,

Director, Office of Hearings and Appeals.

Dated: May 22, 1986.

Appendix

Firm: Windsor Gas Corporation
Case Number: KEF–0002
Refund Amount (Principal): $77,558.54
Covered Time Period: September 1, 1974 through December 31, 1977
Violations: Miscertification of crude oil
Producing Area: Sutton and Duval Counties, Texas

Firm: Union Oil Company of California
Case Number: KEF–0004
Consent Order Amount: $4,500,000.00
Consent Order Period: June 1979 through January 1981
Alleged Violations: Regulations concerning marginal and newly discovered crude oil
Producing Area: Louisiana

Firm: Timco Oil Company
Case Number: KEF–0006
Consent Order Amount: $75,000.00
Consent Order Period: January 1, 1974 through December 31, 1977
Alleged Violations: Miscertification of curde oil
Producing Area: Signal Hill Area of Long Beach, California

[FR Doc. 86–12127 Filed 5–29–86; 8:45 am]
BILLING CODE 6450–01–M

[3] Each of these commenters (Philadelphia Electric Company, National Freight, Inc., RJG Cab, Inc. and Geraldine H. Sweeney) purports to represent a class of petroleum end-users (public utilities, trucking companies, taxicab companies, and non-commercial automobile owners).

Issuance of Decisions and Orders; Week of April 7 Through April 11, 1986

During the week of April 7 through April 11, 1986, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Daniel Hirsch, 04/11/86, HFA–0243

Daniel Hirsch filed an Appeal from a denial by the Acting Director of the Department of Energy, Office of Classification of a request for information which Mr. Hirsch had submitted under the Freedom of Information Act (FOIA). Portions of the document, entitled "Memorandum on the History of the Thermonuclear Program," were initially withheld under Exemption 3 of the FOIA. In considering the Appeal, DOE found that most of the material originally deleted from the document still contained classified information which was exempt from mandatory disclosure under the FOIA. However, the DOE found that some material could be released because of revisions in the classification code. Accordingly, a copy of the document in releasable form was transmitted to Mr. Hirsch.

Ivan Van Zuckerstein, 04/11/86, KFA-0023

Ivan Van Zuckerstein (Apellant) filed a Motion for Reconsideration of a Decision issued to him by the DOE in connection with a Freedom of Information Act Appeal. In the appeal decision, the DOE upheld the determination of the Manager of the Chicago Operations Office that information requested by the Appellant concerning his employment by a DOE contractor was exempt from mandatory disclosure under Exemption 5 of the FOIA. In considering the Motion for Reconsideration, the DOE found that the Appellant had failed to demonstrate error or omission in the appeal decision and had simply reiterated arguments raised in the underlying appeal proceeding. Accordingly, the DOE denied the Motion.

Natural Resources Defense Council, 04/08/86, KFA-0026

Natural Resources Defense Council (NRDC) filed an Appeal from a denial by the Director, Office of the Executive Secretariat (OES) a request for a document analyzing a Russian above-ground nuclear test, which NRDC had submitted pursuant to the Freedom of Information Act (FOIA). In his determination, the Director stated that he was unable to locate the document in OES files and therefore denied the request on the basis that no documents responsive to NRDC's request existed. In considering the Appeal, the DOE contacted the Albuquerque Operations Office, which discovered that a copy of the document existed in the files of the Los Alamos National Laboratory. The DOE determined that NRDC's FOIA request should be transferred to the Albuquerque Operations Office for processing. Accordingly, the Appeal was granted.

Remedial Orders

C&H REFINERY, INC., 04/07/86, KRO-0100

C&H Refinery, Inc. (C&H) objected to a Proposed Remedial Order alleging that it claimed small refiner bias (SRB) entitlements benefits for crude oil processed by other refiners pursuant to three processing agreements and violated 10 CFR 211.67(e). That section prohibited a small refiner from claiming SRB entitlements based on runs to stills, where the crude oil was purchased from, and the resulting products were sold directly or indirectly to, the processing refiner. DOE found that with respect to two processing agreements, C&H both indirectly purchased the crude oil from, and sold the resulting refined products to, the processing refiner. With respect to a third processing agreement, the DOE found that the crude oil obtained by C&H from the processing refiner in an exchange agreement was no different from any other purchase of crude oil for purposes of § 211.67(e)(2). Thus, the DOE found that C&H's claim for SRB entitlements benefits for its runs to stills in connection with these three processing agreements violated § 211.67(e)(2). Accordingly, the Propsed Remedial Order was issued as a final Remedial Order and C&H was directed to remit $2,004,679 plus interest to the DOE to compensate for its excess SRB entitlements benefits.

Osborne Energy Corporation, E.O. WHITE, 04/08/86, HRO-0116

Osborne Energy Corporation and its president, E.O. White, (Respondents) objected to Proposed Remedial Order alleging that they violated the provisions of the DOE layering regulation, by reselling crude oil at a price in excess of its purchase price, without providing any service or other function associated with the resale of crude oil. The DOE first found that because neither party convincingly traced the exact source of the crude oil involved in the layered sales, the appropriate measure of the overcharge in the case was the amount of the respondents' gross crude oil profits during the audit period. The DOE then determined that, with the exception of two specific sales, the Respondents had provided no financing services, market function services, or transportation services. Finally, the DOE determined that White should be held personally responsible for Osborne's prohibited trading activities, and had benefited from those transactions. Accordingly, the PRO was issued as a final Remedial Order directing the Respondents to remit $925,101.27 plus interest to the DOE.

R.W. Tyson Producing Company, Inc., 04/08/86, HRO-0166

R.W. Tyson Producing Company, Inc. objected to a Proposed Remedial Order alleging that it charged prices in first sales of domestic crude oil which exceeded the applicable ceiling prices permitted under 10 CFR Part 212, Subpart D. The DOE found that Tyson's production qualified as "crude oil," despite its extraordinarily heavy density. In addition, the DOE found that the overcharges resulted from charging prices for crude oil that were based on the wrong posted prices. The DOE dtermined that in the absence of a specific posted price for Tyson's oil fields on May 15, 1973, Tyson should have referred to the nearest field for which there was a posted price for a similar grade of heavy crude oil. However, the DOE also found that the PRO may not have taken into account previously granted exception relief at one of Tyson's wells, and that the alleged overcharge in connection with that well should therefore be dismissed without prejudice. Accordingly, the PRO was modified and issued as a final Remedial Order, directing Tyson to remit $90,731.05 plus interest to the DOE.

Shell Oil Company, 04/10/86, HRO-0019, HRZ-0019

Shell Oil Company objected to a Proposed Remedial Order alleging that it had (i) improperly calculated its increased domestic crude oil costs by using the volume of crude oil taken into the firm's refineries during the month of measurement, rather than the volume of crude oil purchased during that month, and (ii) improperly included in its landed cost of crude oil the value which the firm attributed to its fee-free import licenses. The DOE determined that the refiner price regulations required the calculation of crude oil costs increases using the volume of crude oil purchased during the month, not the volume of crude oil refined, and further that since Shell had incurred no costs in receiving its fee-free import licenses, it could not properly include any "costs" of such licenses units landed cost of crude oil. The Proposed Remedial Order was therefore issued as a final Remedial Order, directing Shell to recalculate its crude oil costs and make approriate adjustments to its banked costs.

Texaco, Inc., 04/11/86, HRO-0012

Texaco, Inc. objected to a Proposed Remedial Order alleging that it violated the refiner cost recovery rules in its pricing of gasoline and No. 2 oils. The DOE rejected Texaco's claim that the doctrines of estoppel and laches applied to the PRO's allegations that the equal application/deemed recovery rule applied when the firm used different increased cost increments for its consumer and reseller classes in sales of motor gasoline and No. 2 oils. The DOE also rejected Texaco's contention that for purposes of the equal application rule, each grade of gasoline constituted a separate product, and found that a refiner could not apply increased costs attributable to gasoline in unequal increments to different grades of gasoline without invoking the rule. The DOE therefore issued the PRO as a final Order, and directed that Texaco either refund a total of $142,783,783 to the DOE, or make appropriate adjustments to its bank of unrecouped product costs.

Implementation of Special Refund Procedures

Howell Corporation and Quintana Refinery Company, 04/08/86, HEF-0212

The DOE issued a Decision and Order implementing procedures for the distribution of $2,205,115 remitted by Howell Corporation and Quintana Refinery Company pursuant to a consent order entered into with the DOE. The Decision stated that customers of refined petroleum products from Howell or the Quintana Howell Joint Venture during the period August 19, 1973 through December 31, 1978 who were injured by their purchases may apply for refunds from the consent order fund. The Decision further provided that reseller claimants who limit their claims to $5,000 and end-users would not be required to prove that they absorbed the alledged overcharges.

Refund Applications

Armour Oil Company/E-Z Serve, Inc. 04/08/86, RF167-2

The DOE issued a Decision and Order concerning an Application for Refund filed by E-Z Serve, Inc., in connection with a consent order fund made available by the Armour Oil Company. E-Z Serve, a reseller of motor gasoline, provided documentation showing it was injured with respect to some of its Armour purchases, but did not submit sufficient data to establish that it was injured in each month of the period for which a refund was claimed. Accordingly, the DOE granted the firm a refund based on the $5,000 threshold amount. The total refund amount approved in this Decision is $6,616 ($5,000 principal plus $1,616 interest).

F.O. Fletcher, Inc./Alfred Norm Drew, Paddy's Fuel, 04/08/86, RF172-27, RF172-28

The DOE issued a Decision and Order concerning Applications for Refund filed by Alfred Norm Drew and Paddy's Fuel, in connection with a consent order fund made available by F.O. Fletcher, Inc. The applicants, resellers of motor gasoline,

provided evidence that they purchased motor gasoline from Fletcher during the consent order period and requested a refund below the $5,000 small claims threshold. The DOE granted each applicant a refund based on a prorated portion of its Fletcher overcharges, as set forth in DOE audit files. The total amount of refunds approved in this Decision is $1,179 ($614 in principal plus $565 in interest).

Gulf Oil Corporation/Day and Night Gas Company, Inc., 04/07/86, RF40-3009

The DOE issued a Decision and Order concerning an Application for Refund filed by a reseller of Gulf petroleum products, Day and Night Gas Company, Inc., in connection with the Gulf Oil Corporation refund proceeding. In considering the application, the DOE pointed out that the firm had no records of its Gulf purchases for the pertinent period and could not explain how it developed its purchase volume figures. Accordingly, the DOE found that it was impossible to calculate a refund amount for the firm. However, the DOE recognized that at some future date the purchase volume data and pricing information necessary to support a claim might become available to the firm. Therefore, Day and Night's Application for Refund was dismissed without prejudice to a future refiling.

Gulf Oil Corporation/Ernie's Guld Service, et al., 04/10/86, RF40-217, et al.

The DOE issued a Decision and Order granting refunds to four retailers of Gulf refined products from the Gulf Oil Corporation consent order fund. The DOE found that each of the applicants had demonstrated that it would not have been required to pass through to its customers a cost reduction equal to the refund claimed. The firms were granted refunds totalling $4,443 ($3,739 principal plus $704 interest).

Kingston Oil Supply Corporation/David Rubin, 04/10/86, RF197-1

David Rubin filed an Application for Refund in connection with a consent order fund made available by Kingston Oil Supply Corporation. Mr. Rubin was an end-user of No. 4 residual fuel oil who was identified by the DOE's audit of Kingston as an allegedly overcharged customer. Accordingly, the DOE approved a total refund to Mr. Rubin of $864, representing $546 in principal and $318 in interest.

Little America Refining Company/Silco Oil Company, 04/08/86, RF112-7

The DOE issued a Decision and Order concerning an Application for Refund filed by Silco Oil Company, a purchaser of products covered by a consent order between the DOE and Little America Refining Company (Larco). Silco requested a refund of $45,884, its volumetric share of the Larco consent order funds. In considering the application, the DOE determined that Silco was unable to demonstrate whether it had banks of unrecovered costs throughout the consent order period. Therefore, the DOE found it appropriate to limit Silco's refund to the $5,000 small claims threshold. Accordingly, Silco was granted a refund of $5,000 in principal and $2,475 in interest.

Lowe Oil Company/Central Cooperatives, Inc., Stan's Hardware, 04/10/86, RF206-1, FR206-5

The DOE issued a Decision and Order concerning Applications for Refund filed by Central Cooperatives, Inc. and Stan's Hardware, in connection with a consent order fund made available by Lowe Oil Company. Each of the two firms was identified in the DOE's audit files as having purchased motor oil from Lowe during the audit period. Further, each firm submitted evidence of the quantity of Lowe product it purchased. Since the refunds requested were below the $5,000 small claims threshold, they were not required to submit a detailed showing of injury. The total refunds granted were $3,630, including $2,423 in principal and $883 in interest.

MAPCO, Inc./Jim Thomas Enterprises, Inc., 04/10/86, RF108-10

Jim Thomas Enteprises, Inc. (JTE) filed an Application for Refund in which the firm sought a portion of the fund obtained by the DOE through a consent order entered into with MAPCO, Inc. The DOE found that JTE demonstrated that it purchased MAPCO propane and butane during the consent order period and that JTE experienced a competitive disadvantage as a result of those purchases. Accordingly, JTE was granted a refund of $84,986.57, including $48,076.42 in principal and $36,910.15 in interest.

Moyle Petroleum Company/Pactola Pines, et al., 04/07/86, RF201-1, et al.

The DOE issued a Decision and Order concerning four Applications for Refund filed in connection with a consent order fund made available by Moyle Petroleum Company. Each of the four applicants was identified in the DOE's Moyle audit file as having sustained overcharges. The DOE concluded that each of the firms was eligible for a refund of less than $5,000. The total amount of refunds granted was $3,251, representing $1,861 in principal and $1,390 in interest.

National Helium Corp./Indiana, Pennzoil Co./Indiana, Standard Oil Co. (Indiana)/Indiana, 04/07/86, RQ3-273, RQ10-284, RM21-17

The Office of Hearings and Appeals issued a Decision and Order considering the State of Indiana's second stage refund plan for use of National Helium Corporation and Pennzoil Company consent order funds, and the State's motion to modify the use of $25,000 of Standard Oil Company (Indiana) (Amoco) funds which had been previously approved. The OHA approved Indiana's restitutionary plan to use $273,167 in National Helium funds, $35,386 in Pennzoil funds and $25,000 in Amoco funds to supplement funding of a loan subsidy and matching grant weatherization program. Immediate disbursement of the Pennzoil funds was not authorized because of pending litigation.

Palo Pinto Oil and Gas/State of New Mexico, 04/10/86, RM5-20

The DOE issued a Decision and Order denying the State of New Mexico's Motion to Modify its second-stage refund plan for use of money allotted to it that the Palo Pinto Oil and Gas consent order fund. The DOE found that New Mexico's proposal to purchase energy education materials for its public school students would not provide restitutionary benefit to those citizens that were likely to have been injured by the relevant Palo Pinto transactions. The State was invited to submit an alternate plan for use of those funds.

Plateau, Inc./Graves Oil & Butane Company/Dial Oil Company, 04/09/86, RF204-6, RF204-8

The DOE issued a Decision and Order granting refunds from the Plateau, Inc. desposit escrow account to two wholesale resellers of Plateau covered products. Since neither firm's refund request exceeded the small claims threshold level, the DOE granted the refunds without requiring the applicants to submit additional evidence of injury. The refunds to these firms total $8,269, representing $5,367 in principal and $2,902 in interest.

Dismissals

The following submissions were dismissed:

Name and Case No.

Adamo's Gulf Service Garage, RF40-2163
Bublitz Oil Company, KEE-0023
Butler's Gulf Service, RF40-323
C.G. Sweigart Oil Co., RF40-2568
Don & Stan's Gulf, RF40-1216
Fallwood Service Center, RF40-1186
Furniture City Gulf Service, RF193-1280
Gray's International of Oregon, RF193-21
Henke Fair Gulf Service, Inc., RF40-1358
Irondale Gulf, RF40-1349
Lower State Gas Co., RF40-2627
M.C. Newsome & Son Gulf Station, RF40-340
Rishel's Gulf Service, RF40-265
Royer Auto Service, RF40-250
Russell Creek Gulf, RF40-1181
Schiavone Service Station, RF40-1159
Swain & Whiteman, RF40-2607
Tom's Gulf Service, RF40-1090
Valley Distributing Co., RF40-2508
Walsh's Service, RF40-1383
Wiles Oil Company, RR112-1

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Buiding, 1000 Independence Avenue SW., Washington, D.C. 29585, Mondaya through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

May 23, 1986.

[FR Doc. 86-12125 Filed 5-29-86; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Rio Grande Project; Proposed Power Rate Adjustment

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Proposed Power Rate Adjustment—Rio Grande Project, New Mexico.

SUMMARY: The Western Area Power Administration (Western) is proposing a rate increase for power and energy from the Rio Grande Project (RGP). The rate increase is required to cover increased annual operating expenses and to repay the Federal investment in the project. The proposed rate is composed of a $7.93 per kilowatt-month capacity charge and an 18.66 mills per kWh energy charge. This proposed rate is equal to a composite rate of 37.32 mills per kWh at 58.2 percent load factor (LF). The present rate is composed of a $6.545 per kilowatt-month capacity charge and a 15.45 mills per kWh energy charge which equals a composite rate of 30.85 mills per kWh at 58.2 percent LF.

A brochure explaining the need for a rate increase and outlining the methodology used in developing the current proposed rate will be distributed to the RGP power customers and other interested parties. According to the "Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions," 10 CFR Part 903, the proposed RGP rate adjustment is a minor rate adjustment since annual sales are normally less than 100 million kilowatthours, and a public information and comment forum is not required. After review of public comments, Western will recommend a final proposed rate.

DATES: The consultation and comment period will begin with publication of this notice in the **Federal Register** and will end 30 days thereafter or 15 days after any written response to questions submitted during the comment period, whichever is later. It is anticipated that the proposed rate will go into effect with the April 1987 billing period.

Written comments should be received by the end of the consultation and comment period to be assured of consideration. Written comments may be submitted to the address below.

FOR FURTHER INFORMATION CONTACT: Mr. Lloyd Greiner, Area Manager, Salt Lake City Area Office, Western Area Power Administration, P.O. Box 11606, Salt Lake City, UT 84147, (801) 524–5493.

SUPPLEMENTARY INFORMATION: Power rates for the RGP are established pursuant to the Department of Energy Organization Act of August 4, 1977, 42 U.S.C. 7101 *et seq.*, the Reclamation Act of 1902, ch. 1093, 32 Stat. 388 (1902), as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939, 43 U.S.C. 485h(c); and the acts specifically applicable to the project.

The Secretary of Energy, by Delegation Order No. 0204–108 (48 FR 55664, December 14, 1983), delegated to the Administrator of Western the authority to develop power and transmission rates; to the Deputy Secretary of Energy, the authority to confirm, approve, and place in effect such rates on an interim basis; and to the Federal Energy Regulatory Commission the authority to confirm, approve, and place in effect on a final basis, to remand, or to disapprove those rates.

Procedures for public participation in rate adjustments for power marketed by Western (10 CFR Part 903) were published in the **Federal Register** at 50 FR 37835 on September 18, 1985.

Availability of Information

All brochures, studies, comments, letters, memorandums, and other documents made or kept by Western for the purpose of developing the proposed rate are and will be available for inspection and copying at the Salt Lake City Area Office, 438 East 200 South, Salt Lake City, Utah 84111.

Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.*, each agency, when required by 5 U.S.C. 553 to publish a proposed rule, is further required to prepare and make available for public comment an initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities. Under 5 U.S.C. 601(2), rules relating to rates or services of particular applicability are not considered rules within the meaning of the act. In this instance, the rate adjustment for the RGP relates to rates for services provided by Western from a particular project; therefore, no flexibility analysis is required.

Determination under Executive Order 12291

The Department of Energy (DOE) has determined that this is not a major rule because it does not meet the criteria of section 1(b) of Executive Order 12291 (46 FR 13193, February 17, 1981). In addition, Western has an exemption from sections 3, 4, and 7 of Executive Order 12291 and, therefore, will not prepare a regulatory impact statement.

Environmental Evaluation

In compliance with the National Environmental Policy Act of 1969 (NEPA), Council of Environmental Quality regulations, and section D of the DOE guidelines published in the **Federal Register** on February 23, 1982 (47 FR 7976), Western conducts environmental evaluations of certain rate and allocation actions. Section D of the DOE guidelines states that the level of documentation required under NEPA for rate increases by power marketing administrations depends upon the size of the rate increase as it relates to the rate of inflation since the last rate increase. Western has compared the proposed power rate increase to the rate of inflation in the period since the existing power rate was placed in effect and determined that it exceeds the rate of inflation. Therefore, an environmental assessment will be prepared and copies will be sent to interested persons upon request.

Issued at Golden, Colorado, May 22, 1986.

William H. Clagett,

Administrator.

[FR Doc. 86–12128 Filed 5–29–86; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–3023–6]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382–5073 or (202) 382–5075.

Availability of Environmental Impact Statements filed May 19, 1986 Through May 23, 1986, Pursuant to 40 CFR 1506.9.

EIS No. 860194, Final, FHW, FL, FL–44 Upgrading, CR–581 to FL–44/FL–45 Intersection, Citrus County, Due: June 30, 1986, Contact: P.E. Carpenter (904) 681–7223.

EIS No. 860195, Final, IBR, CO, Grand Valley Unit, Stage II Development, Construction and Operation, Colorado River Basin Salinity Control Project, Mesa County, Due: June 30, 1986, Contact: Gordy Lind (801) 524–5463.

EIS No. 860196, Report, COE, SC, South Carolina Cooperative Aquatic Plant Control Program, Additional Aquatic Plants and Herbicides, Contact: Richard Makinen (202) 272–0121.

EIS No. 860197, Final, AFS, MT, Beaverhead National Forest, Noxious Weeds and Poisonous Plant Control Program, Due: July 15, 1986, Contact: Dan Pence (406) 683–3987.

Dated: May 27, 1986.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 86-12201 Filed 5-29-86; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3023-7]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared May 12, 1986 through May 16, 1986 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5075/76. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated February 7, 1986 (51 FR 4804).

Draft EISs

ERP No. LD-AFS-A60115-00, Rating LO, Bureau of Land Mgmt. and Forest Service, Transfer of Jurisdiction Over Certain Federal Lands and Minerals, US. SUMMARY: EPA's review identified no issues of concern.

ERP No. D-CDB-F89026-MI, Rating EC2, Oakland Technology Park Development, CDB Grant, MI. SUMMARY: EPA's review resulted in concerns related to loss of wetlands and a lack of information regarding ancillary highway development. EPA requested a thorough implementation of wetland mitigation and specific information regarding the proposed highway projects, be included in the FEIS. Only then can EPA make a complete evaluation of impacts.

ERP No. D-COE-G36035-OK, Rating LO, Kingfisher and Uncle Johns Creeks Local Flood Protecton Project, OK. SUMMARY: EPA expressed no objection to the proposed action as described.

ERP No. D-OSM-EO 1007-TN, Rating EC2, Rock Creek Watershed, Designation of Lands Unsuitable for Surface Coal Mining Operations, TN. SUMMARY: EPA's main concern is the natural susceptibility of the petition area to acid mine drainage and the present apparent lack of need for coal production. EPA recommends selection of Alternate 1 (Grant the Petition: declare the petition area unsuitable for surface coal mining). EPA requested that additional information relative to surface water quality, groundwater interconnections, total suspended particulates (TSP) modeling, noise impacts, and other areas be provided in the final EIS.

ERP No. D-SCS-G36134-LA, Rating LO, Upper Vermilion Bayou Watershed Protection Flood Prevention and Drainage Plan, LA. SUMMARY: EPA expressed no objection to the proposed action as described.

Final EISs

ERP No. F-AFS-E65032-00, Cherokee Nat'l Forest, Land and Resource Mgmt. Plan, TN and NC. SUMMARY: The preferred alternative responded to many of the concerns EPA had with the preferred plan of the draft EIS. EPA noted the increased emphasis on water quality and habitat values in the currently proposed plan, but suggested further improvements in the management of sensitive/vulnerable forest zones, eg., riparian areas. Restrictions on land disturbing activities should be strengthened to include the prohibition of clear cutting and construction in buffer strips along all perennial streams.

ERP No. FA-APH-A82105-00, 1986 Rangeland Grasshopper Cooperative Mgmt. Program, Updated Information, US. SUMMARY: EPA noted APHIS' responsiveness to the comments on the draft EIS and recommendations made at the follow-up meeting. However, EPA continues to express concerns about the way the final EIS interprets integrated pest management, addresses non-target exposures, and discusses mitigation measures. EPA recommended that these be fully discussed in the new EIS planned for 1987.

ERP No. BLM-L70003-AK, Central Yukon Planning Area Resource Mgmt. Plan, Northwest Resource Area, AK. SUMMARY: EPA remains concerned that the final EIS does not make a strong commitment to monitoring for compliance with permit conditions and water quality standards for mines. EPA specificially requested that clarifying language be included in the Record of Decision for this plan.

ERP No. F-CDB-F89025-MN, Duluth Paper Mill Project, Construction and Operation, CDB Grant, 404 Permit, MN. SUMMARY: EPA's review resulted in an objection to the project as currently proposed. EPA recommended that Federal Funds and the 404 permit be withheld from this project until after the Agency reviews the remedial action plan for the contaminated soil and groundwater at the site, the wetland mitigation plan, and the prevention of significant deterioration air quality permit application. EPA also requests information on the future expansion potential of the paper mill.

ERP No. F-COE-L320007-WA, Quillayute River Navigation Project, Long-Range Operations and Maintenance, WA. SUMMARY: EPA remains concerned abut the potential for juvenile salmon entrainment by the hydraulic dredging used for the maintenance dredging in the Quillayute River after March 31. No criteria have been established for acceptable levels of entrainment or to judge what is an acceptable loss of fish. EPA recommended two approaches that would establish acceptable entrainment levels or loss of fish, and stated that one of the approaches should be undertaken prior to any dredging occurring after March 31, as a condition for EPA's approval of the Section 404 permit.

ERP No. F-IBR-K39026-CA, Freeman Diversion Improvement Project, Construction and Operation, Santa Clara River, Combat of Seawater Intrusion, CA. SUMMARY: The final EIS adequately addressed the concerns EPA raised on the draft EIS.

ERP No. F-JUS-C1010-NJ, Fairfield Federal Correctional Institution, Construction and Operation, NJ. SUMMARY: EPA does not anticipate any significant environmental impacts as a result of the construction of the proposed federal correctional institution.

Amended Notice

The following EPA EIS review summary noticed in the May 23, 1986 FR was in error typographically, and therefore substantively. A sentence read, "Due to these concerns EPA found the project to be environmentally satisfactory." It should have read, "Due to these concerns EPA found the project to be environmentally unsatisfactory."

ERP No. DC-IBR-J61127-ND, Rating EU2, Garrison Diversion Unit, New Irrigation Areas and New Project Features, Operation and Maintenance, Pick-Sloan Missouri Basin Program, James R., ND.

Dated: May 27, 1986.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 86-12202 Filed 5-29-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL HOME LOAN BANK BOARD

[86-539]

Fair Housing and Nondiscrimination in Lending

Dated: May 23, 1986.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: The public is advised that the Federal Home Loan Bank Board ("Board") has submitted for extension, without revision, an information collection request, "Fair Housing and Nondiscrimination in Lending" to the Office of Management and Budget for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Comments: Comments on the information collection request are welcome and should be submitted on or before June 16, 1986. Comments regarding the paperwork-burden aspects of the request should be directed to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, Attention: Desk Officer for the Federal Home Loan Bank Board.

The Board would appreciate commenters sending copies of their comments to the Board.

Requests for copies of the proposed collection request and supporting documentation are obtainable at the Board address given below: Director, Information Services Section, Office of Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552, Phone: 202-377-6933.

FOR FURTHER INFORMATION CONTACT: Richard Tucker, Office of Community Investment, (202) 377-6211, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 86-12141 Filed 5-29-86; 8:45 am]

BILLING CODE 6720-01-M

[No. 86-527]

Self Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.; Application for Unlisted Trading Privileges and Opportunity for Hearing

Dated: May 22, 1986.

The Philadelphia Stock Exchange has filed on April 10, 1986, pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1, an application with the Federal Home Loan Bank Board ("Board") for unlisted trading privileges in the following security: Columbia Savings & Loan Association (FHLBB No. 6325) Common Stock, $1.00 Par Value.

The security is listed and registered on one or more other national securities exchanges and is reported in the consolidated transaction reporting system.

Any interested person may inspect the application at the Board and, on or before June 9, 1986, submit to the Corporate and Securities Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552, written data, views and arguments bearing upon whether the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors. Following this opportunity for hearing, the Board will issue an order granting the application after the date mentioned above if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such application are consistent with the maintenance of fair and orderly markets and the protection of investors.

By the Federal Home Loan Bank Board.

Nadine Y. Penn,

Acting Secretary.

[FR Doc. 86-12140 Filed 5-29-86; 8:45am]

BILLING CODE 6720-01-M

[No. AC-481]

South Carolina Federal Savings Bank, Columbia, SC; Final Action Approval of Conversion Application

Dated: May 22, 1986.

Notice is hereby given that on May 8, 1986, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of South Carolina Federal Savings Bank, Columbia, South Carolina, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Atlanta, 260 Peachtree Street, NW., 10th Floor, Atlanta, Georgia 30303.

By the Federal Home Loan Bank Board.

Nadine Y. Penn,

Acting Secretary.

[FR Doc. 86-12138 Filed 5-29-86; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-480]

Newport News Savings and Loan Association, Newport News, VA; Final Action Approval of Conversion Application

Dated: May 22, 1986.

Notice is hereby given that on May 9, 1986, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Newport News Savings and Loan Association, Newport News, Virginia for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street NW., Washington, DC 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

Nadine Y. Penn,

Acting Secretary.

[FR Doc. 86-12139 Filed 5-29-86; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-482]

Home Federal Savings and Loan Association of San Francisco, San Francisco, CA; Final Action Approval of Conversion Application

Dated: May 22, 1986.

Notice is hereby given that on May 14, 1986, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Home Federal Savings and Loan Association of San Francisco, San Francisco, California for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street NW., Washington, DC 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of San Francisco, 600 California Street, Post Office Box 7948, San Francisco, California 94120.

By the Federal Home Loan Bank Board.

Nadine Y. Penn,

Acting Secretary.

[FR Doc. 86-12137 Filed 5-29-86; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR 510.

License Number: 1566
Name: Nationwide International Forwarders & Brokers, Inc.
Address: 4795 NW. 72nd Avenue, Miami, FL 33166
Date Revoked: May 7, 1986
Reason: Failed to maintain a valid surety bond

License Number: 2885
Name: Metro Freight Services, Inc.
Address: 22 Lawrence Lane, Lawrence, NY 11559
Date Revoked: May 7, 1986
Reason: Failed to maintain a valid surety bond

Robert G. Drew,
Director, Bureau of Tariffs.

[FR Doc. 86-12145 Filed 5-29-86; 8:45 am]
BILLING CODE 6730-01-M

[Fact Finding Investigation No. 14]

Possible Unlawful Activity of Eller & Co, Inc., et al.; Order

On October 9, 1985, Eller & Company, Inc., and Harrington & Co., Inc., filed an agreement with the Federal Maritime Commission under the provisions of the Shipping Act of 1984, 46 U.S.C. app. 1701, *et seq.*, to operate a joint venture called Continental Stevedoring & Terminal, Inc. The Agreement, which was designated No. 224-010843, became effective on November 23, 1985, and authorized the parties to provide marine terminal services through Continental.

The Federal Maritime Commission has reason to believe that Eller & Company, Inc., and Harrington & Company, Inc., and/or Continental Stevedoring & Terminal, Inc., may have operated under Agreement No. 224-010843 prior to its November 23, 1985, effective date in violation of section 10(a)(2) of the Shipping Act of 1984, 46 U.S.C. app. 1709(a)(2). The Commission also has reason to believe that Eller & Company, Inc., and Harrington & Company, Inc., and/or Continental Stevedoring & Terminal, Inc., may be operating under agreements with one or more ocean common carriers in violation of section 10(a)(2) of the Shipping Act of 1984.

Despite repeated efforts to obtain information bearing on these matters, the parties have failed to comply with our informal requests. Accordingly, the Commission is initiating this nonadjudicatory investigation to determine whether sufficient evidence exists to warrant a formal investigation and assessment proceeding for violations of the Shipping Act of 1984.

Therefore, it is ordered, That pursuant to sections 11 and 12 of the Shipping Act of 1984, 46 U.S.C. app. 1710 and 1711, and Subpart R of Title 46 of the Code of Federal Regulations, a nonadjudicatory investigation is hereby instituted into the practices of Eller & Company, Inc., Harrington & Company, Inc., and Continental Stevedoring & Terminal, Inc., regarding the furnishing of terminal facilities and services at Miami, Florida, and other ports.

It is further ordered, That the Investigative Officer shall be Alan J. Jacobson of the Commission. Mr. Jacobson shall direct the investigation and shall be assisted by such staff members as he may designate.

The Investigative Officer shall have the full authority of the Commission to hold public or nonpublic sessions, to resort to all compulsory processes authorized by law (including the issuance of subpoenas), to administer oaths and to perform such other duties as may be necessary in accordance with the laws of the United States and the regulations of the Commission;

It is further ordered, That the Investigative Officer shall issue a final report of findings and recommendations no later than 120 days after publication of this Order in the **Federal Register**, such report to remain confidential unless and until the Commission rules otherwise; and

It is further ordered, That Notice of this Order be published in the **Federal Register.**

By the Commission.
John Robert Ewers,
Secretary.

[FR Doc. 86-12164 Filed 5-29-86; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Consumer Advisory Council; Meeting

The Consumer Advisory Council will meet on Thursday, June 19, and Friday, June 20. The meeting, which will be open to public observation, will take place in Terrace Room E of the Martin Building. The June 19 session is expected to begin at 9:00 a.m. and to continue until 5:00 p.m., with a lunch break from 1:00 to 2:00 p.m. The June 20 session is expected to begin at 9:00 a.m. and to continue until 1:00 p.m. The Martin Building is on C Street, Northwest, between 20th and 21st Streets in Washington, DC.

The Council's function is to advise the Board on the exercise of the Board's responsibilities under the Consumer Credit Protection Act and on other matters on which the Board seeks its advice. Time permitting, the Council will discuss the following topics:

1. *Growth of Consumer Credit.* Discussion led by the Council's planning group on this topic, with a brief presentation by Board staff on (1) the growth in consumer credit, (2) whether the level of consumer debt is reasonable, and (3) the outlook for consumer debt for the future.

2. *Pricing and Disclosure of Service Charges.* Status report by the Council's Ad Hoc Committee on Service Charges about recent developments related to the setting of service charges paid by consumers, focusing on the *Perdue* v. *Crocker National Bank* case, which raised the issue of unconscionability regarding charges for checks returned.

3. *Emerging Technologies.* Report by the Council's Ad Hoc Committee on Emerging Technologies on a proposed amendment to Regulation E (Electronic Fund Transfers) that would eliminate periodic statement disclosure requirements for the issuer of a debit care (or other access device) when the issuer does not hold the consumer's account.

4. *Reduced-Rate Financing.* Report from the Council's planning group on reduced-rate financing, which was directed to explore further the issues of whether the programs being offered by various automobile companies lessen the value of the annual percentage rate as a tool for consumer's use in credit shopping, what the Truth in Lending implications are for such programs, and what (if any) actions the Council might recommend that the Board take in this area.

5. *Delayed Funds Availability.* Members of the Council's Ad Hoc Committee on Service Charges will make a presentation on check processing operations and how they affect funds availability and on various other delayed availability issues.

6. *Financial Counseling.* Discussion of issues surrounding a bank holding company being able to provide financial counseling to consumers.

7. *Credit Card Interest Rates.* Briefing by Board staff on a recent study on the effects of proposed credit card interest rate ceilings on consumers and creditors.

8. *CRA Protest Activity.* Briefing by Board staff on the increase in Community Reinvestment Act protest activity by community groups and on the role of the Federal Reserve in bringing bank and community representatives together.

9. *Regulatory Update.* Status of recent Board regulatory actions in the area of consumer financial services.

Other matters previously considered by the Council or initiated by Council members also may be discussed.

Persons wishing to submit to the Council their views regarding any of the above topics may do so by sending written statements to Ms. Ann Marie Bray, Secretary, Consumer Advisory Council, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551. Comments must be received no later than close of business Monday, June 16, and must be a quality suitable for reproduction.

Information with regard to this meeting may be obtained from Ms. Bedelia Calhoun, Staff Specialist, at (202) 452–3305; for Telecommunications Device for the Deaf (TDD) users, Earnestine Hill or Dorothea Thompson (202) 452–3544; Board of Governors of the Federal Reserve System, Washington DC 20551.

Board of Governors of the Federal Reserve System, May 23, 1986.

James McAfee,

Associate Secretary to the Board.

[FR Doc. 86–12085 Filed 5–29–86; 8:45 am]

BILLING CODE 6210–01–M

GENERAL SERVICES ADMINISTRATION

Report on Revised System of Records Under the Privacy Act of 1974

AGENCY: General Services Administration.

ACTION: Notification of revised system of records.

SUMMARY: The purpose of this document is to give notice, under the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, of intent to revise a system of records being maintained by GSA. The system of records, Incident Reporting, Investigation, and Security Case Files, GSA/PBS–3, will be revised to change the system name, increase the categories of individuals and records covered by the system, add two routine use statements required by the Office of Management and Budget, and exempt contingency planning and analysis files in the system from certain subsections of the act. As the records being added to this system are new, a new system report was filed with the Speaker of the House, the President of the Senate, and the Office of Management and Budget.

DATES: Any interest party may submit written comments about this revised system. Comments must be received on or before the 30th day following publication of this notice. The system will become effective without further notice on the 30th day following publication of this notice unless comments are received that would result in a contrary decision.

ADDRESS: Address comments to General Services Administration (CAID), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Ms. Alexandra Mallus, GSA Privacy Act Officer, telephone (202) 535–7983.

Background

The system of records, Incident Reporting, Investigation, and Security Case Files, GSA/PBS–3, is being revised to reflect the establishment of contingency planning and analysis files. These files will be a compilation of information received from other law enforcement and intelligence agencies through written communications, conferences and briefings involved with terrorists groups and individuals. This information is required by 41 CFR 101–20.5 to make contingency action plans and provide patterns and trends of potential or actual terrorists groups or other activities that could disrupt the orderly operation of GSA-owned or -controlled facilities. The name of the system and the categories of individuals and records in the system are revised to cover the establishment and maintenance of these new files. The system of records notice GSA/PBS–3 was last published in the Federal Register on August 29, 1980, 45 FR 57892.

The revised system of records is as follows:

GSA/PBS–3

SYSTEM NAME:

Incident Reporting, Investigation, Contingency Planning/Analysis, and Security Case Files.

SECURITY CLASSIFICATION:

Unclassified to Top Secret.

SYSTEM LOCATION:

This system of records is located in the Central Office Law Enforcement Division and the regional offices of the Office of Public Buildings and Real Property at the listed addresses following this notice.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system are:

a. Persons who were the source of (1) the initial complaint and (2) an allegation that a crime took place;

b. Witnesses having information or evidence about any side of an investigation;

c. Possible and actual suspects in the criminal situation that are subjects of investigations;

d. Subjects of investigations on noncriminal matters;

e. Employees of GSA contractors performing custodial or guard services in buildings and areas under GSA jurisdiction;

f. Current and former applicants for the position of Federal Protective Officer;

g. Sources of information and evidence. The identity for these individuals may be confidential as well as the subject matter they contribute. These files contain information vital to the outcome of administrative procedures and civil and criminal cases; and

h. Individuals associated with terrorists or terrorist groups and activities and names of regional and nationwide terrorist organizations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include:

a. Preliminary and other reports of criminal investigations from the opening of a case until it is closed. These records are instituted and maintained at varying points in the process. The processes of criminal justice and civil or administrative remedies require their partial or total disclosure.

b. Security files. These records contain information such as name, date and place of birth, address, Social Security Number, education, occupation, experience, and investigatory material.

c. Contingency Planning/Analysis files. These records contain information such as name and other identifying information and investigatory material on an individual associated with terrorists or terrorist groups and activities. They also contain information about regional and nationwide terrorists organizations and their effects on security of GSA-owned or -controlled facilities.

d. Intelligence briefs; tactical, operational and strategic informational reports; regional and nationwide contingency analysis; contingency action plans; and patterns and trends of potential or actual terrorists or terrorist groups, or other activities that could

disrupt the orderly operation of GSA-owned or -controlled facilities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 318 through 318d; GSA Organization Manual (OHR P 5540.1).

PURPOSE:

To assemble in one system information on (1) preliminary and other criminal investigation reports that are used to enforce criminal law and rules and regulations for punitive action; prevent, control, or reduce crime and apprehend criminals; and for correction, probation, pardon, and parole activities; (2) security files that are used as a basis for suitability decisions for GSA contract guards and cleaners; and (3) contingency action plans that provide patterns and trends of potential or actual terrorists or terrorist groups or other activities that could disrupt orderly operations of GSA-owned or-controlled facilities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

a. To disclose information to a Federal, State, local, or foreign agency responsible for investigating, prosecuting, enforcing, or carrying out a statute, rule, regulation, or order, where the agencies become aware of a violation or potential violation of civil or criminal law or regulation.

b. To disclose information to a Member of Congress or a congressional staff member in response to an inquiry from that congressional office made at the request of that individual.

c. To disclose information to a Federal, State, or local agency keeping civil, criminal, enforcement, or other information to get information relevant in making a decision on hiring or retaining an employee; issuing a security clearance; letting a contract; or issuing a license, grant, or other benefit.

d. To disclose information to a requesting Federal agency in connection with hiring or retaining an employee; issuing a security clearance; reporting an employee investigation; clarifying a job; letting a contract; or issuing a license, grant, or other benefit by the requesting agency where the information is relevant and necessary for a decision.

e. To disclose information to an appeal, grievance, or formal complaints examiner; equal employment opportunity investigator; arbitrator; exclusive representative; or other official engaged in investigating, or settling a grievance, complaint, or appeal filed by an employee.

f. To disclose information to the Office of Personnel Management under the agency's responsibility for evaluating Federal personnel management.

g. To disclose information to various bureaus and divisions of the Department of Justice that have primary jurisdiction over subject matters and locations which the Law Enforcement Division shares.

h. To disclose information to subdivisions of the Department of Justice that have responsibility for prosecuting criminal cases and pursuing civil cases arising from authorized activities of the Law Enforcement Division.

i. To disclose information to law enforcement agencies which have lawfully participated in an investigation jointly conducted with the Law Enforcement Division.

j. To disclose information to the Department of Justice when the agency, and agency employee, or the United States is party to or has interest in litigation, and using the records is relevant and necessary and compatible with the purpose of collecting the information.

k. To disclose information to a court or adjudicative body when the agency, any agency employee, or the United States is party to or has interest in litigation, and using the records is relevant and necessary and compatible with the purpose of collecting the information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders; magnetic tape and index cards in file cabinets.

RETRIEVABILITY:

Filed by name, file number, case number, incident and location, and type of incident.

SAFEGUARDS:

Paper records stored in lockable filing cabinets with built-in 3 position dial type combination safe locks and in secured rooms. Magnetic tapes which store unclassified records protected by password system.

RETENTION AND DISPOSAL:

Disposal of records is described in the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

Director, Law Enforcement Division, Public Buildings Service, General Services Administration (PML), 18th and F Streets NW, Washington, DC 20405.

NOTIFICATION PROCEDURE:

Inquiries from individuals should be addressed to the system manager.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the system manager. For identification requirements refer to the agency regulations outlined in 41 CFR Part 105–64.

CONTESTING RECORD PROCEDURES:

GSA rules for contesting the contents and appealing initial decisions are issued in 41 CFR Part 105–64.

RECORD SOURCE CATEGORIES:

Investigations, informants, witnesses, official records, investigative leads, statements, depositions, business records, or any other information source available to the Law Enforcement Division.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under 5 U.S.C. 552a(j), the criminal investigation case files and contingency planning/analysis files in this system of records are exempt from all provisions of the Privacy Act of 1974 with the exception of subsections (b); (c) (1) and (2); (e)(4) (A) through (F); (e) (6), (7), (9), (10), (11); and (i) of the act. Under 5 U.S.C. 552a(k), the general investigation and security files in this system of records are exempt from subsections (c)(3); (d); (e)(i); (e)(4) (G), (H), and (I); and (f) of the Privacy Act of 1974.

Dated: May 20, 1986.

Johnny T. Young,

Director, Information Management Division.

[FR Doc. 86–12112 Filed 5–29–86; 8:45 am]

BILLING CODE 6820-23-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on May 23, 1986

Public Health Service

(Call Reports Clearance Officer on 202–245–2100 for copies of packages).

National Institutes of Health

Subject: Atherosclerosis Risk in Communities Study—NEW.

Respondents: Individuals or households.

Health Resources and Services Administration

Subject: Application to Participate in the Health Professions Capitation Program—Reinstatement—(0915–0089).

Respondents: Non-profit institutions.

Office of the Assistant Secretary

Subject: Application for Correction of Public Health Service Commissioned Corp Records—Extensions—(0937–0095).

Respondents: Individuals or households.

OMB Desk Officer: Bruce Artim.

Health Care Financing Administration

(Call Reports Clearance Officer on 301–594–8650 for copies of packages).

Subject: Questions on Other Insurance Available to Medicare Beneficiary—Revision—(0938–0214)—HCFA–L–9009, HCFA—365.

Respondents: Individuals or households; State or local governments; Businesses or other for-profit; Federal agencies or employees; Non-profit institutions; Small businesses or organizations.

Subject: Information Collection Requirement Contained in the Sterilization Regulations and the Consent Form—HCFA–R–94—Existing Collection.

Respondents: States, Individuals, Physicians.

OMB Desk Officer: Fay S. Iudicello.

Copies of the above information collection clearance packages can be obtained by calling the Reports Clearance Officer on the number shown above.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503, attn: (name of OMB Desk Officer).

Dated: May 27, 1986.

K. Jacqueline Holz,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 86–12111 Filed 5–29–86; 8:45 am]

BILLING CODE 4150–04–M

Centers for Disease Control

Acquired Immunodeficiency Syndrome (AIDS) Surveillance and Associated Epidemiologic Investigations; Program Announcement and Notice of Availability of Funds for Fiscal Year 1986

Correction

In FR Doc. 86–10569, beginning on page 17412, in the issue of Monday, May 12, 1986, make the following corrections:

1. On page 17414, in the first column, the sentence beginning in the third line from the top of the page should read: "Funds may not be used to supplant funds supporting existing AIDS activities provided by the health department or to support construction costs."

2. In the same column, in section 1(f), in the first line, insert "current" after "applicant's".

BILLING CODE 1505–01–M

Fluoride Chemical Shortage Seminar; Open Meeting

On June 17, 1986, the Centers for Disease Control will sponsor a Fluoride Chemical Shortage Seminar. The seminar is scheduled to begin at 8:30 a.m. and will conclude at 4:30 p.m. at the Viscount Hotel in Atlanta, Georgia. The seminar is open to the public, limited only by the space available.

The purpose of the seminar is to evaluate the recent fluoride chemical shortage and to propose recommendations to keep this problem from recurring in the future. Group discussions will be held, with a general topic covered in each group.

For further information, please contact: Thomas G. Reeves, P.E., Fluoridation Engineer, Dental Disease Prevention Activity, Freeway Park, Room 345, Center for Prevention Services, Centers for Disease Control, Atlanta, Georgia 30333, Telephone: FTS: 236–1833, Commercial: (404) 329–1833.

Dated: May 23, 1986.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 86–12114 Filed 5–29–86; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

[Docket No. 86F–0209]

Argus Chemical, Division of Witco Chemical Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Argus Chemical, Division of Witco Chemical Corp., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of sodium di(*p-tert*-butylphenyl)-phosphate as a clarifying agent for propylene homopolymer and high-propylene copolymer articles intended for contact with food.

FOR FURTHER INFORMATION CONTACT: Rudolph Harris, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 6B3932) has been filed on behalf of Argus Chemical, Division of Witco Chemical Corp., c/o 1150 17th Street NW., Washington, DC 20036, proposing that § 178.3295 *Clarifying agents for polymers* (21 CFR 178.3295) be amended to provide for the safe use of sodium di(*p-tert*-butylphenyl)phosphate as a clarifying agent for propylene homopolymer and high-propylene copolymer articles intended for contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) as published in the **Federal Register** of April 26, 1985 (50 FR 16636).

Dated: May 22, 1986.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86–12095 Filed 5–29–86; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 86M–0203]

Davis & Geck, American Cyanamid Co.; Premarket Approval of Maxon® Monofilament Polyglyconate Absorbable Surgical Suture, Clear or Green

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its

approval of the application by Davis & Geck, American Cyanamid Co., Wayne, NJ, for premarket approval, under the Medical Device Amendments of 1976, of the MAXON® Monofilament Polyglyconate Absorbable Surgical Suture, Clear or Green. After reviewing the recommendation of the General and Plastic Surgery Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by June 30, 1986.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Palmer, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7238.

SUPPLEMENTARY INFORMATION: On October 15, 1984, Davis & Geck, American Cyanamid Co., Wayne, NJ 07470, submitted to CDRH an application for premarket approval of the MAXON® Monofilament Polyglyconate Absorbable Surgical Suture, Clear or Green. The device is indicated for use in all types of soft tissue approximation and use as a ligature. The device is not indicated for use in cardiovascular, ophthalmic, or microsurgery, and not indicated for use in neural tissue. The device is available in diameter sizes 02 through 7/0 millimeters.

On May 9, 1985, the General and Plastic Surgery Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On April 20, 1986, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Kenneth A. Palmer, (HFZ–410), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before June 30, 1986, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: May 22, 1986.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 86–12101 Filed 5–29–86; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 86M–0107]

Gish Biomedical, Inc.; Premarket Approval of MicroYAG Nd:YAG Ophthalmic Laser

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Gish Biomedical, Inc., Santa Ana, CA, for premarket approval, under the Medical Device Amendments of 1976, of the MicroYAG Nd:YAG Ophthalmic Laser. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by June 30, 1986.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Philip J. Phillips, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–8221.

SUPPLEMENTARY INFORMATION: On September 3, 1985, Gish Biomedical, Inc., Santa Ana, CA 92705, submitted to CDRH an application for premarket approval of the MicroYAG Nd:YAG Ophthalmic Laser. The MicroYAG Nd:YAG Ophthalmic Laser is a neodymium:yttrium-aluminum-garnet (Nd:YAG) ophthalmic laser that is indicated for discission of the posterior capsule of the eye (posterior capsulotomy).

On October 17, 1985, the Ophthalmic Devices Panel, and FDA advisory committee, reviewed and recommended approval of the application. On January 31, 1986, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Philip J. Phillips (HFZ–460), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21

U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before June 30, 1986, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: May 22, 1986.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 86–12102 Filed 5–29–86; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 83P-0274]

Health Industry Manufacturers Association; Cardiopulmonary Bypass Oxygenator; Denial of Petition for Reclassification

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order denying a petition submitted by the Health Industry Manufacturers Association (HIMA) to reclassify the cardiopulmonary bypass oxygenator from class III (premarket approval) into class II (performance standards). This action is being taken under the Medical Device Amendments of 1976.

DATE: Comments by July 29, 1986.

ADDRESS: Written comments are to be submitted to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lynne A. Reamer, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 5, 1980 (45 FR 7958), under section 513 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c), FDA published a regulation, 21 CFR 870.4350, classifying the cardiopulmonary bypass oxygenator, a generic type of device, into class III. (See 21 CFR 860.3(i) of FDA's regulations governing medical device classification procedures for a definition of the term "generic type of device.") Section 870.4350(a) identifies the cardiopulmonary bypass oxygenator as a device used to exchange gases between blood and a gaseous environment to satisfy the gas exchange needs of a patient during open-heart surgery.

On June 30, 1983, HIMA of Washington, DC 20005, a trade association here representing seven manufacturers of cardiopulmonary bypass device products, submitted to FDA, under section 513(e) of the act and § 860.130 of the regulations, a petition to reclassify the cardiopulmonary bypass oxygenator from class III into class II. The petitioner requested FDA to reclassify all models of the device now in commercial distribution, including, as described in the petition, "bubble-type oxygenators and membrane oxygenators—both flat sheet and hollow fiber types," and used during open heart surgery for a period of up to 6 hours.

FDA referred the petition to the Circulatory System Devices Panel (the Panel), an FDA advisory committee, to obtain a recommendation on whether to approve or deny the petition. The Panel reviewed the petition during an open public meeting on October 14, 1983. A copy of the transcript of the meeting is on file in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, under Docket No. 83P–0274 and is available for review by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

The Legal Standard Governing Reclassification

Section 513(a)(1) of the act establishes three classes of devices. Classification of a device is determined by the level of regulatory control needed to provide reasonable assurance of the safety and effectiveness of the device. A class I device is a device for which the general controls authorized by or under various sections of the act are sufficient to provide reasonable assurance of the safety and effectiveness of the device. A class II device is a device for which general controls by themselves are insufficient to provide reasonable assurance of the safety and effectiveness of the device, for which there is sufficient information to establish a performance standard to provide such assurance, and for which "it is therefore necessary to establish * * * a performance standard under section 514 [21 U.S.C. 360d] to provide reasonable assurance of its safety and effectiveness." A class III device is a device that cannot be classified into class I or class II and that is purported or represented to be for a use in supporting or sustaining human life or for a use which is of substantial importance in preventing impairment of human health, or that presents a potential unreasonable risk of illness or injury. Premarket approval obtained in accordance with section 515 of the act (21 U.S.C. 360e) is required to provide reasonable assurance of the safety and effectiveness of a class III device.

Section 513(e) of the act authorizes FDA to reclassify a device based on "new information" respecting the device. The term "new information" comprehends information developed as a result of a reevaluation of the data before the agency when a device was classified, as well as information not presented, not available, or not developed at that time. See, e.g., *Holland-Rantos* v. *United States Department of Health, Education, and Welfare*, 587 F.2d 1173, 1174, n.1 (D.C. Cir. 1978); *Upjohn* v. *Finch*, 422 F.2d 944 (6th Cir. 1970); *Bell* v. *Goddard*, 366 F.2d 177 (7th Cir. 1966). The "new information" on which any reclassification is based is required to consist of "valid scientific evidence," as defined in section 513(a)(3) of the act and § 860.7 of the regulations governing medical device classification procedures. As specified in § 860.7(c),

FDA relies only upon such evidence to determine whether there is reasonable assurance that a device is safe and effective.

For the purpose of reclassification, the valid scientific evidence upon which the agency relies is required to be publicly available, i.e., may not be based on (1) trade secrets or commercial or financial information which is privileged or confidential and which is obtained by FDA under various sections of the act (see section 520(c) of the act (21 U.S.C. 360j)) and § 860.5(e) of the regulations or (2) the detailed summaries of information respecting the safety and effectiveness of devices for which there are approved premarket approval applications (see section 520(b)(3) of the act). All data and information in a petition for reclassification filed under section 513(e) of the act, however, may be disclosed by the agency and used as the basis for reclassification of a device (§ 860.5(e)).

To reclassify a device under section 513(e) of the act, the statute and the regulations require that the new, publicly available, valid scientific evidence of safety and effectiveness show (1) why the device should not remain in its present classification and (2) that the proposed reclassification will provide reasonable assurance of the safety and effectiveness of the device. In the case of a device classified into class III and proposed for reclassification into class II, the statute and the regulations require such evidence to show (1) why the device should not remain in class III and (2) that a performance standard will provide reasonable assurance of the safety and effectiveness of the device.

FDA notes that under section 513(c)(2)(C) of the act, the classification panel is required to recommend that a device that is purported or represented to be life-supporting or life-sustaining (e.g., the cardiopulmonary bypass oxygenator) be classified into class III, unless the panel concludes that class III is not necessary to provide reasonable assurance of the safety and effectiveness of the device and provides reasons for this conclusion (see also § 860.93(a)). Section 513(d)(2)(B) of the act, moreover, requires FDA to classify a life-supporting or life-sustaining device into class III unless such classification is not necessary to provide reasonable assurance of its safety and effectiveness (see also § 860.93(b)).

The Panel's Recommendation

The Panel considered the information contained in the petition as well as presentations made during the October 14, 1983, open Panel meeting. Michael B. Hurdle, Secretary of the American Society of Extracorporeal Technology, and Aaron Hill, a member of the Executive Committee of the American Academy of Cardiovascular Perfusionists, made presentations at the Panel meeting. Both speakers stated that insufficient clinical data are currently available to reclassify the hollow fiber type of membrane oxygenator device products into class II. Mr. Hurdle stated that he believes that sufficient information is available to enable a performance standard to be written for the bubble-type oxygenator and for the flat sheet membrane oxygenator device products. He suggested, however, that reclassification should not become effective except upon the effective date of a performance standard for the device. Mr. Hill stated that be believes that a standard cannot be written for any of the three types of device products because there currently are insufficient clinical data on all complications associated with use of the device.

The Panel believed that the petition does not contain any valid scientific evidence to show why the cardiopulmonary bypass oxygenator should not remain in class III, or to show that a performance standard for the device under section 514 of the act would provide reasonable assurance of the safety and effectiveness of the device. The Panel found that the petition does not show the existence of sufficient scientific and medical data to establish such a standard. Accordingly, the Panel concluded that class III is still necessary to provide reasonable assurance of the safety and effectiveness of the device, and recommended that FDA deny the petition.

Summary of the Data Upon Which the Recommendation is Based

At the time that the Panel recommended to FDA that the agency classify the cardiopulmonary bypass oxygenator into class III, the Panel identified four main risks to health from use of the device: (a) Blood damage: If the materials, surface finish, or cleanliness of the device are inadequate, damage to the blood may result. (b) Inadequate or excessive gas transfer: Improper design of the gas transfer mechanism can lead to the risk of inadequate gas transfer or to excessive gas transfer. (c) Thromboembolism: Inadequate blood compatibility of the materials used in the device and inadequate surface finish and cleanliness may lead to potentially debilitating or fatal thromboemboli. (d) Gas embolism: Ineffective debubbling, filtering, or separation of the gas and blood phases can lead to potentially debilitating or fatal gas embolism. (See the **Federal Register** of March 9, 1979; 44 FR 13408.) During review of the petition submitted by HIMA, the Panel reaffirmed its belief that the device continues to present each of these hazards.

The Panel identified a number of deficiencies in the petition.

Models of devices. The petitioner requested FDA to reclassify all models of the generic type of device now in commercial distribution. The petitioner stated that the models now in commercial distribution include (a) bubble-type oxygenators and (b) membrane oxygenators of two types, flat sheet membrane oxygenators and hollow fiber membrane oxygenators. Although the bubble-type oxygenators and the flat sheet membrane oxygenators were in commercial distribution before May 28, 1976, the enactment date of the amendments, the hollow fiber membrane oxygenators were placed in commercial distribution after that enactment date. The Panel noted that most clinical experience with the cardiopulmonary bypass oxygenator has been with the bubble-type oxygenators and the flat sheet membrane oxygenators, and that little clincial evidence is available with respect to the hollow fiber membrane oxygenators.

Data on results of tests performed by industry. The petition identified three test methods which are used by manufacturers of the cardiopulmonary bypass oxygenators to address three of the four main risks to health that the Panel identified as presented by use of the device: blood damage, inadequate or excessive gas transfer, and thromboembolism. The petition does not, however, contain any in vitro data or other data obtained using these test methods identified by the petitioner, nor does the petition correlate any results from the test methods with any clinical data obtained for each of the three models of the device for which reclassification was requested. Further, although the petition discussed complaints with respect to the device received by manufacturers through June 1980, the petition does not contain an analysis of these data or any more recent data.

Data regarding nonformed elements of blood. The Panel found that the petition does not contain any data regarding the device's effect on the nonformed elements of blood. Changes in device materials, e.g., the flat sheet membrane material, may cause changes

in the membrane's ability to transfer gases due to protein deposition. Such changes also may cause changes in blood proteins, which, in turn, may affect the nonformed elements of blood, such as the coagulation cascade, fibrinolysis, the kallikrein/bradykinin system, and the complement system. These changes may adversely affect the patient.

FDA's Analysis and Conclusion

FDA agrees with the recommendation of the Panel and finds that the petitioner failed to include in the petition the valid scientific evidence required by §§ 860.7(c) and 860.123(a)(6) of the regulations to reclassify the device from class III into class II, or to demonstrate that a performance standard could be written. The burden of presenting such valid scientific evidence is placed on the person requesting that a device be reclassified. FDA continues to believe that premarket approval is necessary to control the risks to health presented by the cardiopulmonary bypass oxygenator and to assure the safety and effectiveness of the device.

Accordingly, FDA is issuing an order under section 513 of the act and § 860.130(d) of the regulations denying HIMA's petition to reclassify the cardiopulmonary bypass oxygenator from class III into class II.

The agency is providing a 60-day comment period during which it will accept comments on the order. Interested persons may, on or before July 29, 1986, submit to the Dockets Management Branch (address above) written comments concerning this action. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. If FDA decides on the basis of the comments received that it should reconsider this action, it will publish a notice in the **Federal Register.**

FDA certifies that this notice requires neither a regulatory impact analysis, as specified in Executive Order 12291, nor a regulatory flexibility analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96–354).

Dated: May 22, 1986.

Joseph P. Hile,

Acting Commissioner of Food and Drugs.

[FR Doc. 86–12099 Filed 5–29–86; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 86F–0208]

Ranks, Hovis, McDougall Research, Ltd.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a petition has been filed on behalf of Ranks, Hovis, McDougall Research, Ltd., proposing that the food additive regulations be amended to provide for the safe use of myco-protein, derived from *Fusarium graminearum,* as a direct source of protein in certain foods.

FOR FURTHER INFORMATION CONTACT: James H. Maryanski, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C St., SW., Washington, DC 20204, 202–426–8950.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 6A3930) has been filed on behalf of Ranks, Hovis, McDougall Research, Ltd., c/o 2550 M St. NW., Washington, DC 20037, proposing that the food additive regulations be amended to provide for the safe use of myco-protein, derived from *Fusarium graminearum,* as a direct source of protein in certain foods.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c), as published in the **Federal Register** of April 26, 1985 (50 FR 16636).

Dated: May 23, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86–12096 Filed 5–29–86; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 84P–0346]

Surgical Simplex™ P Antibiotic Bone Cement; Review Before Advisory Committee of Howmedica, Inc.'s Petition for Reconsideration of FDA's Denial of Premarket Approval; Request for Nominations

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it intends to refer for review before an advisory committee Howmedica, Inc.'s petition for reconsideration of the agency's denial of premarket approval for its Surgical Simplex™ P Antibiotic Bone Cement. The advisory committee of experts to be formed for the review will consist of five persons, qualified by training and experience to evaluate the petition, and will be appointed by the Commissioner of Food and Drugs (the Commissioner). The advisory committee will independently study the petitioner's application as it relates to the issues announced in this notice and will provide the Commissioner with its report and recommendations regarding those issues.

DATE: Nominations should be submitted by July 29, 1986.

ADDRESS: Written nominations should be submitted to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Carl A. Larson, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7156.

SUPPLEMENTARY INFORMATION: On June 29, 1984, the Director of the Office of Device Evaluation of FDA's Center for Devices and Radiological Health (CDRH) denied approval of a premarket approval application (PMA) (P830011) for the Surgical Simplex™ P Antibiotic Bone Cement filed by Howmedica, Inc., 235 East 42d St., New York, NY 10017. This device, including two antibiotics, is intended for fixation of prostheses to living bone in orthopedic surgical procedures and in pathological fractures. The addition of antibiotics to the bone cement is proposed to help reduce the risk of localized infection during the intraoperative and postoperative period.

The petitioner's antibiotic bone cement has been under consideration by FDA since February 19, 1980, when the petitioner filed a notice of claimed investigational exemption with the agency's then Bureau of Drugs. In June 1980, FDA transferred its regulation of antibiotic bone cement products from its Bureau of Drugs to its Bureau of Medical Devices, now CDRH, pursuant to section 520(1) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360j(1)), a provision of the Medical Device Amendments of 1976 (the amendments). Under this provision, antibiotic bone cement and certain other

products that FDA had regulated as new drugs before the amendments broadened and clarified the definition of "device" are regulated by FDA as class III medical devices. Class III devices are subject to the agency's approval under section 515 of the act (21 U.S.C. 360e) prior to commericial distribution.

The petitioner filed a PMA for its antibiotic bone cement on March 9, 1983. The PMA was evaluated and the agency issued deficiency letters on June 3, 1983, and November 23, 1983. The petitioner amended its PMA on January 23, 1984. After full consideration of all information before it, CDRH denied approval of the petitioner's PMA on June 29, 1984. This denial was based on the petitioner's failure to satisfy the safety and effectiveness requirements of section 515(d)(2) (A) and (B) of the act (21 U.S.C. 360e(d)(2) (A) and (B)). In response to CDRH's action, the petitioner filed a petition for reconsideration on October 4, 1984, requesting that the Commissioner refer CDRH's denial of approval of the petitioner's application to an advisory committee of experts established pursuant to section 515(g)(2)(B) of the act for a report and recommendation with respect to the denial. The petitioner limited its request for an advisory committee review to a determination of whether an adequate and well-controlled clinical trial in humans is needed to satisfy the act's requirements for demonstrating the device's safety and effectiveness. See Petition for Reconsideration, p. 8. The review provided by the advisory committee, therefore, will be limited to the issues set forth below which respond to the petitioner's request. The advisory committee's recommendation will not be one of approval or denial of the PMA, but instead will evaluate the correctness of CDRH's denial as it relates to the demand that the applicant perform an adequate and well-controlled clinical investigation in humans as part of the applicant's demonstration of safety and effectiveness of the antibiotic bone cement. CDRH's other grounds for denial of the application will be considered by FDA to be correct insofar as they have not been challenged. The Commission's action on the recommendation of the advisory committee, therefore, will be limited to either affirming CDRH's denial order or affirming it with alterations. This result is apparently understood by the petitioner. See Id.

CDRH believes that for this device an adequate and well-controlled study in humans is necessary to resolve various questions regarding the clinical effect of the antibiotic as a prophylactic agent during the perioperative period, and the cement's safety and effectiveness over time. CDRH believes that the petitioner's present submission fails to demonstrate that the antibiotic bone cement is effective against localized microorganisms that may be present during the implant situation, and it fails to demonstrate that the presence of antibiotics in the cement does not weaken the cement in the clinical situation.

In the petition for reconsideration, the petitioner argues that the information presented in the PMA is sufficient to meet the statutory requirements of section 515(d)(2) (A) and (B) of the act and that an adequate and well-controlled study in humans is unnecessary for demonstrating a reasonable assurance that the device is safe and effective under the conditions of use prescribed, recommended, or suggested in the proposed labeling.

Accordingly, pursuant to section 515(g)(2)(A) of the act, the Commissioner is granting the request for administrative review by establishing an advisory committee under section 515(g)(2)(B) of the act to submit to the agency a report and recommendation with respect to the issues raised by the petitioner's request for review.

Upon completion of the review, the Commissioner will make public the advisory committee's report and recommendations, and will issue an order affirming past agency action, with or without alteration, as is appropriate.

The following questions will define the scope of the advisory committee's review of CDRH's denial of the premarket approval application for the antibiotic bone cement:

1. Is a well-controlled clinical investigation in humans necessary to demonstrate a reasonable assurance that the device is safe and effective as labeled?

2. Assuming that a well-controlled investigation in humans is necessary, what parameters should be investigated in such a study to demonstrate a reasonable assurance that the device will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the device's labeling?

3. Can clinical studies in humans (reported in the literature or in an individual surgeon's case reports) of bone cement with concentrations of antibiotic different from the concentrations of antibiotic in the device subject to the PMA demonstrate a reasonable assurance of safety and effectiveness to support a PMA approval?

4. Does the PMA contain studies that adequately demonstrate that the device will fix prostheses to living bone in orthopedic surgical procedures in humans?

5. Does the PMA contain studies that adequately demonstrate that the leaching out of antibiotic from the bone cement will not adversely affect the cement's long-term function in humans?

6. Does the PMA contain studies or evidence that adequately demonstrate that when the product is used as recommended in the labeling, adequate amounts of antibiotic will be delivered to the operative site in humans to eliminate those bacteria commonly found to cause infections associated with implant surgery?

7. Does the PMA adequately demonstrate that a reasonable assurance of safety and effectiveness is present for those persons most likely to be exposed to the device (e.g., the elderly) when the device is used as labeled?

The advisory committee meeting, public participation, and other activities will be governed by the Federal Advisory Committee Act (Pub. L. 92–463) and FDA's regulations in 21 CFR Part 14 governing its public advisory committees. After the Commissioner issues the order based on the recommendation of the advisory committee, a summary of the safety and effectiveness information submitted to the advisory committee will be made available to the public pursuant to section 520(h)(2) of the act (21 U.S.C. 360j(h)(2)).

The advisory committee will consist of five experts, qualified by training and experience to evaluate the petition, and be appointed by the Commissioner. Advisory committee members will be selected from among authorities knowledgeable in some or all of the following fields: clinical and administrative medicine, pathology, engineering, microbiology, infectious disease, epidemiology, and the biological and physical sciences.

Any public hearing associated with the advisory committee's review will be subject to FDA's guideline (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings. These procedures are primarily intended to expedite media access to FDA public proceedings, including hearings before a public advisory committee conducted pursuant to Part 14 of the agency's regulations. Under this guideline, representatives of

the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including the presentations of participants in this proceeding. Accordingly, all interested persons are directed to the guideline, as well as the **Federal Register** notice announcing issuance of the guideline (49 FR 14723; April 13, 1984), for a more complete explanation of the guideline's effect on this hearing. Individuals who are interested in being appointed by the Commissioner to serve on the advisory committee should contact Carl A. Larson (address above) or may be nominated by any interested person. Nominations are required to be in writing and submitted to the Dockets Management Branch (address above) by July 29, 1986.

Any interested person may nominate one or more qualified persons for membership. A complete curriculum vitae of the nominee shall be included with the nomination. Nominations shall state that the nominee is aware of the nomination, is willing to serve as a member of the committee, and appears to have no conflict of interest. FDA will ask potential candidates to provide detailed information concerning financial holdings, consultancies, and research grants or contracts to permit evaluation of possible sources of conflict of interest.

All documents filed in this matter are filed under Docket No. 84P-0346 and are available for public review in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Additional information about this proceeding will be published in a future **Federal Register** notice, including announcement of the date, time, and place of the advisory committee meeting.

Dated: May 22, 1986.

Joseph P. Hile,

Acting Commissioner of Food and Drugs.

[FR Doc. 86-12100 Filed 5-29-86; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 86G-0202]

The Hereld Organization; Filing of Petition for Affirmation of GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a petition (GRASP 6G0305) has been filed on behalf of the Hereld Organization proposing that *alpha*-cyclodextrin is generally recognized as safe (GRAS) as a direct human food ingredient.

DATE: Comments by July 29, 1986.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Susan Thompson, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-9463.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))) and the regulations for affirmation of GRAS status in § 170.35 (21 CFR 170.35), notice is given that a petition (GRASP 6G0305) has been filed on behalf of the Hereld Organization, 401 Christopher Ave., Suite 11, Gaithersburg, MD 20877. This petition proposes to affirm that *alpha*-cyclodextrin used as an encapsulating agent is GRAS as a direct human food ingredient.

The petition has been placed on display at the Dockets Management Branch (address above).

Any petition that meets the format requirements outlined in § 170.35 is filed by the agency. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus, the filing of a petition for GRAS affirmation should not be interpreted as a preliminary indication of suitability for GRAS affirmation.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c), as published in the **Federal Register** of April 26, 1985 (50 FR 16636).

Interested persons may, on or before July 29, 1986, review the petition and/or file comments (two copies, identified with the docket number found in brackets in the heading of this document) with the Dockets Management Branch (address above). Comments should include any available information that would be helpful in determining whether the substance is, or is not, GRAS. A copy of the petition and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 22, 1986.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86-12097 Filed 5-29-86; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 79N-0019]

Minor Use of Animal Drugs; Availability of Guidelines

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of revised guidelines concerning the submission of data for approval of new animal drug applications for minor uses of new animal drugs. The revised guidelines describe the types of data required to establish safety and effectiveness, and to address environmental considerations for "minor use" new animal drugs under section 512 of the Federal Food, Drug, and Cosmetic Act, and 21 CFR 514.1(d) of the animal drug regulations.

ADDRESS: The revised guidelines are available for public examination at, further written comments may be submitted to, and requests for single copies may be sent to the Dockets Management Branch (HF-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

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

SUPPLEMENTARY INFORMATION: "Minor use" new animal drugs and drugs used in minor animal species or used in any animal species for a disease that occur infrequently or in limited geographical areas. FDA published a proposed rule and a notice of availability of guidelines concerning minor use new animal drugs in the **Federal Register** of July 20, 1979 (44 FR 42714). In the **Federal Register** of January 14, 1983 (48 FR 1922), FDA published a final rule amending the animal drug regulations to provide for minor use applications (21 CFR 514.1(d)) and the availability of revised guidelines concerning their submission. FDA is now providing six specific guidelines, namely: (I) Game birds, (II) minor ruminants, (III) rabbits, (IV) food fish, (V) human food safety, and (VI) environmental considerations. These guidelines have been updated to reflect more recent experience, including comments from three workshops on the

minor use of new animal drugs (March 14–16, 1983, August 21–22, 1984, and September 25–26, 1985). The most significant revisions reflect clarification of the requirements for minor ruminants, rabbits, and human food safety, and for environmental considerations to reflect the National Environmental Policy Act and FDA's implementing regulations in 21 CFR Part 25 (50 FR 16636; April 26, 1985).

This notice of availability is issued under 21 CFR 10.90(b), which provides for the use of guidelines to establish procedures of general applicability that are not legal requirements but are acceptable to the agency. Sponsors may rely upon a guideline with the assurance that it represents procedures acceptable to the agency (see 21 CFR 10.90). If a sponsor believes that alternative procedures are applicable, a guideline does not preclude a sponsor from pursuing the alternative procedures. Under such circumstances, however, the agency encourages sponsors to discuss the alternative procedures in advance with FDA to prevent the expenditure of money and effort for work that may later be found to be unacceptable.

Interested persons may, at any time, submit additional written comments on the guidelines to the Dockets Management Branch (HFA–305). Such comments will be considered in determining if further revisions of the guidelines are required. Respondents should submit two copies, except that individuals may submit single copies, identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch from 9 a.m. to 4 p.m., Monday through Friday.

Dated: May 22, 1986.

Joseph P. Hile,

Acting Commissioner of Food and Drugs.

[FR Doc. 86–12094 Filed 5–29–86; 8:45 am]

BILLING CODE 4160–01–M

Health Resources and Services Administration

National Advisory Council on the National Health Service Corps Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of June 1986:

Name: National Advisory Council on the National Health Service Corps.

Date and Time: June 23–25, 1986, 8:30 a.m.

Place: Fresno Hilton, 1055 Van Ness, Fresno, California 93721.

Visits will be made to National Health Service Corps funded sites, including a migrant, a freestanding and an Indian Health site on Tuesday, June 24. No transportation will be provided for visitors and observers.

The entire meeting is open to the public.

Purpose: The Council will advise and make appropriate recommendations on the National Health Service Corps (NHSC) program as mandated by legislation. It will also review and comment on proposed regulations promulgated by the Secretary under provisions of the legislation.

Agenda

The agenda will include a discussion of Region IX activities, overall National Health Service Corps policies, budget and other topics at the pleasure of the Council.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should write to or contact Anna Mae Voigt, National Health Service Corps, Bureau of Health Care Delivery and Assistance, Health Resources and Services Administration, Room 6–40, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone: 301 443–4814.

Agenda items are subject to change as priorities dictate.

Dated: May 22, 1986.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 86–12086 Filed 5–29–86; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Pueblo of Santa Ana, NM; Proclaiming Certain Lands as Part of the Reservation

April 30, 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 8.1.

On April 30, 1986, pursuant to authority contained in Section 7 of the act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 467), the following described lands, located in Sandoval County, New Mexico, were added to and made a part of the Reservation of the Pueblo of Santa Ana.

A tract of land situate in Section 19, T. 13 N., R. 4 E., NMPM, located in the County of Sandoval and State of New Mexico, being more particularly described by metes and bounds as follows:

Beginning at a point, the SW Corner of Section 19, said point being a USGLOS Brass Cap on pipe, section corner common to Sections 19, 30, T. 13 N., R. 4 E., NMPM; thence,

North 0°33'44" East, 2455.51 feet distant to a point, said point being a USGLOS Brass Cap on pipe, East ¼ Corner, Section 24, T. 13 N., R. 3 E., NMPM; thence,

North 0°38'16" East, 179.67 feet distant to a point, said point being a USGLOS Brass Cap on pipe, West ¼ Corner, Section 19, T. 13 N., R. 4 E., NMPM; thence,

North 0°38'45" East, 2495.45 feet distant to a point, said point being a USGLOS Brass Cap on pipe, Section Corner common to Sections 13, 24, T. 13 N., R. 3 E., NMPM; thence,

North 0°38'49" East, 138.61 feet distant to a point, said point being a USGLOS Brass Cap on pipe, Section Corner common to Sections 18, 19, T. 13 N., R. 4 E., NMPM; thence,

North 89°59'13" East, 2640.61 feet distant to a point, said point being a USGLOS Brass Cap on pipe, North ¼ Corner, Section 19, T. 13 N., R. 4 E., NMPM; thence,

North 89°45'31" East, 130.44 feet distant to a point, said point being a USGLOS Brass Cap on pipe, South ¼ Corner, Section 18, T. 13 N., R. 4 E., NMPM; thence,

North 89°48'10" East, 2388.06 feet distant to a point, said point being a concrete filled 1" pipe, C.C., Sections 18, 19, T. 13 N., R. 4 E., NMPM; El Ranchito Grant; thence,

South 23°05'17" West, 3862.85 feet distant to a point, said point being a USGLOS Brass Cap on pipe, M.C. 3, El Ranchito Grant; thence,

South 22°44'36" West, 526.33 feet distant to a point, said point being a USGLOS Brass Cap on pipe, 1 M, El Ranchito Grant; thence,

South 23°49'07" West, 315.74 feet distant to a point, said point being a USGLOS Brass Cap on pipe, M.C. 2, El Ranchito Grant; thence,

South 8°46'19" West, 962.86 feet distant to a point, said point being a USGLOS Brass Cap, C.C. Sections 19, 30, T. 13 N., R. 4 E., NMPM; El Ranchito Grant, thence,

North 89°57'32" West, 582.20 feet distant to a point, said point being a USGLOS Brass Cap, ¼ Corner common to Sections 19, 30, T. 13 N., R. 4 E., NMPM; thence,

North 89°57'42" West, 2640.06' distant to the point of beginning, said point being a USGLOS Brass Cap on pipe,

Section Corner common to Sections 19, 30, T. 13 N., R. 4 E., NMPM, containing 494.366 acres more or less.

Excepting Therefrom the Following Described Tract of Land

Beginning at the southwest corner of this excepted tract from which point the southwest corner of Section 19, Township 13 North, Range 4 East, NMPM, bears S 0°33'44" W., 660.03 feet and from said beginning point running:

Thence N 0°33'44" E., along the Range line between Range 3 East and 4 East, a distance of 796.00 feet;

Thence N 79°32'31" E., 2111.41 feet;

Thence S 85°53'39" E., 1613.61 feet to a USGLOS Brass Cap marked ERMC 3 1914;

Thence S 22°44'36" W., 526.33 feet;

Thence S 23°49'07" W., 315.74 feet;

Thence S 8°46'19" W., 962.86 feet to a point to a USGLOS brass cap marking the closing corner of Sections 19 and 30 with the El Ranchito Grant;

Thence North 89°57'32" West, 582.20 feet distant to a point, said point being a USGLOS Brass Cap, ¼ Corner common to Sections 19, 30, T. 13 N., R. 4 E, NMPM;

Thence North 89°57'42" West, 1320.06' distant to a point;

Thence North 0°2'18" E., 660.00 feet;

Thence N 89°57'42" W., 1313.97 feet to the point of beginning and containing *113.00* acres, more or less, all in said Section 19, Township 13 North, Range 4 East, NMPM.

Excepting Further Therefrom the Following Described Tract of Land

Beginning at the Southwest Corner of the Tract herein described which point is the Northwest corner of SUN COUNTY SUBDIVISION, Phase 1, filed and recorded in the office of the County Clerk of Sandoval County, New Mexico, on October 23, 1973, and from said beginning point running:

Thence N 00°33'44" E., along the Range Line between Range 3 East and Range 4 East, a distance of 999.48 feet to a U.S.GLO Brass Cap, this being the Quarter corner of Section 24, Township 13 North, Range 3 East;

Thence N 00°38'16" E., a distance of 179.67 feet to a U.S.GLO Brass Cap, this being the Quarter corner of Section 19, Township 13 North, Range 4 East;

Thence N 00°38'45" E., a distance of 630.00 feet;

Thence S 89°21'15" E., a distance of 472.03 feet;

Thence S 00°38'45" W., a distance of 1716.80 feet;

Thence S 79°32'31" W., a distance of 479.52 feet along the Northerly boundary of SUN COUNTY SUBDIVISION, Phase 1 to the TRUE POINT OF BEGINNING, and containing *19.088* acres, more or less, all in Section 19, Township 13, North, Range 4 East, NMPM, Sandoval County, New Mexico.

Excepting Further Therefrom the Following Described Tract of Land

From a point, S.W. Corner of Section 19, said point being a USGLOS Brass Cap on pipe, Section Corner common to Sections 19, 30, T. 13 N., R. 4 E., NMPM; South 89°57'57"42" East, 660.00 feet distant to a point, said point being a #3 deformed reinforcing bar and the true point of beginning, thence.

North 0°02'18" East, 660.00 feet distant to a point, said point being a #3 deformed reinforcing bar; thence,

South 89°57'42" East, 660.00 feet distant to a point, said point being a #3 deformed reinforcing bar; thence;

South 0°02'18" West, 660.00 feet distant to a point, said point being a #3 deformed reinforcing bar; thence,

North 89°57'42" West, 660.00 feet distant to the true point of beginning, said point being a #3 deformed reinforcing bar, and containing 10.000 acres more or less.

Excepting Further Therefrom the Following Described Track of Land

Beginning at a point, said point being a USGLOS Brass Cap on pipe, M.C. 3, El Ranchito Grant; thence,

North 85°53'39" West 1613.61 feet distant to a point, said point being a 1" pipe; thence;

North 0°08'26" West, 1557.72 feet distant to a point, said point being a #5 deformed reinforcing bar; thence,

South 68°09'33" East, 2140.72 feet distant to a point, said point being a #5 deformed reinforcing bar; thence,

South 23°05'17" West, 952.56 feet distant to the point of beginning, said point being a USGLOS Brass Cap on pipe, M.C. 3, El Ranchito Grant and containing 52.173 acres more or less.

Excepting Further Therefrom the Following Described Tract of Land

That certain non-exclusive easement as referred to in Warranty Deed recorded in Book 11 DR, page 332, and in Quitclaim Deeds recorded in Book DR 26, page 819, and in Book DR 26, page 820, records Sandoval County, New Mexico.

The above-described parcels contain a total of 300.105 acres, more or less which are subject to all valid rights, reservations, rights-of-way, and easements of record.

Ross O. Swimmer,

Assistant Secretary—Indian Affairs.

May 21, 1986.

[FR Doc. 86-12183 Filed 5-29-86; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[AA-6679-A2]

Alaska Native Claims Selection; Manokotak Natives, Ltd.

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 Manokotak Natives Limited for approximately 3,200 acres. The lands involved are in the vicinity of Manokotak, Alaska.

Seward Meridian, Alaska

T. 14 S., R. 58 W. (Unsurveyed)
T. 12 S., R. 60 W. (Unsurveyed)

A notice of the decision will be published once a week for four (4) consecutive weeks, in the ANCHORAGE TIMES. 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 June 30, 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 4, Subpart E shall be deemed to have waived their rights.

Joe J. Labay,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 86-12178 Filed 5-29-86; 8:45 am]

BILLING CODE 4310-JA-M

Dickinson District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting.

SUMMARY: The citizen advisory council for the Bureau of Land Management's Dickinson District will meet June 18, 1986, in Dickinson, North Dakota. This is a rescheduling from the previously announced date of June 11, 1986, (51 FR 17838, May 15, 1986). The change was necessitated when unforeseen conflicts

would not allow at least six council members to be present on that date. The agenda and all other information is the same as announced for the June 11 meeting.

LOCATION, DATE, AND TIME: June 18, 1986, from 8:30 a.m. to approximately 4:00 p.m. Mountain Daylight Time, Community Room (basement) of the Gate City Building, 204 Sims Street, Dickinson, North Dakota.

FOR MORE INFORMATION CONTACT: William F. Krech, District Manager, P.O. Box 1229, Dickinson, North Dakota 58602; telephone (701) 225–9148.

Dated: May 23, 1986.

William F. Krech,

District Manager.

[FR Doc. 86–12186 Filed 5–29–86; 8:45 am]

BILLING CODE 4310-DN-M

Sale of Public Lands in Yavapai County, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Competitive Sale of Public Land in Yavapai County, A–21945 through A–21951.

SUMMARY: The Bureau of Land Management will offer 7 tracts of land for public sale. These tracts are located near Wickenburg, Arizona. It has been determined that the sale of these tracts is consistent with section 203 of the Federal Land Policy and Management Act of October 21, 1976. These tracts will be sold at no less than the appraised fair market value.

The subject lands are located at:

Gila and Salt River Meridian, Arizona

Serial No.	Legal description	Acres
A–21945	T. 8 N., R. 5 W., Sec. 15, NE¼NE¼NW¼.	10.00
A–21946	T. 8 N., R. 5 W., Sec. 15, SE¼NE¼NW¼.	10.00
A–21947	T. 8 N., R. 5 W., Sec. 15, W½NE¼NW¼.	20.00
A–21948	T. 8 N., R. 5 W., Sec. 15, NW¼NW¼.	40.00
A–21949	T. 8 N., R. 5 W., Sec. 15, N½SW¼NW¼.	20.00
A–21950	T. 8 N., R. 5 W., Sec. 15, W½SE¼NW¼.	20.00
A–21951	T. 8 N., R. 5 W., Sec. 15, E½SE¼NW¼.	20.00

NOTE.—The average aggregates 140.00 acres of land in Yavapai County.

Current Department of Interior policy for competitive land sales provides for a sealed bid process only.

Federal law limits sale of this land to United States citizens, corporations subject to the law of any State or of the United States, States, State instrumentalities or political subdivisions authorized to hold property, and any entity legally capable of conveying and holding lands or interests therein under the laws of the State within which the lands to be conveyed are located. The purchaser is deemed to be the individual(s) or corporation that will actually take title to the land from the government; the citizenship limitation does not apply to agents who bid on behalf of an associate, client or employer.

All of the parcels listed will be subject to the following reservation when patented:

1. A right-of-way for ditches and canals constructed by the authority of the United States. (Act of August 30, 1890, 26 Stat. 391, 43 USC 945.)

2. A reservation of all oil and gas to the United States with the right to prospect for, mine, and remove such deposits.

The following tracts will be sold subject to the following reservations:

1. Parcels A–21945—A–21951 will be sold subject to BLM road right-of-way A–18698.

2. A–21949 will be subject to BLM road right-of-way A–18699.

Additionally, all parcels will be sold subject to the Wickenburg Inn grazing lease No. AZ–020–2530. The purchaser of the land will honor the terms and conditions of this grazing lease until February 28, 1989. The purchaser will not charge more than the BLM grazing free schedule for a given year. Modification of these terms and conditions will occur only thorugh mutual agreement between the purchaser and the lessee.

The successful bidder will also be required to purchase the mineral estate at the time of final payment.

Upon publicaton of this notice in the **Federal Register**, the land described above will be segregated from all forms of non-discretionary appropriation under the public land laws, including the mining laws, except the mineral laws, for a period of 270 days or until the lands are sold, The segregative effect may otherwise be terminated by the authorized officer by publication of a termination notice in the **Federal Register** prior to the expiration of the 270 day period.

Additional information regarding these tracts of land will be contained in the sale brochure made available at least 30 days prior to the sale. This additional information includes: 1. Sealed bid instructions. 2. Times of first sealed bid opening. 3. Appraised fair market value of the tracts. 4. Any reservations or terms and conditions that apply to the tracts of land. 5. Maps showing the location of the tracts of land. 6. Requirements of parties wishing to bid. 7. Payment procedures for the successful bidder.

For a period of 45 days from the date of this notice, interested parties may submit comments regarding the proposed action. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior. Comments regarding this action or requests for additional information should be sent to the Phoenix District, 2015 W. Deer Valley Road, Phoenix, Arizona 85027.

Dated: May 22, 1986.

Marlyn V. Jones,

District Manager.

[FR Doc. 86–12187 Filed 5–29–86; 8:45 am]

BILLING CODE 4310-32-M

Nevada, Filing of Plats of Survey and Order Providing for Opening of Lands

May 22, 1986.

1. The Plat of Survey of lands described below will be officially filed at the Nevada State Office, Reno, Nevada, effective at 10:00 a.m., on July 14, 1986.

Mount Diablo Meridian, Nevada

T. 2 N., R. 56 E.

2. The elevation of the land within the confines of the survey in Township 2 North, Range 56 East, is approximately 6,000 ft. above sea level and the terrain is rolling to mountainous. The vegetation consists of scattered juniper, pinion pine, sagebrush, Brigham tea, rabbitbrush and sparse cacti. The soil is sandy clay loam and rocky. Cottonwood Creek flows southeasterly across the southern part of section 13.

Improvements consist of an improved gravel road bearing generally east and west in section 13 and a building under construction is located in the northwest quarter of the northwest quarter of section 13.

Principal users of the area are landowners in the vicinity.

T. 18 N., R. 63 E.

The land within the confines of this survey in Township 18 North, Range 63 East, is located approximately 8 miles north of Ely, Nevada, and more specifically, in Smith Valley, 2 miles northwest of Hercules Gap. The elevation is about 6,600 ft. above sea level. The soil is sandy clay loam and the vegetation consists of medium to scattered densities of juniper and pinion pine in the northeast part and scattered

sagebrush, native grass and sparse cacti. Drainage is primarily southwesterly along the alluvial fan of the Egan Range.

Access is gained via Bothwick Road which, commencing in Ely, enters the area at the south boundary of section 31, heading in a straight northwesterly direction through the section. There are numerous trail roads in the area. In addition, there is a power line which basically parallels Bothwick Road.

Principal users of the area are landowners, hunters, and wood cutters.

3. Subject to valid existing rights, the provisions of existing withdrawals and classifications, and the requirements of applicable land laws, the lands described above are hereby open to such applications and petitions as may be permitted. All such valid applications received at or prior to 10:00 a.m., on July 14, 1986, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing. The lands decribed above have been open and continue to be open to the mining and mineral leasing laws.

4. The Plats of Survey of lands described below were officially filed at the Nevada State Office, Reno, Nevada, effective at 10:00 a.m., on the dates indicated:

Mount Diablo Meridian, Nevada

T. 2 N., R. 42 E.	May 14, 1986	Tract survey.
T. 12 N., R. 21 E.	May 14, 1986	Corrective resurvey and corrective survey.
T. 31 N., R. 43 E.	May 14, 1986	Supplemental plat.

The purpose of this notice is to inform the public and interested State and local government officials of the filing of plats of survey. Inquiries concerning the surveys shall be addressed to the Nevada State Office, Bureau of Land Management, 300 Booth Street, P.O. Box 12000, Reno, Nevada 89520.

Robert G. Steele,

Deputy State Director, Operations.

[FR Doc. 86-12188 Filed 5-29-86; 8:45 am]

BILLING CODE 4310-HC-M

Shoshone District Advisory Council Meeting

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda for a meeting of the Shoshone District Advisory Council.

DATE: Thursday, June 26, 1986 at 9:00 a.m.

ADDRESS: BLM District Office, 400 West F Street, Shoshone, Idaho 83352.

FOR FURTHER INFORMATION CONTACT: Jon Idso, District Manager, Shoshone District Office, P.O. Box 2 B, Shoshone, Idaho 83352. Telephone (208) 886-2206 or FTS 554-6576.

SUPPLEMENTARY INFORMATION: The proposed agenda for the meeting includes the following items:

Current Issues Update
Field Tour of Fire Rehabilitation Projects

The Shoshone District Advisory Council is established under Section 309 of the Federal Land Policy and Management Act of 1976 (Pub. L. 94-579; 43 U.S.C. 1701 et seq.) as amended. Operation and administration of the Council will be in accord with the Federal Advisory Committee Act of 1972 (Pub. L. 92-463; 5 U.S.C. Appendix 1) and Department of Interior regulations, including 43 CFR Part 1784.

The meeting will be open to the public. Anyone may present an oral statement before the Council between 9:00 and 10:00 a.m. or may file a written statement with the Council regarding matters on the agenda. Oral statements will be limited to ten minutes. Anyone wishing to make an oral statement should notify the Shoshone District Manager by June 25, 1986. Records of the meeting will be available in the Shoshone District Office for public inspection or copying within 30 days after the meeting.

Dennis D. Schulze,

Acting District Manager.

[FR Doc. 86-12107 Filed 5-29-86; 8:45 am]

BILLING CODE 4310-GG-M

[W-81777]

Wyoming: Termination of a Public Meeting and Associated Withdrawal Action For Spanish Point Caves

AGENCY: Bureau of Land Management, Interior.

ACTION: Cancellation of a previously announced public meeting.

SUMMARY: The Notice of a Public Meeting, to accept public comment on the proposed Spanish Point Cave Withdrawal published in the **Federal Register**, Volume 51, Number 85 on Friday, May 2, 1986, is hereby cancelled.

A revised segregation application effort will be proposed for the subject area that will reflect updated information obtained as a result of the land use planning process. The public meeting previously scheduled to occur on June 10, 1986, at the Worland District Office, 101 South 23rd Street, Worland, Wyoming, is therefore cancelled.

FOR FURTHER INFORMATION CONTACT: Roger D. Inman, Area Manager, Washakie Resource Area, Worland District Office (307-347-9871).

Dated: May 23, 1986.

Chester E. Conard,

District Manager.

[FR Doc. 86-12177 Filed 5-29-86; 8:45 am]

BILLING CODE 4310-22-M

Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Pub. L. 97-451, a petition for reinstatement of oil and gas lease M 65771, Blaine County, Montana, was timely filed and accompanied by the required rental accruing from the date of termination, July 1, 1985.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16⅔ respectively. Payment of $500 administration fee has been made.

Having met all the requirements for reinstatement of the lease as set out in sec. 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective as of the date of termination, subject to the original terms and conditions of the lease, the increased rental and royalty rates cited above, and reimbursement for cost of publication of this Notice.

Dated: May 20, 1986.

Karen L. Skauge,

Chief, Leasing Unit.

[FR Doc. 86-12110 Filed 5-29-86; 8:45 am]

BILLING CODE 4310-DN-M

[CA 18779]

Realty Action; Exchange of Public and Private Lands in Riverside County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, CA 18779.

SUMMARY: The following described lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1716):

San Bernardino Meridian, California

T. 3S., R. 4E.,
Sec. 32: NE¼NE¼.
Containing 40 acres of public land.

In exchange for these lands the United States will acquire a like value of land from The Nature Conservancy, located within the following described area:

San Bernardino Meridian, California

T. 4S., R. 6E.,
Sec. 11, all;
Sec. 12: W½.
Containing 960 acres of private land.

SUPPLEMENTARY INFORMATION: The purpose of the exchange is to acquire a portion of the non-Federal lands within the proposed 13,030 acre preserve for the Coachella Valley fringe-toed lizard. The lizard is federally listed as threatened and State listed as endangered. The Bureau of Land Management's goal is to acquire approximately 6700 acres within the preserve. The acres being acquired do not constitute habitat for the lizard, but provide a sand source required for the continuing production of active sand dune areas that are critical habitat for the lizard. Other State and Federal agencies will acquire the remaining portions of the preserve. The public interest will be well served by completing this exchange.

Publication of this notice in the Federal Register segregates the public lands from operation of the public land laws and the mining law, except for mineral leasing. The segregative effect will end upon issuance of patent or two years from the date of publication, whichever occurs first.

The exchange will be conducted on a value for value basis. Following an appraisal, full equalization of values will be achieved by acreage adjustments or by a payment to the United States by The Nature of Conservancy of funds in an amount not to exceed 25 percent of the total value of the lands to be transferred out of Federal ownership.

Land to be transferred from the United States will be subject to the following reservations, terms, and conditions.

1. A right-of-way for ditches and canals constructed by the authority of the United States. Act of August 30, 1890 (43 U.S.C. 945).

2. All the oil, gas, and geothermal steam and associated geothermal resources shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals. A more detailed description of this reservation, which will be incorporated in the patent document, is available for review at this BLM Office.

3. A right-of-way for a Federal Aid Highway, Serial No. LA 0152960, under the Act of November 9, 1921. (42 Stat. 216; 23 U.S.C. 18).

4. The patent will be subject to those rights granted by oil and gas lease CA 10758, issued under the Act of February 25, 1920, as amended (41 Stat. 437, 30 U.S.C. 181).

FOR FURTHER INFORMATION CONTACT: John Sullivan, Indio Resource Area (714) 351–6663. Information relating to this exchange, including the environmental assessment and land report, is available for review at the California Desert District Office, 1695 Spruce Street, Riverside, California 92507.

DATE: 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, California Desert District Office, Bureau of Land Management, at the above address. 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: May 22, 1986.

Hugh W. Riecken,

Acting District Manager.

[FR Doc. 86–12184 Filed 5–29–86; 8:45 am]

BILLING CODE 4310–40–M

[I–22270, I–22803 and I–22804]

Coeur d'Alene District, Idaho; Sale of Public Lands

AGENCY: Bureau of Land Management, Idaho; Interior.

ACTION: Notice of Realty Action, Sale of Public Land in Shoshone and Bonner Counties, Idaho (I–22270, I–22803, and I–22804).

DATE AND ADDRESS: The sale offering for parcels I–22270 and I–22803 will be held on Wesnesday, August 20, 1986, at 10:00 a.m. at the Coeur d'Alene District Office, 1808 North Third Street, Coeur d'Alene, ID 83814. The sale offering for parcel I–22804 will be held on Wednesday, October 15, 1986, at 10:00 a.m. at the same location. Unsold parcels will be offered every Wednesday through January 20, 1987, on which date this sale offering will be suspended.

SUMMARY: The following-described lands will 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	Legal description	Fair market value	Sale type
I–22270	T. 48N., R. 3E., B.M., sec. 11, lot 6 (0.02 acres).	$50.00	Competitive.
I–22803	T. 55N., R. 3E., B.M., sec. 18, SE¼NW¼ (40.00 acres).	13,000.00	Competitive.
I–22804	T. 55N., R. 3E., B.M., sec. 18, NW¼NW¼ (40.00 acres.	1,000.00	Competitive.

When patented, each parcel will be subject to the following reservations:

1. Ditches and canals, Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

2. To all valid existing rights of record.

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

All three parcels will be sold by competitive bidding procedures as follows: A sealed bid must be submitted in person or by mail prior to the date and time of sale in the Coeur d'Alene District Office located at 1808 North Third Street, Coeur d'Alene, Id 83814. The bid must be sealed in an envelope with the envelope specifying the serial number and the sale date in the lower left hand corner (i.e. "Sealed bid—public land sale I–00000—August 20, 1986"). If two or more valid sealed bids are received for the same amount and are high bid, a supplemental bidding of the high bidders will be held.

Bids must be submitted for at least fair market value and will constitute an application to purchase the mineral estate for parcels I–22270, I–22803 and I–22804. A thirty percent (30%) deposit must accompany each bid. An additional $50 non-returnable mineral conveyance processing fee is required and is an addition to the 30% deposit. Bids will be rejected if the correct amount of deposit and mineral processing fee is not received. 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.

SUPPLEMENTART INFORMATION: Detailed information concerning the conditions of the sale can be obtained by contacting Robert Olson, Realty Specialist, at (208) 765–7356.

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,

1808 North Third Street, Coeur d'Alene, ID 83814. 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: May 21, 1986.

John B. O'Brien, III,

Acting District Manager.

[FR Doc. 86-12185 Filed 5-29-86; 8:45 am]

BILLING CODE 4310-GG-M

[CA 3599]

Partial Termination of Proposed Withdrawal and Termination of Land; California

May 22, 1986.

Notice of the Forest Services, U.S. Department of Agriculture, application CA 3599 for withdrawal and reservation from appropriation under the mining laws (30 U.S.C. Ch. 2) for use as an administrative site in the Eldorado National Forest, Placer County, California, was published in the Federal Register on July 2, 1976, page 27404, FR Doc. 76-19172 and republished on July 28, 1977, page 38434, FR Doc. 77-21685. The applicant agency has cancelled its application as to the following described lands:

Mount Diablo Meridian

T. 14, R. 14 E.,
Sec. 16, E½NE¼NW¼NW¼, W½NW¼ NW¼NW¼ S½NW¼NW¼.

The area described aggregates 30.00 acres.

Therefore, pursuant to the regulations in 43 CFR 2310.2-1(c), such land at 10:00 a.m. July 7, 1986, will be relieved of the segregative effect on the above mentioned application.

Nancy J. Alex,

Chief, Lands & Locatable Minerals Section, Branch of Lands & Minerals Operations.

[FR Doc. 86-12177 Filed 5-29-86; 8:45 am]

BILLING CODE 4310-40-M

[N-42798]

Realty Action; Leasing of Public Lands for Private Airstrip; Nevada

This Notice of Realty Action involves the leasing of public lands for a private airstrip. The airstrip is for the exclusive use of Empire Farms for commuting to and from the farm. It would also be used by crop dusters which would be used for spraying the farm fields.

The site proposed for leasing under provisions of section 302 of the Federal Land Policy and Management Act (FLPMA) of 1976 and 43 CFR Part 2920 is described as follows:

Mount Diablo Meridian, Nevada

T. 30 N., R. 22 E.,
Sec. 25, E½E½E½SW¼;
Sec. 36, E½E½NE¼NW¼, NE¼NE¼S E¼NW¼.

The proposal would include 32.5 acres.

The proposed parcel is located in the San Emidio Desert immediately adjacent to the Fox Range.

The proposed area would be cleared of vegetation and levelled. A fence would be constructed to prevent large animals from wandering onto the airstrip.

No other proposals will be accepted. The proposed airstrip lies immediately adjacent to Empire Farms private land and housing. Therefore, no other proposals would be acceptable considering adjacent land uses.

The proposal would be authorized by a lease for a term of 20 years. The lease could be renewed at the discretion of the authorized officer.

The proposal would be a working part of Empire Farms. Empire Farms is an operating farm and therefore has the legal, financial, and managerial qualifications necessary to complete the proposed airstrip construction.

The proposed parcel has not been appraised at this time, so no estimate of rent is available. However, rent will not be less than the appraised fair market value.

Operation of the airstrip would require special Federal Aviation Administration stipulations to be followed. Since the proposal includes using the airstrip by crop dusters special requirements for the handling and use of pesticides would be imposed.

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, 705 East Fourth Street, Winnemucca, Nevada 89445. In the absence of adverse comments, an application for the proposed use will be processed in accordance with proper application procedures.

Dated: May 20, 1986.

Frank C. Shields,

District Manager.

[FR Doc. 86-12179 Filed 5-29-86; 8:45 am]

BILLING CODE 4310-HC-M

Minerals Management Service Alaska OCS Region; Public Hearings; Alaska Offshore

This Notice establishes the location and alternative dates of a public hearing to be held pursuant to section 810 of the Alaska National Interest Lands and Conservation Act (ANILCA).

The Minerals Management Service recently prepared Environmental Assessment (EA) No. AK 86-02, regarding Amoco's request for a waiver of Stipulation No. 4 (Seasonal Drilling Restriction for Protection of Bowhead Whales), Outer Continental Shelf Sale 87, Diapir Field, as applied to the approved exploration plan at the Erik and Belcher Prospects. The Erik Prospect is located approximately 20 kilometers northwest of Kaktovik in the Beaufort Sea.

The EA found, among other things, that the one-time waiver of Stipulation No. 4 for the Erik Prospect "may significantly restrict subsistence uses." Section 810(a)(2) of ANILCA requires that when such a finding is made a public hearing will be held in the vicinity of the area involved. Thus, a hearing will be held on June 26, 1986, from 7:00 p.m. to 9:00 p.m. in the Community Hall in Kaktovik, Alaska. If it is necessary to cancel the June 26 hearing, it will be held June 30, 1986, at the same time and location.

The determinations required by section 810(a)(3) of ANILCA will be made after the hearing is held. Copies of EA No. AK 86-02 can be obtained from the Alaska OCS Region, Leasing and Environment Office, Minerals Management Service, P.O. Box 101159, Anchorage, Alaska 99510, Telephone (907) 261-4080.

Interested individuals, representatives of organizations, and public officials are invited to testify at the hearing. Time limitations may make it necessary to limit the length of oral presentations to 10 minutes. Oral statements may be supplemented by a more complete written statement which may be submitted to a hearing official or by mail. Those unable to testify at the public hearing may make their views known by submitting written comments by mail. Written comments should be addressed to the Regional Director, Alaska OCS Region, Minerals Management Service, P.O. Box 101159, Anchorage, Alaska 99510 and should be received by July 7, 1986.

Alan D. Powers,

Regional Director.

[FR Doc. 86-12115 Filed 5-29-86; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Exxon Co., U.S.A.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Exxon Company, U.S.A. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 1619, Block 93, South Pass Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Grand Isle, Louisiana.

DATE: The subject DOCD was deemed submitted on May 21, 1986.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Rules and Production, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 838–0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected States, local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: May 23, 1986.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86–12106 Filed 5–29–86; 8:45 am]

BILLING CODE 4310–MR–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30812]

Railroad Operation; Illinois Central Gulf Co.; Exemption for Track Acquisition

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval, under 49 U.S.C. 11343, *et seq.*, the acquisition and operation of 5.54 miles of track from Consolidated Rail Corporation in Madison and St. Clair Counties, IL, subject to standard employee protective conditions.

DATES: This exemption will be effective on June 30, 1986. Petitions to stay must be filed by June 9, 1986. Petitions for reconsideration must be June 19, 1986.

ADDRESSES: Send petitions referring to Finance Docket No. 30812 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Howard D. Koontz, 233 North Michigan Avenue, Chicago, IL 60601.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr. (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289–4357 (DC Metropolitan area), or toll-free (800) 424–5403.

Decided: May 22, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

James H. Bayne,

Secretary.

[FR Doc. 86–12157 Filed 5–29–86; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30827]

Little Rock & Western Railway Corporation; Exemption To Operate; Continental Grain Co.

Little Rock & Western Railway Corporation has filed a notice of exemption to operate over a rail line between Perry and Danville, AR, a distance of approximately 35 miles, in Yell and Perry Counties, AR, pursuant to rights granted by Continental Grain Company. Comments must be filed with the Commission and served on:

Kelvin J. Dowd, 1224 Seventeenth Street, NW., Washington, DC 20036, Phone: (202) 347–7170.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505 (d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Dated: May 22, 1986.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 86–12124 Filed 5–29–86; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–1 (Sub-187X)]

Chicago and North Western Transportation Company—Abandonment Exemption—in Jackson County, WI

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 10903, *et seq.*, the abandonment by Chicago and North Western Transportation Company of 2.4 miles of railroad in Jackson County, WI, subject to standard employee protective conditions.

DATES: This exemption will be effective on June 30, 1986. Petitions to stay must be filed by June 16, 1986, and petitions for reconsideration must be filed by June 24, 1986.

ADDRESSES: Send pleadings referring to Docket No. AB–1 (Sub-No. 187X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423;

(2) Petitioner's representative: Robert T. Opal, Chicago and North Western Transportation Co., One North Western Center, Chicago, IL 60606.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289–4357 (DC Metropolitan area), or toll-free (800) 424–5403.

Decided: May 22, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

James H. Bayne,

Secretary.

[FR Doc. 86–12123 Filed 5–29–86; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Joint Newspaper Operating Agreement

Notice is hereby given that the Attorney General has received an application for approval of a joint newspaper operating arrangement involving the two daily newspapers in Detroit, Michigan. The application was filed on May 9, 1986 by the Detroit News, Inc., publisher of the Detroit News, and the Detroit Free Press, Inc., publisher of the Detroit Free Press. The proposed arrangement provides that the printing and commercial operations of both newspapers would be handled by the Detroit Newspaper Agency, a joint venture partnership created by the newspapers. According to the application all the editorial functions and policies of each newspaper would remain separate.

The Newspaper Preservation Act, 15 U.S.C. 1801 et seq., requires that joint newspaper operating arrangements such as that proposed by the Detroit newspapers have the prior written consent of the Attorney General of the United States in order to qualify for the antitrust exemption provided by the Act. Before granting his consent, the Attorney General must find one of the publications is a failing newspaper and that approval of the arrangement would effectuate the policy and purpose of the Act.

In accordance with the Newspaper Preservation Act Regulations, published in the **Federal Register** on January 2, 1974, 28 CFR Part 48, copies of the proposed agreement and other materials filed by the newspapers in support of the application are available for public inspection in the main offices of the newspapers involved and at the Department of Justice. Any person with views about the proposed arrangement may file written comments stating the reasons why approval should or should not be granted, or requesting that a hearing be held on the application. A request for a hearing must set forth the issues of fact to be determined and the reason that a hearing is believed to be required to determine them. Comments should be filed by mailing or delivering five copies to the Assistant Attorney General for Administration, Justice Management Division, Department of Justice, Washington, DC 20530, and must be received by June 30, 1986.

Replies to any comments filed on or before that date may be filed on or before July 29, 1986.

Dated: May 23, 1986.

W. Lawrence Wallace,

Assistant Attorney General for Administration.

[FR Doc. 86-12132 Filed 5-29-86; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to Clean Air Act; United States v. Badger Paper Mills, Inc.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on May 12, 1986, a proposed consent decree in *United States* v. *Badger Paper Mills, Inc.*, Civ. No. 84-C-1236, was lodged with the United States District Court for the Eastern District of Wisconsin. This agreement resolves a judicial enforcement action brought by the United States against Badger Paper Mills, Inc., which alleged violations of the Clean Air Act at Badger's pulp mill in Peshtigo, Wisconsin.

The proposed consent decree provides that Badger will install a scrubber at its pulp mill and implement certain other modifications to its facility system by April 1, 1986. Badger is also subject to an interim control program until it achieves compliance with the final emission limitations established under the Decree. Many of the measures in the Decree have already been completed by Badger. Badger has agreed to pay a civil penalty of $50,000 for past violations. Finally, the decree estabishes monitoring and reporting requirements and provides for stipulated penalties for failure to comply with the provisions of the decree.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Badger Paper Mills, Inc.*, D.J. Ref. 90-5-2-1-709.

The proposed consent decree may be examined at the office of the United States Attorney or the regional office of the Environmental Protection Agency as follows:

U.S. Attorney

U.S. Attorney, Eastern District of Wisconsin, Suite 500, 330 Federal Building, 517 E. Wisconsin Avenue, Milwaukee, Wisconsin 53202

EPA

Office of Regional Counsel, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

A copy 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 by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please attach a check in the amount of $2.10, payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 86-12109 Filed 5-29-86; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Modification of Consent Decree Under the Clean Water Act; United States v. City of Fort Smith and the State of Arkansas

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on May 23, 1986, a proposed modification to Consent Decree in *United States* v. *City of Fort Smith and the State of Arkansas*, Civil Action No. 83-2121 was lodged with the Western District of Arkansas, Fort Smith Division. The complaint alleges violations of the Clean Water Act and the City's National Pollution Discharge Elimination System permit.

A Consent Decree was entered in this case on June 17, 1983. That decree provided for a comprehensive study of the City's two wastewater treatment facilities, from which a corrective action plan was proposed; provided for a civil penalty for past violations; and established interim effluent limitations for discharges from the plants.

The modification to the Consent Decree requires the City to pay a civil penalty for past violations of the decree and submit a Pretreatment Implementation Status Report of the City's industrial users. The modification additionally revises the interim effluent limits, facility construction schedule, and stipulated penalty provisions of the original decree.

The Department of Justice will receive comments on the proposed modification to Consent Decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistance Attorney General of the Land and Natural Resources Division, Department of

Justice, Washington, DC 20530, and should refer to *City of Fort Smith, Arkansas and the State of Arkansas*, Civil Action No. 83–2121 (W.D. Ark.) DOJ Ref. 90–5–1–1–1782.

The proposed modification to the Consent Decree may be examined at the office of the United States Attorney, U.S. Post Office and Courthouse Building, 6th and Rogers Streets, Fort Smith, Arkansas 72901. Copies of the Consent Decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Tenth and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed modification to the decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $.70 (ten cents per page reproduction cost), payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 86–12108 Filed 5–29–86; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the redcordkeeping/reporting requirements.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202 523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–1301, Washington, DC 20210. Comments should also be sent to the OMB reviewer, Nancy Wentzler, Telephone 202 395–6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, Washington, DC 20503.

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Revision

Employment and Training Administration
Alien Labor Certification State Agency Transmittal of Application and Processing Record
1205–0182; ETA 4748
One per application
State or local governments
50,000 respondents; 15,000 burden hours; 1 form

The ETA 4748 is used by State and local employment service offices, and DOL regional offices, to facilitate case control and processing, assist in certification determinations and provide date for program MIS.

Reinstatement

Bureau of Labor Statistics
CES State Operations Review
1220–0075 BLS 790 V
Annually
State or local governments
53 responses; 424 hours; 1 form

The CES State Operations Review is the principal source of information concerning the quality and the states' adherence to BLS prescribed performance in all aspects of the CES survey. It is a dynamic vehicle to measure program performance in a state.

Reinstatement

Employment and Training Administration
Procedures for Classifying Labor Surplus Areas
1205–0207
On Occasion
State or local governments
52 respondents; 104 burden hours; no forms

DOL issues an annual list of labor surplus areas (LSAs) so that the Federal agencies can direct procurement contracts to employers in high unemployment areas. The annual LSA list is updated during the year based upon petitions submitted to DOL by SESAs requesting additional areas for LSA classification.

Signed at Washington, DC, this 22nd day of May 1986.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 86–11933 Filed 5–29–86; 8:45 am]

BILLING CODE 4510–30–M

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

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The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report to keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeeping/reporting requirements.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-1301, Washington, DC 20210. Comments should also be sent to the OMB reviewer, Nancy Wentzler, Telephone 202 395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, Washington, DC 20503.

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Revision

Employment and Training Administration
Claims and Payment Activities
1205-0010; ETA 5159
Monthly
State or local governments
1,847 hours; 53 respondents; 1 form

Measures workload and provides quantitative measurement for budget estimates, administrative planning and program evaluation; main vehicle for accounting to public.

Extension

Employment and Training Administration
Job Corps Health Questionnaire
1205-0033; ETA 6-53
On occasion
Individuals or households
5,940 hours; 18,000 respondents; 1 form

The Health Questionnaire is used to obtain the health history of applicants to the program to determine medical eligibility. The applicant must not have a health condition which presents a potential serious hazard to the youth or others, results in a significant interference in the normal performance of duties, or requires frequent, expensive, or prolonged treatment.

Extension

Employment and Training Administration
Guidelines for the State Employment Security Agency Program
Budget Plan for the Unemployment Insurance Program
1205-0132, ET Hbk. 336, ETA Forms 8632; 8623A; 2208; 2208A, B,; 2215; 2209, 8633
Annually
State or local governments
53 respondents; 2246 hours; 6 forms

The Program Budget Plan provides the basis for an application for funds for State Unemployment Insurance operations for the coming year. In the PBP, States certify intent to comply with assurances. The affected public are the 53 State Employment Security Agencies.

Signed at Washington, DC, this 27th day of May, 1986

John J. Nester,

Acting Departmental Clearance Officer.

[FR Doc. 86-12197 Filed 5-29-86; 8:45 am]

BILLING CODE 4510-30-M

Employment and Training Administration

[TA-W-16, 439]

Albany Industrial Maintenance Co., Albany, GA; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at the Albany Industrial Maintenance Company, Albany, Georgia. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-16, 439; Albany Industrial Maintenance Company, Albany, Georgia (May 19, 1986)

Signed at Washington, DC, this 20th day of May 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 86-12194 Filed 5-29-86; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; All American Trucking 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 each 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 June 9, 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 June 9, 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 19th day of May 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
All American Trucking (workers)	Gillette, WY	5/5/86	4/23/86	TA-W-17,424	Warehouse—drilling products, chemicals for oil drilling.
Alpine Knitting Mill (company)	Boulder, CO	5/13/86	5/5/86	TA-W-17,425	Ski and athletic sweaters.
Ashland Crafts, Inc. (ILGWU)	Ashland, KY	5/5/86	4/30/86	TA-W-17,426	Contract sewing—girls dresses.
BJM Drilling & Exploration (workers)	Midland, TX	5/1/86	4/22/86	TA-W-17,427	Oil drilling.
Connor's Sales Co., Inc. (workers)	Williston, ND	5/1/86	4/28/86	TA-W-17,428	Supply oil field tanks and emulsion treaters to oil wells.
Florsheim Shoe Co. (workers)	Kirksville, MO	5/13/86	5/2/86	TA-W-17,429	Mens dress shoes.
Forwest Drilling, Inc., (workers)	Richland County, MT	5/6/86	5/1/86	TA-W-17,430	Oil drilling—subcontract.
Harris/Lanier (company)	Thomaston, GA	5/5/86	5/2/86	TA-W-17,431	Workstations, workgroup, processors and dictation products.
Nicor Drilling (workers)	Williston, ND	5/1/86	4/28/86	TA-W-17,432	Oil drilling.
Ohio Ferro-Alloys Corp. (USWA)	Mt. Meigs, AL	5/5/86	5/1/86	TA-W-17,433	Silicon metal.
Seminole Production Service (workers)	Seminole, TX	5/1/86	4/21/86	TA-W-17,434	Oil well services.
Sperry Corporation (IBEW)	Roseville, MN	5/13/86	5/5/86	TA-W-17,435	Design and manufacturing semi-conductors.
Soundolier (workers)	Desoto, MO	5/13/86	5/6/86	TA-W-17,436	Wind transformers, speakers, etc., commercial sound systems.

[FR Doc. 86-12196 Filed 5-29-86; 8:45 am]
BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Penick Corp. et al.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period May 12, 1986–May 16, 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 or 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-16,591; Penick Corporation, Newark, NJ

TA-W-16,573; SL Electronics, Westville, NJ

TA-W-16,624; Pelican Fashion, Hialeah, FL

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-16,586; Texaco, Inc., Exploration Dept., Denver, CO

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

Affirmative Determination

TA-W-16,589; Hurletron, Inc., Danville, IL

A certification was issued covering all workers of the firm separated on or after October 18, 1984.

TA-W-16,632; Aeolian Pianos, Foundry Division, Randolph, NY

A certification was issued covering all workers of the firm separated on or after November 7, 1984 and before July 31, 1985.

TA-W-16,543; Houze Glass Corp., Point Marion, PA

A certification was issued covering all workers of the firm separated on or after November 1, 1984.

TA-W-16,662; Anderson Shake and Shingle, Inc., Cathlamet, WA

A certification was issued covering all workers of the firm separated on or after July 1, 1985.

TA-W-16,579; Fashion Apparel, Jesup, GA

A certification was issued covering all workers of the firm separated on or after October, 4, 1984 and before October 5, 1985.

TA-W-16,601; FMC Corporation, Specialty Chemicals Div., South Charleston, WV

A certification was issued covering all workers of the firm separated on or after August 1, 1985 and before September 30, 1985.

I hereby certify that the aforementioned determinations were issued during the period May 12, 1986–May 16, 1986. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street NW., Washington, DC 20213, during normal business hours or will be mailed to persons who write to the above address.

Dated: May 20, 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 86-12195 Filed 5-29-86; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-16,742]

AT&T Information Systems, Pittsburgh, PA; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on November 29, 1985, in response to a worker petition which was filed by the Communications Workers of America on behalf of workers at the Pittsburgh, Pennsylvania service center of AT&T Information Systems. (Up to July 1, 1985, the entire network of service centers was directly under the jurisdiction of AT&T Technologies). In the course of the investigation, it was ascertained that the Pittsburgh, Pennsylvania service center, which included a repair and refurbishing shop and a warehouse, was closed more than one year before the date of the petition, which is September 30, 1985. The repair shop closed in 1983, and the warehouse closed in June 1984.

Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 19th day of May 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 86-12193 Filed 5-29-86; 8:45 am]
BILLING CODE 4510-30-M

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statues referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made in part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPS) document entitled "General Wage Determination Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue NW., Room S-3504, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determination Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the Federal Register are in parentheses following the decisions being modified.

Volume I

Alabama:
- AL86-2 (Jan. 3, 1986) ..... p. 4.
- AL86-5 (Jan. 3, 1986) ..... pp. 9-11.
- AL86-8 (Jan. 3, 1986) ..... p. 17.

Connecticut: CT86-1 (Jan. 3, 1986). p. 64.

Kentucky:
- KY86-1 (Jan. 3, 1986) ..... p. 260.
- KY86-2 (Jan. 3, 1986) ..... pp. 264-265.
- KY86-3 (Jan. 3, 1986) ..... pp. 269-270.
- KY86-4 (Jan. 3, 1986) ..... pp. 273-274.
- KY86-5 (Jan. 3, 1986) ..... pp. 279-280.
- KY86-6 (Jan. 3, 1986) ..... pp. 284-285.
- KY86-7 (Jan. 3, 1986) ..... pp. 289-290.
- KY86-28 (Jan. 3, 1986) ..... p. 345.

Massachussetts:
- MA86-1 (Jan. 3, 1986) ..... p. 348.
- MA86-2 (Jan. 3, 1986) ..... p. 362.
- MA86-3 (Jan. 3, 1986) ..... p. 375.

New York:
- NY86-2 (Jan. 3, 1986) ..... pp. 645-650 p. 652.
- NY86-4 (Jan. 3, 1986) ..... pp. 669-672.
- NY86-7 (Jan. 3, 1986) ..... p. 695.
- NY86-9 (Jan. 3, 1986) ..... p. 723.
- NY86-10 (Jan. 3, 1986) ..... p. 725.
- NY86-13 (Jan. 3, 1986) ..... pp. 752, 755
- NY86-14 (Jan. 3, 1986) ..... p. 760.
- NY86-15 (Jan. 3, 1986) ..... p. 763.

Pennsylvania:
- PA86-6 (Jan. 3, 1986) ..... pp. 843-844, p. 846.
- PA86-6 (Jan. 3, 1986) ..... pp. 843-844, p. 846.
- PA86-14 (Jan. 3, 1986) ..... pp. 893-896, pp. 898-899, pp. 899a-899b.

Virginia:
- VA86-5 (Jan. 3, 1986) ..... p. 1065.
- VA86-15 (Jan. 3, 1986) ..... p. 1089.

West Virginia: WA86-2 (Jan. 3, 1986). pp. 1119, 1128.

Listing by location (index) ..... p. xvi.

Volume II

Iowa:
- IA86-5 (Jan. 3, 1986) ..... p. 43, pp. 45-46.
- IA86-6 (Jan. 3, 1986) ..... p. 52.

Kansas:
- KS86-8 (Jan. 3, 1986) ..... p. 335.
- KS86-9 (Jan. 3, 1986) ..... p. 343.

Michigan:
- MI86-5 (Jan. 3, 1986) ..... pp. 429-433, pp. 435-437, pp. 439-441.
- MI86-12 (Jan. 3, 1986) ..... pp. 471-473.
- MI86-17 (Jan. 3, 1986) ..... p. 486.

New Mexico:
- NM86-2 (Jan. 3, 1986) ..... pp. 656-658.
- NM86-3 (Jan. 3, 1986) ..... pp. 660b-660d.

Texas: TX86-8 (Jan. 3, 1986) ... p. 866.

Volume III

California:
- CA86-1 (Jan. 3, 1986) ..... pp. 35-42.
- CA86-2 (Jan. 3, 1986) ..... pp. 44-54.
- CA86-4 (Jan. 3, 1986) ..... pp. 65-87.

Utah: UT86-1 (Jan. 3, 1986)..... p. 284.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 80 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for

any or all of the three separate volumes, arranged by State. The subscription cost is $277 per volume. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 23rd day of May 1986.

James L. Valin,

Assistant Administrator.

[FR Doc. 86-12063 Filed 5-29-86; 8:45 am]

BILLING CODE 4510-27-M

LIBRARY OF CONGRESS

Copyright Office

[Docket No. RM 86-3]

Privacy Act of 1974; Current Systems of Records; Establishment of New Systems Privacy Act Extract Program

AGENCY: Library of Congress, Copyright Office.

ACTION: Notice of current systems of records and of establishment of new systems of records.

SUMMARY: The Copyright Office last published the full test of its systems of records under the Privacy Act of 1974 (5 U.S.C. 552a) at 47 FR 36996, August 24, 1982; and a notice of establishment of a new system of records at 49 FR 46828, November 28, 1984. This publication of the Copyright Office systems of records reflects changes in the records maintained by the Office in light of its new functions and duties under the Semiconductor Chip Protection Act of 1984, Pub. L. 98-620. New systems CO-21 and CO-22 have been established to cover the registration and recordation files relating to claims of protection in mask works under the 1984 Act.

There has also been a change in an existing system of records. The name of system CO-2 has been changed from "Deposit Accounts System" to "Copyright In-Process System (COINS)." The records in this revised system cover all fee service requests to the Office, and not just information pertaining to deposit accounts. Before September 14, 1985, records pertaining to individuals who requested fee services, and did not maintain deposit accounts with the Office, were kept in index cards in the Master Index Card Files (CO-1). No cards were produced and added to system CO-1 after September 14, 1985. This information is now maintained in automated form in system CO-2.

The titles and addresses of several system managers have been changed and the respective systems revised accordingly. Additional technical changes have been made throughout the text.

DATE: Comments should be received on or before June 30, 1986.

ADDRESSES: Interested persons should submit five copies of their written comments:

If by mail to: Office of General Counsel, Department D.S., Library of Congress, Washington, DC 20540; or

By hand to: Office of General Counsel, Copyright Office, Library of Congress, Room 403, James Madison Memorial Building, 1st and Independence Ave., SE., Washington, DC 20540.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, Copyright Office, Library of Congress, Washington, DC 20559; (202) 287-8380.

These systems of records will become effective June 30, 1986, unless the Copyright Office publishes notice to the contrary.

Dated: May 15, 1986.

Ralph Oman,

Register of Copyrights.

Approved:

Daniel J. Boorstin,

The Librarian of Congress.

Prefatory Statement

The Copyright Office serves primarily as an office of public record. Section 705 of title 17 of the United States Code requires the Register of Copyrights to provide and keep in the Copyright Office records of all deposits, registrations, recordations, and other actions taken under title 17, and to prepare indexes of all such records. It also provides that such records and indexes, as well as the articles deposited in connection with completed copyright registrations and retained under the control of the Copyright Office, shall be open to public inspection. Therefore, information from these records and indexes is routinely disclosed to the public. Further, in accordance with 17 U.S.C. 706(a), copies may be made of the public records and indexes of the Copyright Office. In accordance with section 908(b) of title 17, the provisions of chapter 7 relating to the records and publications of the Copyright Office apply to records pertaining to mask works under chapter 9 of title 17 U.S.C.

The source for Copyright Office systems of records are, wherever possible, the individuals to whom the records pertain or their authorized agents. Copyright Office personnel frequently make additions or notations on Office records in the performance of their official duties. To the extent they add information on individuals to Office files, they should be considered sources of records. However, because of the volume of such additions and notations, Copyright Office personnel have not been cited specifically under the heading "source categories" in this Systems' Notice.

Table of Contents

CO-1

SYSTEM NAME:

Master Index Card Files.

SYSTEM LOCATION:

Copyright Office, Library of Congress, Washington, D.C. 20559.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Remitters of all cash received by the Office, and individuals who submit documents for recordation, whether or not accompanied by a remittance.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of material and remittances received; records of final disposition of cases (in the form of registration numbers or identity of other fee services), the amount charged and/or the amount refunded, if any. Last cards produced 9/14/85.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

17 U.S.C. 705, 708.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Office uses this system: (1) To keep a record of the receipt and disbursement of all incoming cash; (2) to locate cases in-process before the permanent catalog record is available; and (3) to prepare refund vouchers.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

4 x 6 index cards in file cabinets.

RETRIEVABILITY:

Alphabetically by remitter's name.

SAFEGUARDS:

These records are maintained in a room which is generally restricted to authorized personnel and locked during non-working hours. Limited, provisional public access to these records is allowed from 10 a.m. to 11 a.m., Monday through Friday, except legal holidays.

RETENTION AND DISPOSAL:

Five Years from 9/14/85.

SYSTEM MANAGER(S) AND ADDRESS

Section Head, Mail and Correspondence Control Section, Receiving and Processing Division, Copyright Office, Library of Congress, Washington, DC 20559.

NOTIFICATION PROCEDURE:

Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, DC 20559.

RECORD ACCESS PROCEDURE:

Requests from individuals should be in writing addressed to the official designated under "Notification procedure".

CONTESTING RECORD PROCEDURES:

See rules published in 37 CFR Part 204.

RECORD SOURCE CATEGORIES:

Remitters or their authorized agents.

CO-2

SYSTEM NAME:

Copyright In-Process System (COINS).

SYSTEM LOCATION:

Copyright Office, Library of Congress, Washington, DC 20559

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM

Individuals who make fee service requests to the Office, including individuals who maintain deposit accounts.

CATEGORIES OF RECORDS IN THE SYSTEM:

If remittance received: Name of remitter, appropriate cross-references, title of work, amount received, amount used, class of application or fee service code, number of copies, nature of deposit code.

If deposit account: Name of deposit account holder, title of work, debit, credit notation, old balance, new balance, class of application or fee service code, number of copies, nature of deposit code.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

17 U.S.C. 705, 708.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Office uses these records: (1) To record copyright fee charges, reconcile deposits of fees and generate accounting reports; (2) to create a record of receipt of all fee service requests; (3) to determine the status of recently submitted requests, including the registration number assigned; (4) to send periodic statements to deposit account holders of their transactions with the Office; (3) to notify deposit account holders that their accounts have become depleted.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records kept from November 1, 1977. All such records are on computer discs and tapes.

RETRIEVABILITY:

By name of remitter, title, deposit account holder, deposit account number, and transaction identification number.

SAFEGUARDS:

Records are stored on tapes and discs in a room which is restricted to authorized personnel and locked during nonworking hours. Computer access is by functional passwords which are restricted to personnel who require access to these records in the performance of their official duties.

RETENTION AND DISPOSAL:

The computerized system is used to store transactions for at least six months, at which time the record is transferred to microfilm for permanent retention.

SYSTEM MANAGER(S) AND ADDRESS:

Section Head, Fiscal Control Section, Receiving and Processing Division, Copyright Office, Library of Congress, Washington, DC 20559.

NOTIFICATION PROCEDURE:

Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, DC 20559.

RECORD ACCESS PROCEDURE:

Requests from individuals should be in writing addressed to the official designed under "Notification procedure."

CONTESTING RECORD PROCEDURES:

See rules published in 37 CFR Part 204.

RECORD SOURCE CATEGORIES:

Individuals who request fee services, including deposit account holders and Office charge sheets.

CO-3

SYSTEM NAME:

Copyright Claims Registration Files

SYSTEM LOCATION:

Copyright Office, Library of Congress, Washington, DC 20559; Landover Center Annex, 1701 Brightseat Road, Landover, Md. 20785; Washington National Records Center, Washington, DC 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Authors and other copyright owners, copyright claimants, applicants for registration or copyright renewal, or the authorized agents of such individuals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names and addresses of copyright claimants; certified statements pertaining to authorship, creation, publication, and other registration-related information; general correspondence pertaining to registration of claims to copyright.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

17 U.S.C. 705, 708.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Office uses these records: (1) In the preparation of search reports at the request of a member of the public; (2) to respond to requests by the public for information; (3) to correspond with

applicants or otherwise process applications and related materials; (4) to monitor and control the flow of work in the Office; and (5) to establish and maintain a public record. It is the general policy of the Copyright Office to deny direct public inspection of in-process application forms and correspondence, and any related material forming part of a pending application, except upon the request of the copyright claimant or his/her authorized representative. However, information about the material facts alleged in the application will be given to the public upon request. Once registration of a copyright claim has been completed or refused at the final agency level, the registration and correspondence records pertaining to that claim are open for public inspection from 8:30 a.m. to 5 p.m., Monday through Friday, except legal holidays.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manila envelopes in file cabinets and on shelves; index cards in file cabinets; bound volumes and microform computer tapes and discs.

RETRIEVABILITY:

Registration number, cross-referenced by name of author, name of claimant, and title of work in the Copyright Card Catalog and post-1977 automated catalog files; alphabetically by author's pseudonym (prior to 1938) in Pseudonym Card File; on computer terminals by correspondence control number, remitter's name and any entered cross-references; in the case of physical files, by correspondence control number on a bar code label attached to each file.

SAFEGUARDS:

With the exception of the Copyright Card Catalog and post-1977 automated catalog files, these records are maintained in areas that are restricted to authorized personnel. All records in this system are maintained in areas that are locked during nonworking hours.

RETENTION AND DISPOSAL:

Retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Section Head, Renewals Section, Examining Division, Copyright Office, Library of Congress, Washington, DC 20559; Section Head, Mail and Correspondence Control Section, Receiving and Processing Division, Copyright Office, Library of Congress, Washington, DC 20559; Section Head, Records Storage Section, and Section Head, Card Catalog Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, DC 20559, Section Head, Technical Support, Cataloging Division, Copyright Office, Library of Congress, Washington, DC 20559.

NOTIFICATION PROCEDURE:

Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, DC 20559.

RECORD ACCESS PROCEDURES:

Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

CONTESTING RECORD PROCEDURES:

See rules published in 37 CFR Part 204.

RECORD SOURCE CATEGORIES:

Remitters or their authorized agents.

CO–4

SYSTEM NAME:

Miscellaneous Correspondence Files.

SYSTEM LOCATION:

Copyright Office, Library of Congress, Washington, DC 20559.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have: (1) Written to the Copyright Office for general information about copyright; or (2) request fee services such as search reports, copies of records or additional certificates of copyright registration.

CATEGORIES OF RECORDS IN THE SYSTEM:

General correspondence, including, where appropriate, the requester's name and action taken by the Office.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

17 U.S.C. 407–410, 705, 706, 708

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Office uses these records: (1) To maintain a record of correspondence with individuals who address inquiries to the Office and with individuals who request fee services; (2) to record the removal and return of documents in a file by Office personnel; and (3) to control and monitor the processing of requests.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manila envelopes in file cabinets and on shelves, and, on occasion, 3 x 5 paper slips in a file cabinet.

RETRIEVABILITY:

Alphabetically by correspondent's name.

SAFEGUARDS:

These records are maintained in areas that are restricted to authorized personnel and locked during nonworking hours.

RETENTION AND DISPOSAL:

Some files are retained indefinitely, while others are only retained for 3 years.

SYSTEM MANAGER(S) AND ADDRESS:

Section Head, Certification and Documents Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, D.C. 20559; Section Head, Mail and Correspondence Control Section, Receiving and Processing Division, Copyright Office, Library of Congress, Washington, DC 20559.

NOTIFICATION PROCEDURE:

Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, DC 20559.

RECORD ACCESS PROCEDURE:

Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

CONTESTING RECORD PROCEDURES:

See rules published in 37 CFR Part 204.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains, or their authorized agent.

CO–5

SYSTEM NAME:

Recorded Documents Files.

SYSTEM LOCATION:

Copyright Office, Library of Congress, Washington, DC 20559.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are parties to, or have submitted for recordation,

assignments, licenses, notices of termination of transfer, and other documents pertaining to a copyright; notices of error in the name in a copyright notice; authors of anonymous and pseudonymous works in instances where any person having an interest in the copyright in such a work submits a statement identifying one or more authors of the work; authors of works in instances where any person having an interest in the copyright in a particular work submits a statement of the death of the author or a statement that the author is still living on a particular date.

CATEGORIES OF RECORDS IN THE SYSTEM:

Assignments, licenses, notices of termination of transfer, wills, statements of abandonment of copyright, affidavits (such as a statement with respect to the authorship of a work), agreements or contracts, and other documents pertaining to copyright ownership, statements of identity of an anonymous or pseudonymous author, statements of the date of death of an author or that the author is still living on a particular date, and notices of error in the name in a copyright notice.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

17 U.S.C. 203(a)(4), 205, 302, 304(c), 406(a)(2), 705.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records of recorded documents are open to public inspection from 8:30 a.m. to 5 p.m., Monday through Friday, except legal holidays. In addition, the Office uses these records to compile an index to documents received for recordation. The index to documents received and recorded through 1977 is located in the Copyright Card Catalog. Since January 1, 1978, access to assignment documents recorded after 1977 is available in the automated document catalog file.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Prior to recordation, records are maintained in manila envelopes in file cabinets. Once recorded, original documents are microfilmed and returned to the remitter. Copies of copyright assignments and related documents received prior to 1954 are in bound volumes as well as on microfilm.

RETRIEVABILITY:

By the date the Office received the document and cross-referenced it in the Copyright Card Catalog or automated document catalog file by individual names and titles of works.

SAFEGUARDS:

Prior to recordation, documents and related materials are maintained in a room which is restricted to authorized personnel. All records are maintained in areas that are locked during nonworking hours.

RETENTION AND DISPOSAL:

Retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Supervisor, Documents Unit, Technical Support Section, Cataloging Division, Copyright Office, Library of Congress, Washington, DC 20559; and Section Head, Reference and Bibliography Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, DC 20559.

NOTIFICATION PROCEDURE:

Inquires about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, DC 20559.

RECORD ACCESS PROCEDURES:

Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

CONTESTING RECORD PROCEDURES:

See rules published in 37 CFR Part 204.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains, such individual's authorized agent, and other parties to the document recorded, or such parties' authorized agents, as well as individuals having an interest in the copyright in a work which is the subject of the document submitted for recordation.

CO-6

SYSTEM NAME:

Motion Picture Agreement Files.

SYSTEM LOCATION:

Copyright Office, Library of Congress, Washington, DC 20559.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Copyright depositors who have agreed to return to the Library one archival quality copy of any motion picture returned to the depositor if the Library of Congress requests such return within two years of the date of deposit.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain the name and address of the depositor and the date on which the Motion Picture Agreement was executed by the Librarian of Congress.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

17 U.S.C. 407, 705.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Office uses these records to determine if the Library of Congress has a Motion Picture Agreement with the depositor of a motion picture. If the Library has such an agreement, the copy of the motion picture submitted will be returned to the remitter if a written request has been made. In the absence of such an agreement, the Office will retain the copy.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Upon receipt of these Agreements, the Deposits and Acquisitions Division transcribes some of the information in the agreements onto 3 x 5 cards, copies of which are then sent to the Performing Arts Section of the Copyright Office Examining Division.

RETRIEVABILITY:

Alphabetically by depositor's name.

SAFEGUARDS:

These records are maintained in a room which is restricted to authorized personnel and locked during nonworking hours.

RETENTION AND DISPOSAL:

Retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Copyright Acquisitions Section, Deposits and Acquisitions Division, Copyright Office, Library of Congress, Washington, DC 20559.

NOTIFICATION PROCEDURE:

Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, DC 20559.

RECORD ACCESS PROCEDURES:

Request from individuals should be in writing addressed to the official designated under "Notification procedure."

CONTESTING RECORD PROCEDURES:

See rules published in 37 CFR Part 204.

RECORD SOURCE CATEGORIES:

Depositors' or their authorized agents.

CO-7

SYSTEM NAME:

Deposit Recordation File.

SYSTEM LOCATION:

Copyright Office, Library of Congress, Washington, DC 20559.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEMS:

Individuals who, without simultaneously applying for copyright registration, have submitted deposit copies in accordance with the provisions of 17 U.S.C. 407.

CATEGORIES OF RECORDS IN THE SYSTEM:

Title of work, edition statement, imprint, collation, in notice statement, depositor, depositor's address, number of copies received, and date received.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

17 U.S.C. 407, 705.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Office uses these records: (1) To keep a record of compliance with 17 U.S.C. 407; (2) to locate and correspond with those who have published works with notice of copyright, but who have not deposited the required copies; (3) to prepare weekly statistics on the number and nature of deposits received; and (4) to prepare search reports at the request of a member of the public.

POLICIES AND PRACTIES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

4 x 6 cards in the cabinet and visible file.

RETRIEVABILITY:

Alphabetically by depositor's name, author's name, and title of work.

SAFEGUARDS:

These records are maintained in a room which is restricted to authorized personnel and locked during nonworking hours.

RETENTION AND DISPOSAL:

Retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Deposits and Acquisitions Division, Copyright Office, Library of Congress, Washington, DC 20559.

NOTIFICATION PROCEDURE:

Inquires about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, DC 20559.

RECORD ACCESS PROCEDURES:

Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

CONTESTING RECORD PROCEDURES:

See rules published in 37 CFR Part 204.

RECORD SOURCE CATEGORIES:

Deposit copies submitted.

CO-8

SYSTEM NAME:

Compliance Activity File.

SYSTEM LOCATION:

Copyright Office, Library of Congress, Washington, DC 20559.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEMS:

Individuals from whom the Office has demanded, in accordance with 17 U.S.C. 407, copies of works published with a notice of copyright in the United States. It also includes individuals whose works were found to be deposited in accordance with 17 U.S.C. 407 prior to a demand.

CATEGORIES OF RECORDS IN THE SYSTEM:

Author's name, title of work, publisher, copyright claimant, dates of initial and follow-up action.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

17 U.S.C. 407, 705.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Office uses these records to avoid sending out duplicate correspondence.

POLICIES AND PRACTIES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

4 × 6 index cards in a file cabinet.

RETRIEVING:

Alphabetically by title and claimant's name.

SAFEGUARDS:

These records are maintained in a room which is restricted to authorized personnel and locked during nonworking hours.

RETENTION AND DISPOSAL:

Retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Deposits and Acquisitions Division, Copyright Office, Library of Congress, Washington, DC 20559

NOTIFICATION PROCEDURE:

Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, DC 20559.

RECORD ACCESS PROCEDURES:

Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

CONTESTING RECORD PROCEDURES:

See rules published in 37 CFR Part 204.

RECORD SOURCE CATEGORIES:

Printed bibliographies, publishers' catalogs, citations provided by the Library of Congress, published citations of the work, and Office personnel who have personally observed the item cited.

CO-9

SYSTEM NAME:

Office Mailing Lists.

SYSTEM LOCATION:

Copyright Office, Library of Congress, Washington, DC 20559.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have frequent contact with the Copyright Office, or have asked to receive all Office information circulars, announcements, and other printed material prepared by the Office. Attorneys who are listed in the annual edition of the "American Bar Association Section of Patent, Trademark, and Copyright Law Committees" as members of the copyright-related committees are also included.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Names and address.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

17 U.S.C. 707.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Office uses these records to address and mail Office information

circulars, announcements and other printed material. The regulations of the Office now provide that these mailing lists will not be disclosed to the public.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Marila folders in a file cabinet and computer print out sheets in a binder, stored in a desk drawer.

RETRIEVABILITY:

Alphabetically by name.

SAFEGUARDS:

These records are maintained in a room which is restricted to authorized personnel and locked during nonworking hours.

RETENTION AND DISPOSAL:

Individuals may request that their names be dropped from the list. The list is verified and updated periodically.

SYSTEM MANAGER(S) AND ADDRESS:

Section Head, Publications Section, Information and Reference Division, Copyright Office, Library of Congress Washington, DC 20559.

NOTIFICATION PROCEDURE:

Inquiries about an individuals record should be in writing addressed to the Supervisory Copyright Information Specialist, Information Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, DC 20559.

RECORD ACCESS PROCEDURE:

Requests from individuals should be in writing addressed to the offical designated under "Notification procedure."

CONTESTING RECORD PROCEDURES:

See rules published in 37 CFR Part 204.

RECORD SOURCE CATEGORIES:

Individuals to whom the record pertains, Copyright Office records, trade reference sources, and annual edition of "American Bar Association Section of Patent Trademark and Copyright Law Committee."

CO-10

SYSTEM NAME:

Freedom of Information Act and Privacy Act Requests and Disclosures File.

SYSTEM LOCATION:

Copyright Office, Library of Congress, Washington DC 20559.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have submitted Freedom of Information Act and/or Privacy Act requests in accordance with 37 CFR Parts 203 and 204.

CATEGORIES OF RECORDS IN THE SYSTEM:

Requests submitted under the Freedom of Information Act and/or Privacy Act; requests submitted under the Privacy Act for correction or amendment of Office records; and copies of the Office response to these requests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

17 U.S.C. 701.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Office uses these records: (1) To maintain an accounting of Freedom of Information Act and/or Privacy Act requests and Office responses to these requests; (2) to maintain an accounting of requests submitted under the Privacy Act to correct or amend a record pertaining to an individual and the Office responses to these requests; (3) to compile the annual report required by the Freedom of Information Act; and (4) to review and compile the annual report required by the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manila folders in a file cabinet.

RETRIEVABILITY:

Alphabetically by requester's name.

SAFEGUARDS:

These records are maintained in a room which is restricted to authorized personnel and locked during nonworking hours.

RETENTION AND DISPOSAL:

Retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Section Head, Information Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, DC 20559.

NOTIFICATION PROCEDURE:

Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information and Reference Division, Copyright Office, Library of Congress, Washington, DC 20559.

RECORD ACCESS PROCEDURES:

Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

CONTESTING RECORD PROCEDURES:

See rules published in 37 CFR Part 204.

RECORD SOURCE CATEGORIES:

Individuals to whom the record pertains, and Copyright Office records.

CO-11

SYSTEM NAME:

Address File.

SYSTEM LOCATION:

Copyright Office, Library of Congress, Washington, DC 20559.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Copyright claimants of record whose address has been requested by a member of the public.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and address of claimant of record, year date of address.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

17 U.S.C. 705.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Office uses these records to facilitate searching for address of copyright claimants when such addresses are requested by a member of the public.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

3 x 5 index cards in file box.

RETRIEVABILITY:

Alphabetically by claimant of record's name.

SAFEGUARDS:

These records are maintained in a room which is restricted to authorized personnel and is locked during nonworking hours.

RETENTION AND DISPOSAL:

Retained indefinitely; however, obsolete addresses are disposed of as more current addresses are obtained.

SYSTEM MANAGER(S) AND ADDRESS:

Section Head, Reference and Bibliography Section, Information and Reference Division, Copyright Office,

Library of Congress, Washington, DC 20559.

NOTIFICATION PROCEDURE:

Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, DC 20559.

RECORD ACCESS PROCEDURES:

Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

CONTESTING RECORD PROCEDURES:

See rules published in 37 CFR Part 204.

RECORD SOURCE CATEGORIES:

Copyright claimants, their authorized agents, phone books, and city directories.

CO–12

SYSTEM NAME:

Bibliographic File.

SYSTEM LOCATION:

Copyright Office, Library of Congress, Washington, DC 20559.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Well-known or prolific authors or authors of well-known works, in those instances where the Office determines that it would be in the public interest to preserve published copyright-related information about such authors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Newspaper clippings, magazine articles, obituaries, book jackets and similar information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

17 U.S.C. 705.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Office uses these records: (1) In the preparation of search reports compiled at the request of a member of the public; and (2) in the compilation of an index to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Folders in file cabinets.

RETRIEVABILITY:

Alphabetically by author's name, law firm's name, or title of work.

SAFEGUARDS:

These records are maintained in a room which is restricted to authorized personnel and locked during nonworking hours.

RETENTION AND DISPOSAL:

Retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Section Head, Reference and Bibliography Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, DC 20559.

NOTIFICATION PROCEDURE:

Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, DC 20559.

RECORD ACCESS PROCEDURE:

Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

CONTESTING RECORD PROCEDURES:

See rules published in 37 CFR Part 204

RECORD SOURCE CATEGORIES:

Magazines, newspapers, book jackets, trade reference sources, Copyright Card Catalog, applications and other materials.

CO–13

SYSTEM NAME:

Secondary Transmissions by Cable Systems: Initial Notice of Identity and Changes File.

SYSTEM LOCATION:

Copyright Office, Library of Congress, Washington, DC 20557.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Cable system owners who submit notices of identity for recordation in the Copyright Office, notices of ownership or control change, or notices of change in the signal carriage complement of cable systems.

CATEGORIES OF RECORDS IN THE SYSTEM:

Statement of identity and address of the person who owns the secondary transmission service, name and location of the primary transmitter or transmitters whose signals are regularly carried, changes in any of the preceding categories, and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

17 U.S.C. 11(d)(1).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Office uses these records: (1) In the preparation of search reports compiled at the request of a member of the public; and (2) in the preparation of internal statistical reports; and (3) to establish and maintain a public record.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manila folders in locked file cabinet and microfilm (microjackets).

RETRIEVABILITY:

Alphabetically by legal name of the owner of the cable system.

SAFEGUARDS:

These records are maintained in a room restricted to authorized personnel and locked during nonworking hours.

RETENTION AND DISPOSAL:

Retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Licensing Division, Copyright Office, Library of Congress, Washington, DC. 20557.

NOTIFICATION PROCEDURE:

Inquiries about an individual's record should be in writing addresses to the Supervisory Copyright Information Specialist, Information Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, DC 20557.

RECORD ACCESS PROCEDURES:

Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

CONTESTING RECORD PROCEDURES:

See rules published in 37 CFR Part 204.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains or such individual's authorized agent.

CO–14

SYSTEM NAME:

Secondary Transmissions by Cable Systems: Statements of Account.

SYSTEM LOCATION:

Copyright Office, Library of Congress, Washington, DC 20557.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Owners of cable systems who file this, semi-annual statement of accounts required by 17 U.S.C. 111(d)(2).

CATEGORIES OF RECORDS IN THE SYSTEM:

Legal names and addresses of owners of cable systems, communities served by cable systems, call signs and locations of primary transmitters and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

17 U.S.C. 111(d)(2).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Office uses these records: (1) In the preparation of search reports compiled at the request of a member of the public; (2) to establish and maintain a public record; and (3) in the preparation of semi-annual compilations of statements of account which the Copyright Office must submit to the Copyright Royalty Tribunal as required by 17 U.S.C. 111(d)(2).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manila folders in a file cabinet and, after three years, microfilm.

RETRIEVABILITY:

Alphabetically by legal name of the owner of the cable system, grouped according to accounting period and year.

SAFEGUARDS:

These records are maintained in a room restricted to authorized personnel and locked during nonworking hours.

RETENTION AND DISPOSAL:

Retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Licensing Division, Copyright Office, Library of Congress, Washington, DC 20557.

NOTIFICATION PROCEDURE:

Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, DC 20559.

RECORD ACCESS PROCEDURES:

Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

CONTESTING RECORD PROCEDURES:

See rules published in 32 CFR Part 204.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains or such individual's authorized agent.

CO–15

SYSTEM NAME:

Cable System Videotape Transfer Contracts File.

SYSTEM LOCATION:

Copyright Office, Library of Congress, Washington, DC 20557.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals to whom a cable system has transferred a videotape of a program nonsimultaneously transmitted by it pursuant to a written, nonprofit contract providing for the equitable sharing of costs of such videotape and its transfer.

CATEGORIES OF RECORDS IN THE SYSTEM:

Transferor, transferee, title, date contract effective, date of recordation, location of cable system, notation of acknowledgement of receipt by the Copyright Office, related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

17 U.S.C. 111(e)(2)(A).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Office uses these records; (1) In the preparation of search reports compiled at the request of a member of the public; and (2) to establish and maintain a public record.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manila folders in file cabinet and on microfilm.

SAFEGUARDS:

These records are maintained in a room restricted to authorized personnel and locked during nonworking hours.

RETENTION AND DISPOSAL:

Retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Licensing Division, Copyright Office, Library of Congress, Washington, DC 20557.

NOTIFICATION PROCEDURE:

Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, DC 20557.

RECORD ACCESS PROCEDURES:

Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

CONTESTING RECORD PROCEDURES:

See rules published in 37 CFR Part 204.

RECORD SOURCE CATEGORIES:

Parties to the transfer contracts or such parties' authorized agents.

CO–16

SYSTEM NAME:

Notice of Intention to Obtain Compulsory License for Making and Distributing Phonorecords Embodying Nondramatic Musical Works File.

SYSTEM LOCATION:

Copyright Office, Library of Congress, Washington, DC 20557.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who file a notice of their intention to obtain a compulsory license for making and distributing phonorecords embodying nondramatic musical works.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, name of copyright owner, titles, date of recordation of notice, internal notation of date upon which the Office informally acknowledged receipt of the notice.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

17 U.S.C. 115(b)(1).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Office uses these records: (1) In the preparation of search reports compiled at the request of a member of the public (2) to establish and maintain a public records; and (3) in the preparation of internal statistical reports.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manila folders in file cabinet.

RETRIEVABILITY:

Alphabetically by name of remitter and name of copyright owner.

SAFEGUARDS:

These records are maintained in a room restricted to authorized personnel and locked during nonworking hours.

RETENTION AND DISPOSAL:

Retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Licensing Division, Copyright Office, Library of Congress, Washington, DC 20557.

NOTIFICATION PROCEDURE:

Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, DC 20559.

RECORD ACCESS PROCEDURES:

Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

CONTESTING RECORD PROCEDURES:

See rules published in 37 CFR Part 204.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains or such individual's authorized agent.

CO-17

SYSTEM NAME:

Jukebox License Applications.

SYSTEM LOCATION:

Copyright Office, Library of Congress, Washington, DC 20557.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Jukebox operators who have applied for, and been issued, a jukebox license.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and address of operator, manufacturer, serial number or model number, model name, model year, charge per play, capacity, type of sound, person to be contracted for futher information, number of jukeboxes, amount of remittance, and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

17 U.S.C 110(b).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Office uses these records: (1) in the preparation of search reports compiled at the request of a member of the public (2) to establish and maintain a public record; and (3) in the preparation of internal statistical and accounting reports.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manila folders in a file cabinet and, after three years, microfilm.

RETRIEVABILITY:

Alphabetically by name of owner, grouped by year.

SAFEGUARDS:

These records are maintained in a room restricted to authorized personnel and locked during nonworking hours.

RETENTION AND DISPOSAL:

Retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Licensing Division, Copyright Office, Library of Congress, Washington, DC 20557.

NOTIFICATION PROCEDURE:

Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist Information Section, Information and Reference Division. Copyright Office, Library of Congress, Washington, DC 20559,

RECORD ACCESS PROCEDURE:

Requests from individuals should be in writing, addressed to the official designated under "Notification procedure."

CONTESTING RECORD PROCEDURES:

See rules published in 27 CFR Part 204.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains or such individual's authorized agent.

CO-18

SYSTEM NAME:

Voluntary Licensing Agreements File.

SYSTEM LOCATION:

Copyright Office, Library of Congress, Washington, DC 20557.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who submit for recordation voluntary licensing agreements between: (1) Copyright owners of published nondramatic musical works and published pictorial, graphic, and sculptural works and public broadcasting entities; and (2) copyright owners of nondramatic literary works and public broadcasting entities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of actual agreements submitted for recordation, copies of registration certificates of record, and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

17 U.S.C. 118(b)(2) and (e)(1).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Office uses these records: (1) In the preparation of search reports compiled at the request of a member of the public; (2) in the preparation of internal statistical reports; and (3) to establish and maintain a public record.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manila folders in a file cabinet and on microfilm.

RETRIEVABILITY:

Alphabetically by names of copyright owners and public broadcasting entities.

SAFEGUARDS:

These records are maintained in a room restricted to authorized personnel and locked during nonworking hours.

RETENTION AND DISPOSAL:

Retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Licensing Division, Copyright Office, Library of Congress, Washington, DC 20557.

NOTIFICATION PROCEDURE:

Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, DC 20559.

RECORD ACCESS PROCEDURES:

Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

CONTESTING RECORD PROCEDURES:

See rules published in 37 CFR Part 204.

RECORD SOURCE CATEGORIES:

Parties to voluntary licensing agreements or such parties' authorized agents.

CO-19

SYSTEM NAME:

Licensing Division Correspondence File.

SYSTEM LOCATION:

Copyright Office, Library of Congress, Washington, DC 20557.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who send letters of transmittal and other incidental Licensing Division correspondence.

CATEGORIES OF RECORDS IN THE SYSTEM:

General correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

17 U.S.C. 111, 115, 116, 118, 705.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Office uses these records to maintain a record of incidental correspondence with the Licensing Division.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manila folders in file cabinet.

RETRIEVABILITY:

Alphabetically by correspondent's name.

SAFEGUARDS:

These records are maintained in a room which is restricted to authorized personnel and locked during nonworking hours.

RETENTION AND DISPOSAL:

Records are kept in the Open file until a reply is received or until the case is closed. Records in the Closed file are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Licensing Division, Copyright Office, Library of Congress, Washington, DC 20557.

NOTIFICATION PROCEDURE:

Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, DC 20557

RECORD ACCESS PROCEDURES:

Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

CONTESTING RECORD PROCEDURES:

See rules published in 37 CFR Part 204.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains or such individual's authorized agent.

CO-20

SYSTEM NAME:

Secondary Transmissions by Cable Systems: Correspondence Files.

SYSTEM LOCATION:

Licensing Division, Copyright Office, Library of Congress, Washington, DC 20557.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Cable systems owners and other individuals who correspond with the Licensing Division, the Copyright Office General Counsel or the Register of Copyrights concerning the administration of the cable compulsory licensing system in section 111 of title 17 U.S.C.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

17 U.S.C. 111, 705.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Office maintains these records to facilitate public access to correspondence of the Licensing Division, Copyright Office General Counsel and the Register of Copyrights on the administration of the section 111 compulsory licensing system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manila folders in a file cabinet and binders.

RETRIEVABILITY:

Correspondence usually accessible by date letter sent to member of public.

SAFEGUARDS:

These records are maintained in a room which is restricted to authorized personnel and locked during nonworking hours.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Licensing Division, Copyright Office, Library of Congress, Washington, DC 20557.

NOTIFICATION PROCEDURE:

Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information and Reference Division, Copyright Office, Library of Congress, Washington, DC 20559.

RECORD ACCESS PROCEDURES:

Requests from individuals should be in writing addressed to the official designated under 'Notification Procedure.'

CONTESTING RECORD PROCEDURES:

See rules published in 37 CFR Part 204.

RECORD SOURCE CATEGORIES:

Licensing Division personnel, the Copyright Office General Counsel and the Register of Copyrights.

CO-21

SYSTEM NAME:

Mask Work Registration Files.

SYSTEM LOCATION:

Copyright Office, Library of Congress, Washington, DC 20559.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Mask work owners, applicants for mask work registration, or the authorized agents of such individuals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names and addresses of mask work owners; certified statements pertaining to creation, commercial exploitation, ownership, and other registration-related information; general correspondence pertaining to registration of mask work claims.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

17 U.S.C. 908(b), 705.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Office uses these records: (1) In the preparation of search reports at the request of a member of the public; (2) to respond to requests by the public for information; (3) to correspond with applicants or otherwise process

applications and related materials; (4) to monitor and control the flow of work in the Office; and (5) to establish and maintain a public record. It is the general policy of the Copyright Office to deny direct public inspection of in-process application forms and correspondence, and any related material forming part of a pending application, except upon the request of the mask work owner or his/her authorized representative. However, information about the material facts alleged in the application will be given to the public upon request. Once registration of a claim to mask work protection has been completed or refused at the final agency level, the registration and correspondence records pertaining to that claim are open for public inspection from 8:30 a.m. to 5:00 p.m., Monday through Friday, except legal holidays.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manila envelopes in file cabinets and on shelves; computer tapes and discs; and microform.

RETRIEVABILITY:

Registration number, cross-referenced by name of owner and title of work in the automated or microform catalog files; by correspondence control number, applicant's name, title of work, and any entered cross-references in the automated correspondence management system; by fee service number, applicant's name, title of work, and any entered cross-references in the automated receipts in-process system; in the case of physical files, by correspondence control number on a bar code label attached to each file, for in-process files, and by applicant's name for closed correspondence files.

SAFEGUARDS:

Automated records are available at computer terminals located throughout the Library of Congress. Physical records are maintained in areas that are restricted to authorized personnel. All records in this system are maintained in areas that are locked during nonworking hours.

RETENTION AND DISPOSAL:

Retained permanently.

SYSTEM MANAGER AND ADDRESS:

Supervisor, Mask Work Unit, Examining Division, Department MW, Library of Congress, Washington, DC 20540.

NOTIFICATION PROCEDURE:

Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, DC 20559.

RECORD ACCESS PROCEDURES:

Requests from individuals should be in writing addressed to the official designated under "Notification procedure".

CONTESTING RECORD PROCEDURES:

See rules published in 37 CFR Part 204.

RECORD SOURCE CATEGORIES:

Applicants or their authorized agents.

CO–22

SYSTEM NAME:

Mask Work Recorded Documents Files.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are parties to, or have submitted for recordation, assignments, licenses, and other documents pertaining to a mask work.

CATEGORIES OF RECORDS IN THE SYSTEM:

Assignments, licenses, wills, agreements or contracts, and other documents pertaining to mask works.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

17 U.S.C. 908(b), 705.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM:

Records of recorded documents are open to public inspection from 8:30 a.m. to 5:00 p.m., Monday through Friday, except legal holidays. In addition, the Office uses these records to compile an index to recorded documents, which is interfiled in the automated catalog files.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Prior to recordation, records are maintained in manila envelopes in file cabinets. Once recorded, original documents are microfilmed and returned to the applicant. Mask work documents appear on separate reel(s) of microfilm; they are not interspersed with copyright-related documents.

RETRIEVABILITY:

Before recordation, by date the Office received the document; after recordation, cross-referenced in the automated catalog files by names of parties and titles of works.

SAFEGUARDS:

Prior to recordation, documents and related materials are maintained in a room which is restricted to authorized personnel. Automated records are available at computer terminals located throughout the Library of Congress. All records are maintained in areas that are locked during nonworking hours.

RETENTION AND DISPOSAL:

Retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Supervisor, Documents Unit, Cataloging Division, Copyright Office, Library of Congress, Washington, DC 20559.

NOTIFICATION PROCEDURE:

Inquiries about an individual's record should be in writing and addressed to the Supervisory Copyright Information Specialist, Information and Reference Division, Copyright Office, Library of Congress, Washington, DC 20559.

RECORD ACCESS PROCEDURES:

Requests from individuals should be in writing addressed to the official designated under "Notification procedure".

CONTESTING RECORD PROCEDURES:

See rules published in 37 CFR Part 204.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains, such individual's authorized agent, and other parties named in the document recorded, or such parties' authorized agents, as well as individuals having an interest in the mask work which is the subject of the document submitted for recordation.

[FR Doc. 86–11849 Filed 5–29–86; 8:45 am]
BILLING CODE 1410–09–M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Ad Hoc Meeting on Long-Term Enhancement to the National Council on the Arts; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a meeting of the Ad Hoc Meeting on Long-Term Enhancement to the National Council on the Arts will be held on June 16–17, 1986, from 9:00 a.m.–5:30 p.m. in room M–07 of the Nancy Hanks Center,

1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting will be open to the public on a space available basis. The topics will include guidelines and policy.

If you need accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

May 23, 1986.

[FR Doc. 86–12105 Filed 5–29–86; 8:45 am]

BILLING CODE 7537–01–M

Expansion Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a meeting of the Expansion Arts Advisory Panel (Overview Meeting) to the National Council on the Arts will be held on June 16–17, 1986, from 9:00 a.m.–5:30 p.m. in room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting will be open to the public on a space available basis. The topics will include guidelines, policy and the Five-Year Plan.

If you need accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

Dated: May 23, 1986.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 86–12181 Filed 5–29–86; 8:45 am]

BILLING CODE 7537–01–M

Media Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (Radio Programming in the Arts Section) to the National Council on the Arts that was to be held on May 29, 1986, from 9:00 a.m.–5:30 p.m. in room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC has been changed. This meeting will not be held on June 12, 1986, from 9:00 a.m.–5:30 p.m. in room 716 of the Nancy Hanks Center, 1100 Pensylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: May 23, 1986.

John H. Clark,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 86–12182 Filed 5–29–86; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Nuclear Regulatory Commission; Meeting Agenda

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on June 5–7, 1986, in Room 1046, 1717 H Street, NW., Washington, DC. Notice of this meeting was published in the **Federal Register** on May 19, 1986.

Thursday, June 5, 1986

8:30 A.M.–8:45 P.M.: Report of ACRS Chairman (Open)—The ACRS Chairman will report briefly regarding items of current interest to the Committee.

8:45 A.M.–12:30 P.M.: South Texas Project, Units 1 and 2 (Open/Closed)—The members will hear and discuss the reports of its subcommittee, the NRC Staff, and the Applicant regarding the request for an operating license for this facility.

Portions of this session will be closed as required to discuss Proprietary Information applicable to this facility and detailed security arrangements for this project.

1:15 P.M.–1:45 P.M.: Topics for Meeting with NRC Commissioners (Open/Closed)—The members will discuss the contents of its report of January 14, 1986 to the NRC regarding the Final Design Approval of the GESSAR II BWR/6 Nuclear Island Design Applicable to Future Plants.

Portions of this session will be closed as necessary to discuss Proprietary Information and detailed arrangements for plant security for this class of nuclear plants.

2:00 P.M.–3:30 P.M.: Meeting with NRC Commissioners (Open/Closed)—The members of the committee will meet with the NRC Commissioners to discuss the Committee's report of January 14, 1986 regarding the GESSAR II Final Design Approval as noted above.

Portions of this session will be closed as necessary to discuss Proprietary Information and detailed arrangements for plant security for this class of nuclear plants.

3:45 P.M.–5:45 P.M.: NRC Safety Research Program (Open)—The members will discuss portions of the proposed ACRS report to the NRC regarding the proposed safety research budget for FY 1988–89.

5:45 P.M.–6:45 P.M.: Future ACRS Activities (Open/Closed)—The members will discuss anticipated ACRS subcommittee activity, and proposed items for consideration by the full Committee.

Portions of this session will be closed as required to discuss National Security Information.

Friday, June 6, 1986

8:30 A.M.–10:30 A.M.: Recent Operating Experiences at Nuclear Facilities (Open/Closed)—the members will hear and discuss the reports of its subcommittee, and representatives of the NRC staff. Representatives of the nuclear industry will participate as appropriate.

Portions of this session will be closed to discuss Proprietary Information and detailed security arrangements for the facilities being discussed.

10:45 A.M.–12:00 Noon: Reactivation of Deferred and Cancelled Nuclear Plants (Open)—The members will hear a briefing regarding major issues in reactivation of nuclear power plant construction projects.

1:00 P.M.–1:30 P.M.: ACRS Subcomittee Activities (Open)—The members will hear and discuss a report by its subcommittee on thermal Hydraulic Phenomena regarding proposed NRC activities in this area.

1:30 P.M.–3:00 P.M.: NRC Safety Research Program (Open)—The members will continue discussion of the Committee's proposed report to NRC regarding the proposed NRC safety research program for FY 1988–89.

3:15 P.M.–5:15 P.M.: Source Term for Nuclear Power Plant Accidents (Open)—The members will hear and discuss proposed revisions to the accident source term used in evaluation of nuclear power plants.

5:15 P.M.–5:45 P.M.: ACRS Subcommittee Activities (Open)—The members will hear and discuss the report of its Management Subcommittee regarding procedural topics considered during its subcommittee meeting on June 4, 1986.

5:45 P.M.–6:30 P.M.: Appointment and Activities of ACRS Members (Open/Closed)—The members will discuss the report of its Nominating Panel regarding candidates nominated for appointment to the ACRS. The members will also discuss the proposed reappointment of a member of the Committee and the non-ACRS activities of ACRS members.

Portions of this session will be closed as necessary to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy.

Saturday, June 7, 1986

8:30 A.M.–12:30 P.M.: Preparation of ACRS Reports (Open/Closed)—The members will discuss proposed reports regarding matters considered during this meeting.

Portions of this session will be closed as necessary to discuss Proprietary Information, detailed security arrangements, National Security Information, and information concerning initiation, conduct, or disposition of a formal agency adjudication applicable to the matters being discussed.

1:30 P.M.–2:00 P.M.: ACRS Procedures (Open)—The members will discuss proposed changes to ACRS Bylaws and procedures for the conduct of ACRS activities.

2:00 P.M.–3:00 P.M.: Miscellaneous (Open/Closed)—The members will hear a report by a member of the Committee regarding participation on an ANS Panel to discuss ACRS recommendations on severe accidents. The Committee will also complete discussion of matters considered during this meeting.

Portions of this session will be closed as necessary to discuss controlled and classified information as noted above.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 2, 1985 (50 FR 191). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the ACRS Executive Director, R.F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with section 10(d) Pub. L. 92–463 that it is necessary to close portions of this meeting as noted above to discuss Proprietary Information (5 U.S.C. 552b(c)(4)) applicable to the facilities being discussed, detailed information related to the security arrangements at a nuclear power plant (5 U.S.C. 552b(c)(3)), information the release of which would represent a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)), classified restructed data (5 U.S.C. 552b(c)(3)), and information concerning initiation, conduct, or disposition of a formal agency adjudication (5 U.S.C. 552b(c)(10)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–3265), between 8:15 A.M. and 5:00 P.M.

Dated: May 27, 1986.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 86–12154 Filed 5–29–86; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50–369 and 50–370]

Duke Power Co.; Consideration of Issuance of Amendments to Facility Operating Licenses and Proposed No Significant Hazards Consideration and Determination

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF–9 and NPF–17 issued to Duke Power Company for operation of the McGuire Nuclear Station, Units 1 and 2, located in Mecklenburg County, North Carolina.

The amendments would authorize on an emergency basis a one-time release of the existing contents of the Conventional (non-radioactive) Wastewater Basin, containing trace amounts of tritium, into the Catawba River. Technical Specifications (TS) 3.11.1.1 and its referenced Figure 5.1–4, "Site Boundary for Liquid Effluents" define the authorized discharge point for radioactive material released in liquid effluents to unrestricted areas as being only to Lake Norman. The proposed authorization would be accomplished by the addition of a footnote to TS Figure 5.1–4 at the discharge point for the Conventional Wastewater Basin into the Catawba River, stating that this discharge point is authorized for a one-time discharge of water which contains trace amounts of tritium in addition to the normally processed effluents of the Waste Water Collection Basin, effective the date of Commission approval. The change would not affect any existing limits or procedures regarding the processing of conventional (i.e., non-radioactive) contaminants.

These revisions to the technical specifications would be made in response to the licensee's application for amendments dated May 20, 1986.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

An unexpected release of tritium into the Conventional Wastewater Basin has created the need for prompt action as proposed above for two reasons, both stemming from the fact that the Basin is

nearly full. First, excessive rainfall could result in an overflow of the Basin, resulting in an uncontrolled release. Second, lack of available volume in the Basin will impair the station's ability to process conventional (non-radiological) liquid waste as required by the NPDES permit issued by the State of North Carolina and, thereby, result in an extended plant outage.

Non-radioactive chemical wastes from the McGuire Station (e.g., turbine building drains, water treatment system filter backwashes, demineralizer regeneration wastes) are routed through the Conventional Waste Water Treatment System (CWWTS) and subjected to physicochemical treatment. The CWWTS includes a Basin of two parallel stream settling ponds with a capacity of about 2 million gallon each. Upon completion of treatment, the discharges from this system are released to the Catawba River downstream of Cowans Ford Dam. The discharge from the CWWTS may also be mixed with water from the Standby Nuclear Service Water Pond to dilute waste concentrations prior to discharge to the river. Waste containing radioactive material is not intended for the CWWTS; rather such waste is routed to separate Liquid Radwaste Systems (see FSAR Section 11.2) for recycling, processing and disposal.

By letter dated May 20, 1986, the licensee noted that tritium, but no other radionuclide, had entered the Basin and had subsequently been diluted to a concentration of 1.4×10^{-5} microcuries per milliliter. The licensee propsoed to discharge the 4 million gallons of water in the Basin, along with its tritium, to the river at a rate of 500 gpm over a duration of 133 hours. The Basin discharge would also be mixed by equal flow from the Standby Nuclear Service Water Pond, such that the tritium concentration at the river release point would be 7×10^{-6} microcuries per milliliter. This concentration is well within the limit of 3×10^{-3} microcuries per milliliter specified by 10 CFR 20.106 and associated Appendix B, table II, for tritium concentrations in water.

The NRC has evaluated doses resulting from the proposed discharge using models and assumptions in Regulatory Guide 1.109, "Calculation of Annual Doses to Man from Routine Release of Reactor Effluents for the Purpose of Evaluating Compliance with 10 CFR Part 50, Appendix I." For tritium the dominant exposure pathway is drinking water. The fish consumption pathway also makes a small contribution to the dose. Other potential pathways (such as due to irrigation or swimming) are negligible because of the properties of tritium, i.e. tritium does not accumulate either in the food chain or the body and it does not constitute a significant source of external radiation. The total body dose to a child or infant assumed to drink water from the river release point and to consume fish located at this release point was calculated by the Commission to be about 0.01 millirem. Corresponding doses to an adult or teenager were lower (i.e., about 0.008 and 0.006 millirem, respectively). Section II.A of Appendix I to 10 CFR Part 50 states that the calculated annual total quantity of all radioactive material above background to be released from each nuclear power reactor to unrestricted areas should not result in an estimated annual dose or dose commitment from liquid effluents from any individual in an unrestricted area from all pathways of exposure in excess of 3 millirems to the total body. Because the doses calculated for the proposed river discharge represent only a small contribution to this annual dose criterion of Appendix I, we find the proposed action to be consistent with Appendix I criterion.

The licensee calculated similar but lower doses in its letter of May 20, 1986. Unlike the licensee's calculations, the NRC results conservatively assume no credit for dilution of the tritium concentration within the river. Nevertheless, we find that the discharge concentrations of tritium and resultant does determined by the NRC are sufficiently low as to represent no significant safety concern.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance for the application of these criteria by providing examples of amendments that are considered not likely to involve significant hazards considerations (48 FR 14870). The proposed changes do not match any of the examples. However, based upon our review of the amendment requests and our independent dose calculations discussed above, we find that the proposed action is limited to the one-time release of very low concentrations of tritium within the Conventional Wastewater Basin which are well below limits permitted by 10 CFR Part 20, and if discharged to the Catawba River as proposed, would result in insignificant doses consistent with the guidance of Appendix I to 10 CFR Part 50. No changes in plant design, limiting safety system setpoints or allowable values, limiting conditions for operations or plant operating procedures would result from the proposed action. Therefore, operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Therefore, based on these considerations and the three criteria given above, the Commission has made a proposed determination that the amendment request involves no significant hazards consideration.

The Commission has determined that failure to act in a timely way would result in extending shutdown because those activities which result in the generation of or need to process conventional (non-radiological) waste must be curtailed or deferred due to the inability to process conventional waste in compliance with the NPDES permit. The potential for uncontrolled release of the Basin with its tritium due to overflow as a result of rain also exists. Therefore, the Commission has insufficient time to issue its usual 30-day notice of the proposed action for public comment.

Normally, the Commission will not issue the amendment until the expiration of the notice period. However, should circumstances change during the notice period, the Commission may issue the license amendment before the expiration of the notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

If the proposed determination becomes final, an opportunity for a hearing will be published in the Federal

Register at a later date and any hearing request will not delay the effective date of the amendment.

If the Commission decides in its final determination that the amendment does involve a significant hazards consideration, a notice of opportunity for a prior hearing will be published in the Federal Register and, if a hearing is granted, it will be held before any amendment is issued.

The Commission is seeking public comments on this proposed determination of no significant hazards consideration. Comments on the proposed determination may be telephoned to B.J. Youngblood, Director of PWR Project Directorate No. 4, by collect call to 301–492–8060 or submitted in writing to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555 and should cite the publication date and page number of this Federal Register notice. All comments received by June 16, 1986, will be considered in reaching a final determination. A copy of the application may be examined at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC and at the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Dated at Bethesda, Maryland, this 27th day of May, 1986.

For the Nuclear Regulatory Commission.

Kahtan Jabbour,

Acting Director, PWR Project Directorate No. 4, Division of PWR Licensing-A.

[FR Doc. 86–12155 Filed 5–29–86; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–289 RA, 50–289 EW; ASLBP No. 86–532–03–SP]

GPU Nuclear, Three-Mile Island Nuclear Station, Unit No. 1; Designation of Presiding Officer

Pursuant to delegation by the Commission dated December 29, 1972, published in the Federal Register, 37 FR 28710 (1972) and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, a presiding officer is designated in the following proceeding:

GPU Nuclear, Three-Mile Island Nuclear Station, Unit No. 1.

The presiding officer is being designated pursuant to the provisions of an Advisory Opinion and Notice of Hearing (CLI–86–09) issued by the Commission on May 15, 1986 concerning the requests of Robert Arnold and Edward Wallace for a hearing pursuant to the Commission's decision in CLI–85–2, NRC 282, 317 (1985) and CLI–85–19, 22 NRC 886 (1985).

The presiding officer in this proceeding is The Honorable Ivan W. Smith, Administrative Law Judge.

All correspondence, documents and other materials shall be filed with Judge Smith in accordance with 10 CFR 2.701. His address is: Administrative Law Judge Ivan W. Smith, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Issued at Bethesda, Maryland, this 22nd of May 1986.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 86–12156 Filed 5–29–86; 8:45 am]

BILLING CODE 7590–01–M

POSTAL SERVICE

Privacy Act of 1974; Systems of Records

AGENCY: Postal Service.

ACTION: Advance Notice of Records System Changes.

SUMMARY: The purpose of this document is to publish advance notice of changes in the system of records that contains postal customers' change of address information. The Postal Service proposes to consolidate all change of address information furnished to it by its customers into a computerized National Change of Address File, to be maintained by a Postal Service contractor, for the purpose of establishing a National Change of Address Service.

DATE: Comments on the proposed change and the proposed routine use must be received on or before June 30, 1986.

ADDRESS: Comments may be mailed to the Records Officer, U.S. Postal Service, 475 L'Enfant Plaza, SW, Washington, DC 20260–5010 or delivered to room 8121 at the above address between 8:15 a.m. and 4:45 p.m. Comments received may also be inspected during the above hours in room 8121.

FOR FURTHER INFORMATION CONTACT: John Gunnels, (202) 268–4873.

SUPPLEMENTARY INFORMATION: In accordance with provisions of the Privacy Act Implementation Guidelines issued by the Office of Management and Budget (40 FR 28961), the Postal Service has determined that it is necessary to publish advance notice of (1) changes in the description of records system USPS 010.010, Collection and Delivery Records—Address Change and Mail Forwarding Records and (2) a proposed new routine use No. 5 for that system. System 010.010 was last published at 50 FR 47311.

This change involves the collection or maintenance of information already collected and maintained by the Postal Service; it involves the disclosure of information already made available to the public.

The change relates solely to the proposed consolidation of change of address information, heretofore maintained on a decentralized basis, into an automated database to be known as the National Change of Address File. A file under contract with the Postal Service will perform periodic updates of the file. Through the National Change of Address Service, firms under license agreement with the Postal Service will make updated address information available for a fee to mailers who maintain mailing lists on magnetic media. An excerpt of a notice published in the *Commerce Business Daily* on April 8, 1986, is reproduced at the end of this **SUPPLEMENTARY INFORMATION,** because it more fully describes the proposed address-matching requirements for licensees.

Each subscriber to the National Change of Address Service will obtain access to updated change of address information contained in the National Change of Address File through the use of tape-to-tape matching techniques. A mailer requesting the service will provide its mailing list on magnetic tape or disk to the address-matching licensee, who will "match" the mailer's tape against the National Change of Address tape. When a specific name and address on the mailer's tape also appears on the updated National Change of Address tape, the corrected address information on the National Change of Address tape will be provided to the mailer. The mailer's tape will be returned to the mailer with the following information: (1) The address as it originally appeared on the mailer's list; (2) the address rearranged into a standardized format and appended with the correct ZIP+4 code; and (3) if a match has been made, the corrected address in standardized format.

Through this tape-matching method, the new information provided to the mailer will consist only of changed addresses for specific postal customers whose names and former addresses were already in the mailer's possession. Only corrected addresses, not new or corrected names, will be provided. A subscriber, in order to avail itself of this list correction service, must necessarily already have in its possession the name

and former address of any postal customer about whom corrected information is provided.

Postal customers may, but are not required to, provide change-of-address information to the Postal Service by submitting Form 3575, Change of Address Order, which contains the customer's name, old address, new mailing address, mail forwarding instructions, effective date, and information as to whether the move is permanent or temporary.

The Postal Service currently maintains this change of address information for a period of 18 months in hardcopy form at the post office serving the old address as well as in electomagnetic form at one of 197 Computer Forwarding System sites. Pursuant to existing regulations, the Postal Service makes the customer's new permanent mailing address available to the public upon specific request. The Postal Service also uses the information for the purposes of (1) forwarding the customer's mail to the new address and (2) providing an Address Correction Service to mailers.

Under the Postal Service's present mail forwarding and address correction system, large numbers of mail pieces are entered into the mailstream that are undeliverable as addressed. The Postal Service forwards a misaddressed piece to the new address, and, if the Address Correction Service has been requested, provides the corrected information to the mailer. This results in delayed delivery to the recipient and in substantial handling and forwarding expense to the Postal Service.

The National Change of Address Service will enable the Postal Service to provide updated address information to mailers as soon as that information becomes available to the Postal Service. It is expected that this service will result in a significant reduction in the numbers of misaddressed pieces entered into the mailstream. This will enable the Postal Service to provide a more efficient and cost-effective delivery service to its customers, both mailers and recipients.

The Postal Service will cause each firm under contract or license agreement to maintain the National Change of Address File in accordance with the relevant provisions of the Privacy Act. While the information is in the possession of the firm, the firm will safeguard its security and will refrain from using or disclosing the information for any purpose other than providing the authorized address correction service to others. No information concerning postal customers who are not already on a mailer's list is to be provided to that mailer, and no new names and addresses will be added to any mailer's list.

The Postal Service will also take the following measures to minimize the risk of unauthorized use or disclosure of the information:

1. Physical access to the address tapes will be restricted to those persons whose duties require such access.

2. Unauthorized use of the tapes by a firm or its employees will be expressly prohibited.

3. The Postal Service will monitor security through periodic on-site inspections.

4. The Postal Service's address tapes will be "salted" with fake addresses so as to alert the Postal Service to breaches of security that may have taken place.

The proposed National Change of Address Service will not involve the disclosure of any information about postal customers that is not already available to the public through existing address correction and mail forwarding services. The principal change now being proposed is the consolidation of the information into a national file to be maintained by a Postal Service contractor and the disclosure of updated information to eligible mailers soon after the information becomes available to the Postal Service. This service will also make it possible to provide a larger volume of corrected address information to a particular mailer at any given time than is presently possible under existing address correction services.

Under existing regulations, a postal customer may obtain an accounting of disclosures of the customer's new address to members of the public who have requested it by applying to the post office where the change-of-address order is on file. Because of the degree of automation associated with the proposed National Change of Address Service, it will not be practicable to provide a detailed accounting that sets forth the specific date on which an address was provided to a particular subscriber to the service by means of the tape matching technique. A postal customer will, however, be able to ascertain the identities of all of the subscribers who have used the National Change of Address Service over a specific period of time. Thus, a customer will be able to learn to whom the new address may have been provided during the 18-month period that the customer's new address is maintained in the file by requesting such information from Manager, NCOA, Address Information Systems Division, 6060 Primacy Parkway, Memphis, TN 38188-0001. Information from which an accounting can be made will be retained for the five-year period required by the Privacy Act.

Excerpt of Notice Published in Commerce Business Daily, April 8, 1986

National Change of Address System

The U.S. Postal Service is seeking non-exclusive licensees to provide standardized name and address matching services to Postal Service customers against the Postal Service National Change of Address File. Licensees will be provided a master ZIP+4 file and monthly updates of that file by the Postal Service. The Postal Service will also furnish licensees the master National Change of Address File and Semi-Monthly NCOA File updates. Licensees will be required to provide customer output consisting of the original address as presented, the standardized address appended with correct ZIP+4 Codes, and the new address where a match has been found with correct ZIP+4 Codes. The quality of address match shall be 99% with a match rate of no less than 5% as measured against the results of the USPS address matching software using a test address file. The quality of applied ZIP+4 codes shall be 95% as measured againt the ZIP+4 matching software. Quality of match equates to accuracy. The United States Postal Service will take a test file of names and addresses and match it against its own address matching software to determine the matches. The same test file will be provided to the applicants for license and will be run using the applicant's matching software. The results will then be compared for accuracy.

Licensees will be required to process and return customer lists within 7 business days, maintain a service log available for USPS review, provide service capability 5 days per week (Monday through Friday), and provide monthly performances reports to the Postal Service.

Licensees are required to possess or have the ability to obtain all necessary hardware, software, facilities, technical support, and management required to provide service to customers in accordance with the performance requirements set forth above. The Postal Service will not control the pricing at which the licensees offer services to customers. The Postal Service will, however, have the right to review and approve all advertising to ensure that the licensee's relationship with the Postal Service is accurately portrayed and that all other information is accurate.

Due to limits on the Postal Service's capabilities to service licensees, no more than 20 licenses will be granted. All applicants will be required to submit a proposal defining their capability to provide the required services. Applicants may also be required to provide a demonstration of their capability. If more than 20 applications are received, applicants will be evaluated and licenses will be granted to the 20 applicants found to possess all necessary capabilities and who are considered to have the ability to provide service to the maximum number of postal customers.

Licenses will be for a term of 3 years. The Postal Service shall have the right to

terminate for breach or at any time upon 60 days notice.

A yearly license fee shall be payable to the Postal Service with initial payment required within 10 days of license execution. During year one of the license term, the fee will be $100,000.00. The fee during years two and three shall be $38,000.00 each year.

Prospective licensees should be aware that the NCOA file is a system of records as defined in subsection (a)(5) of the Privacy Act of 1974, 5 U.S.C. 522a, and is subject to the provisions of the Act. Licensees must comply with all requirements of the Act.

Accordingly, it is proposed that the description for system 010.010 be changed and that routine use No. 5 be added to read as follows:

USPS 010.010

SYSTEM NAME:

Collection and Delivery Records—Address Change and Mail Forwarding Records, 010.010.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—(1) To provide mail forwarding services to postal customers who have changed address; (2) to provide address correction services to postal customers; and (3) to provide address information to the Red Cross about a postal customer who has been relocated because of a disaster.

Use—

* * * * *

5. Disclosure of a customer's new permanent address may be made from the National Change of Address File to customers seeking corrected addresses for their mailing lists.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The source documents are stored in filing cabinets at the delivery unit. They are filed alphabetically by name within month or quarter. Records generated from the source document are stored on cards or list forms or recorded on magnetic tape where central markup is computerized. These records are filed alphabetically by name and route number or zone. Records are also consolidated in a National Change of Address File on magnetic tape maintained by firms under contract or license agreement with the Postal Service.

* * * * *

NOTIFICATION PROCEDURE:

Customers wishing to know whether information about them is maintained in this system of records should address inquiries to their local postmaster. Inquiries should contain full name and address, effective date of change order, route number (if known) and ZIP Code. Customers wishing to know whether information about them is also maintained in the National Change of Address File should address such inquiries to Manager, NCOA, Address Information Systems Division, U.S. Postal Service, 6060 Primacy Parkway, Memphis, TN 38188–0001.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 86–12043 Filed 5–29–86; 8:45 am]

BILLING CODE 7710–12–M

Privacy Act of 1974; Systems of Records

AGENCY: Postal Service.

ACTION: Final notice of modification to existing systems of records.

SUMMARY: The purpose of this document is to publish final notice updating the "Retention and Disposal" section of existing systems of records.

EFFECTIVE DATE: May 30, 1986.

ADDRESS: Records Office, 475 L'Enfant Plaza, SW., Washington, DC 20260–5010.

FOR FURTHER INFORMATION CONTACT: Rubenia Carter, (202) 268–4872.

SUPPLEMENTARY INFORMATION: The Postal Service has determined that the "Retention and Disposal" section of each of the systems listed below, by USPS identification number, needs to be updated to more accurately reflect the disposition of the records maintained in these systems:

010.030	120.036	120.190
030.010	120.040	120.210
030.020	120.050	120.220
030.030	120.060	120.230
050.010	120.070	120.240
050.040	120.090	150.010
060.020	120.098	150.015
070.010	120.100	150.025
070.040	120.110	160.020
080.010	120.120	200.020
080.020	120.121	200.030
090.020	120.140	210.010
100.010	120.153	210.030
110.010	120.170	

A complete statement of the existence and character of each of these systems last appeared in 48 FR 10963 dated March 15, 1983, and 47 FR 1199 dated January 11, 1982.

The following constitutes final notice of the necessary changes.

USPS 010.030, Collection and Delivery Records—Carrier Drive-Out Agreements, 010.030

Retention and Disposal:

Change to read "a. Agreements—Destroy when 2 years old.

b. Postmaster's copy of the PS 1839—Destroy when 4 years old.

c. Machine-readable records at the PDC (PS 1839 information)—Destroy when 7 years old."

USPS 030.010, Equal Employment Opportunity—EEO Discrimination Complaint Investigation, 030.010

Retention and Disposal:

Change to read "a. Precomplaint records—Counselor notes are destroyed 1 year after a formal report is submitted to the EEO officer or 1 year following the final adjustment when made at that level.

b. Formal Complaint records—All closed cases are removed from the system quarterly. Each closed case is retained as follows: Official file for 4 years, any copies for 1 year, and background documents not in case file for 2 years.

c. ADP records—Closed case information is removed quarterly and stripped of personal identifiers. It is then moved to an inactive file (not a system of records) for future comparative analyses."

USPS 030.020, Equal Employment Opportunity—EEO Staff Selection records, 030.020

Retention and Disposal:

Change to read "Destroy 3 years from date the position becomes vacant."

USPS 030.030, Equal Employment Opportunity—EEO Administrative Litigation Case Files, 030.030

Retention and Disposal:

Change to read "a. Selected Appeals Case Files—Destroy 4 years from date of final decision or when they have no further use for reference, training, or similar purpose, whichever is longer.

b. Appeal Case Files—Destroy 4 years from date of final decision.

c. Paper records are shredded and computer tape/disk records are erased at the end of the retention period."

USPS 050.010, Finance Records—Employee Travel Records (Accounts Payable), 050.010

Retention and Disposal:

Change to read "a. Officer's Expense Report—Destroy when 12 years old.

b. Travel Advance and Travel Voucher: (1) PDC Copy—Destroy when 6 years and 3 months old. (2) Office Copy—Destroy 2 years from date of submission to PDC.

c. Relocation Travel Orders—Destroy 4 years from date final relocation voucher is submitted.

d. Relocation Travel Orders (Issuing Office)—Destroy when no longer needed for reference."

USPS 050.040, Finance Records—Uniform Allowance Program, 050.040

Retention and Disposal:

Change to read "a. Post Office Case File—Destroy 3 years from date the employee leaves Postal Service or is no longer in a bargaining unit.

b. PDC Card File—Destroy 6 months after each Accounting Period.

c. PDC Pay Listing and Machine Readable Records—Destroy 6 years and 3 months from date of listing."

USPS 060.020, Fraud and False Representation Records—Prohibitory Order, 060.020

Retention and Disposal:

Change to read "a. Case Files—Dispose of 5 years from date of origin or 5 years from end of year of last application or enforcement, whichever is sooner.

b. Log Books—Dispose of 5 years from date of last entry."

USPS 070.010, Inquiries and Complaints—Correspondence Files of the Postmaster General, 070.010

Retention and Disposal:

Change to read "a. Permanent Subject Files—Transfer to a Federal Records Center when 4 years old. Offer to NARA in 5-year blocks when the latest records are 20 years old.

b. Temporary Subject Files—Destroy when 4 years old."

USPS 070.040, Inquiries and Complaints—Customer Complaint Records, 070.040

Retention and Disposal:

Change to read "Destroy 1 year after resolution of problem."

USPS 080.010, Inspection Requirements—Investigative File System, 080.010

Retention and Disposal:

Change to read "a. Records are maintained 1 to 15 years depending upon type. Exceptions may be granted for longer retention in specific instances. Paper records are destroyed by burning, pulping, or shredding. Computer tape/disk records are erased or destroyed.

b. Duplicate copies of investigative memorandums maintained by postal officials other than the Inspection Service are retained in accordance with official rather than Inspection Service disposition schedules."

USPS 080.020, Inspection Requirements—Mail Cover Program, 080.020

Retention and Disposal:

Change to read "a. Correspondence Files—Destroy 8 years after case is closed.

b. Investigations (C)—Transfer to FRC when 2 years old; destroy when 8 years old.

c. Index and Record Slips—Destroy 15 years after close of case."

USPS 090.020, Nonmail Services—Passport Application Records, 090.020

Retention and Disposal:

Change to read "Passport applications are retained for 2 days at the post office where application was made and then forwarded to the Department of State. Destroy original and carbon copy of DPS 5659 when 3 months old."

USPS 100.010, Office Administration—Carpool Coordination/Parking, 100.010

Retention and Disposal:

Change to read "a. Application Case Files—Screen file annually, and dispose of records that are 6 years old.

b. Machine-readable files—Immediately remove all information when employee surrenders space.

c. Accounting Reports—Destroy after audit or when 3 years old, whichever is sooner.

d. Other miscellaneous reports—Destroy when no longer needed for reference or when 1 year old, whichever is sooner.

e. Violations maintained in application case files—Destroy violation notice when 1 year old.

f. Medical files maintained by medical officer to support handicapped parking space—Destroy 1 year from date of termination of assignment. At the end of retention period, paper records are destroyed by shredding or burning and tape/disk records are erased."

USPS 110.010, Property Management—Accountable Property Records, 110.010

Retention and Disposal:

Change to read "Return to individual when accountability is terminated."

USPS 120.036, Personnel Records—Discipline, Grievance, and Appeals Records for Non-Bargaining Unit Employees, 120.036

Retention and Disposal:

Change to read "Appeal records are kept for 7 years after close of file. All other records are kept 1 year after close of file. Records are destroyed by shredding."

USPS 120.040, Personnel Records—Employee Job Bidding Records, 120.040

Retention and Disposal:

Change to read "Computer records are kept 2 years, then automatically deleted. Paper records are kept 6 months after a vacancy is filled, then destroyed. Some records are retained until employee separates. (Where records become part of a grievance case file, dispose of with the case file.)"

USPS 120.050, Personnel Records—Employee Suggestion Program, 120.050

Retention and Disposal:

Change to read "a. Adopted Suggestions (1) Record copies—Destroy when 4 years old. (2) All other copies—Destroy 2 years from date of adoption or approval.

b. Disapproved suggestions—Destroy 2 years from date of disapproval.

Records are destroyed by shredding and automatic deletions from computer tapes."

USPS 120.060, Personnel Records—Employment and Financial Interest Records, 120.060

Retention and Disposal:

Change to read: "Destroy 2 years from date of separation of employee or removal from the position requiring this statement."

USPS 120.070, Personnel Records—General Personnel Folder (Official Personnel Folders and Records Related Thereto), 120.070

Retention and Disposal:

Change to read "a. Official Personnel Folder (OPF) Records—These records are considered to be permanent and are maintained until employee is separated, and then are sent to the National Personnel Records Center, St. Louis, for storage, or to another Federal agency to which the individual transfers employment.

b. Personnel Work Sheets—Destroy 30 days after a new PS 50 is issued.

c. Temporary Records of Individual Employees—Destroy when 2 years old,

upon separation, or upon transfer of employee, whichever is sooner.

d. Service Record Cards—Destroy 3 years after separation or transfer of employee."

USPS 120.090, Personnel Records—Medical Records, 120.090

Retention and Disposal:

Change to read "a. Employee Medical Folder—Medical records considered to be permanent are maintained until employee is separated and then are sent to the National Personnel Records Center for storage, or to another Federal agency to which the individual transfers employment. The records are maintained for 30 years from the date the employee separates from Federal service.

b. Failed Eligibles—Retained in Personnel office along with employment application and destroyed by shredding when 2 years old.

c. Authorization for Medical Attention (PS 3956)—Destroy when 2 years old.

USPS 120.098, Personnel Records—Office of Workers' Compensation Program (OWCP) Record Copies, 120.098

Retention and Disposal:

Change to read "Transfer to a Federal Records Center when 5 years old; dispose of 30 years from date the employee leaves the Postal Service."

USPS 120.100, Personnel Records—Performance Awards System Records, 120.100

Retention and Disposal:

Change to read "a. Incentive Award Files—Destroy 4 years from date of approval or disapproval.

b. Length of Service Award Files—Destroy when 1 year old.

c. Non-USPS Awards—Destroy 2 years after date of award.

d. Letter of Commendation and Appreciation (excluding copies filed in the OPF)—Destroy 2 years from date of letter."

USPS 120.110, Personnel Records—Preemployment Investigation Records, 120.110

Retention and Disposal:

Change to read "a. Destroy 2 years from the date the employee is initially found suitable for employment or 2 years from the date action was taken to deny or terminate employment.

b. NACI reports are retained in the same fashion as local investigative records."

USPS 120.120, Personnel Records—Personnel Research and Test Validation Records, 120.120

Retention and Disposal:

Change to read "a. Hard Copy—Destroy 6 months after processing.

b. Magnetic Tape—Maintain for 30 years—DO NOT TRANSFER TO A FEDERAL RECORDS CENTER."

USPS 120.121, Personnel Records—Applicant Race, Sex, National Origin and Disability Status Records, 120.121

Retention and Disposal:

Change to read "a. Hard Copy—Destroy 6 months after processing.

b. Magnetic Tape—Maintain for 30 years—DO NOT TRANSFER TO A FEDERAL RECORDS CENTER.

c. Statistical Records (without individual identifiers)—Maintained for as long as needed for the purpose of conducting longitudinal studies."

USPS 120.140, Personnel Records—Employee Assistance Program (EAP), 120.140.

Retention and Disposal:

Change to read "a. Coordinator/Specialist Applications and Interviews—Destroy 1 year from date of application.

b. Participant's Case Cards—Destroy 6 years from date case is closed. DO NOT TRANSFER TO A FEDERAL RECORDS CENTER.

c. Historical Case Records Cards—Dispose of along with Case File (see d.).

d. Case Files—(1) Deceased Persons—Destroy immediately. (2) Persons Successfully completing EAP Program—Detroy 3 years from date of completion. (3) Persons Dropped from EAP Program—Destroy when 1 year old."

USPS 120.153, Personnel Records—Individual Performance Evaluation/Measurement, 120.153.

Retention and Disposal:

Change to read: "a. Merit Performance Evaluation Files—Destroy when 5 years old.

b. Individual Performance Evaluation/Measurement Records—Destroy when 10 years old or when no longer useful, whichever is sooner. DO NOT TRANSFER TO A FEDERAL RECORDS CENTER.

USPS 120.170, Personnel Records—Safe Driver Awards Records, 120.170

Retention and Disposal:

Change to read "Destroy 4 years from date of separation, expiration of license, recision of authorization, or transfer of driver into a nondriving status, or other transfer (unless requested by new installation or agency)."

USPS 120.190, Personnel Records—Supervisor's Personnel Records, 120.190

Retention and Disposal:

Change to read "a. Counseling Records—Destroy when 1 year old if there has been no disciplinary action initiated against the employee during that period.

b. Letters of Warning—Destroy when 2 years old if there has been no disciplinary action initiated against the employee during that period.

c. All Other Records—Dispose of immediately upon termination of supervisor/employee relationship."

USPS 120.210, Personnel Records—Vehicle Maintenance Personnel and Operators Records, 120.210

Retention and Disposal:

Change to read "Destroy 4 years from date of separation, transfer (unless requested by new installation or agency), expiration of license, recision of authorization, or transfer of driver into a nondriving status."

USPS 120.220, Personnel Records—Arbitration Case Files, 120.220

Retention and Disposal:

Change to read "a. Disciplinary Cases (to include removal) and contract application cases—(1) National Level—Destroy 15 years from date of final decision. (2) Field Level—Destroy 5 years from fate of final decision.

b. Contract Interpretation Cases (National Level)—Transfer to a Federal Records Center when 5 years old; destroy 15 years from date of expiration of the agreement.

c. Court Actions—Transfer to a Federal Records Center when 5 years old, destroy 15 years from date of final agreement."

USPS 120.230, Personnel Records—Adverse Action Appeals (Administrative Litigation Case Files), 120.230

Retention and Disposal:

Change to read "Destroy 7 years from date of final decision."

USPS 120.240, Personnel Records—Garnishment Case Files, 120.240

Retention and Disposal:

Change to read "Postal Data Center records are maintained on an active basis until subject matter has no informational value, and on an inactive basis for an additional 2 years. All other records are maintained for 5 years. Paper records are shredded and

computer tape/disk records are erased at the end of retention period."

USPS 150.010, Records and Information Management Records—Information Disclosure Accounting Records (Freedom of Information Act), 150.000

Retention and Disposal:

Change to read "Records maintained by custodians and the Records Office are disposed of 2 years from date of final response to requester. (Files may be transferred to FOIA Appeals Officer upon request. When this is done, files may become a part of the Appeals Case Files—see USPS 150.015.)"

USPS 150.015, Records and Information Management Records—Freedom of Informaton Act Appeals System, 150.015

Retention and Disposal:

Change to read "Destroy 10 years from date of final determinaton by Appeals Officer or upon final adjudication in case of civil suit."

USPS 150.025, Records and Information Management Records—Privacy Act Appeals System, 150.025

Retention and Disposal:

Change to read "Destroy 10 years from date of final determination by Appeals Officer or upon final adjudication in case of a civil suit."

USPS 160.020, Special Mail Services—Insured and Registered Internatoinal Mail Inquiry and Applicaton for Indemnity Records, 160.020

Retention and Disposal:

Change to read "Destroy when 3 years old."

USPS 200.020, Nonmail Monetary Claims—Monetary Claims Involving Present or Former Employees (Case Files), 200.020

Retention and Disposal:

Change to read "Records are destroyed 3 years from date claim is adjudicated."

USPS 200.030, Nonmail Monetary Claims—Tort Claims records, 200.030

Retention and Disposal:

Change to read "a. Closed Case Files (cases where claims were neither allowed nor disallowed)—Transfer to a Federal Records Center when 2 years old; destroy when 5 years old.

b. Appeal Case Files—Transfer to a Federal Records Center when 2 years old; destroy when 7 years old.

c. PDC Payment Records—Transfer to a Federal Records Center when 1 year old; destroy when 4 years old.

d. Locator Card—Destroy when 7 years old."

USPS 210.010, Contractor Records—Architect-Engineers Selection Records, 210.010

Retention and Disposal:

Change to read "a. Architect-Engineer and Related Services Questionnaire, SF 254—Destroy when 1 year old.

b. Architect-Engineer and Related Services for Specific Projects, SF 255—When a contract is awarded, attach form to contract; otherwise, destroy when 1 year old."

USPS 210.030, Contractor Records—Contractor Employee Fingerprint Records, 210,030

Retention and Disposal:

Change to read "Records are kept until employee leaves employment of USPS and then are destroyed 2 years later by shredding."

Fred Eggleston,

Assistant General Counsel Legislative Division.

[FR Doc. 86-12151 Filed 5-29-86; 8:45 am]

BILLING CODE 7710-12-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-23261; File No. SR-MSE-86-4]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Stock Exchange, Inc. Relating to Bids and Offers on "Issued" Basis

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 May 13, 1986, the Midwest Stock Exchange, Incorporated 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

On November 9, 1985, the Securities and Exchange Commission appoved a proposed rule change to MSE Article XX, Rule 10 (SR-MSE-85-8, submitted August 7, 1985, amended October 19, 1985) on a six-month pilot basis. Such approval expires on May 7, 1986. By this filing, the Midwest Stock Exchange, Inc. hereby requests permanent approval of the rule change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The rule change codifies MSE's policy of allowing trades to be effected on the MSE floor for settlement periods other than "cash", "regular way", or "seller's option".

The current rule 10 provides that contracts resulting from transactions effected on the MSE floor may be settled in one of three ways. First, the transaction may be settled for "cash", which indicates that delivery occurs on the day of the contract. Second, the transaction may be settled "regular way", which indicates that delivery will occur on the fifth full business day following the day of the contract. Third, the transaction may be settled "seller's option", which indicates that delivery will occur within the time period specified in the option, which time shall be no less than six full business days nor more than 30 days following the day of the contract.

Rule 10 also contains an exception providing for "next day" settlement (for delivery on the day following the day of the contract) for contracts in rights on the second, third, fourth and fifth full business days preceding the final day for subscription, and for "cash" settlement on the day immediately preceding the final day for subscription.

These changes are the result of requests made to the MSE by several members and member organizations to provide greater flexibility for trades with settlement periods other than the traditional periods cited in existing Rule 10.

Particular interest has been expressed in "next day" settlement and settlement occurring on the second, third, and fourth business days following the day of the contract in respect to "issued" securities and not merely subscription

rights. These same members and member organizations believe that additional settlement periods are becoming more useful in furthering the investment objectives of certain of their customers. In the past, MSE's policy was to allow three types of trades on an exception basis only.

With increased emphasis on sophisticated trading programs conducted by certain institutional investors, and the fact that other exchanges currently allow or are proposing to allow additional settlement periods, the MSE believes that it is appropriate at this time to provide in its rules additional time periods during which trades effected on the MSE may settle as a matter of course.

In addition, the rule change would expand the permissable "seller's option" period from 30 days to 60 days. This expanded period will also provide greater flexibility in developing investment strategies and is consistent with other exchanges' "seller's option" rules.

These changes have been in effect on a pilot basis for six months. In reviewing the operation of the pilot, it has been determined by the MSE that no unusual trading activity nor abuses have occurred during the initial six-month period. Permanent approval of the pilot program is, therefore, requested.

The proposed rule change is consistent with section 6 of the Securities Exchange Act of 1934 in that it helps remove an impediment to a free and open market and will also foster cooperation and coordination with persons engaged in settling and facilitating transactions in securities.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Stock Exchange, Incorporated does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(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 the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities & Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by June 20, 1986.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 21, 1986.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 86-12173 Filed 5-29-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23263; File No. SR-PHILADEP 86-2]

Self-Regulatory Organizations; Proposed Rule Change By the Philadelphia Depository Trust Company Relating to Fee Schedule Amendments

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 May 1, 1986, the Philadelphia Depository Trust Company 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

Philadelphia Depository Trust Company (PHILADEP) proposed as a rule change the adoption of amendments to its fee schedule to be effective as of May 1, 1986. The changes include certain increases, as well as a decrease for the automated customer name mailing service, in order to relate charges to costs more accurately. The rule change also unbundles certain services so that fees associated with those services more accurately reflect costs.

II. Self-Regulatory Organization's Statement Regarding 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. 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 Purpose of, and Statutory Basis for, the Proposed Rule Change

The PHILADEP fee revisions reflect changes in costs attributable to usage or expansion of the particular service affected. The purpose of the fee schedule revisions is the formulation of a fair and equitable fee schedule in view of current conditions, increased costs, the applicability of automation and advanced technology, the need for reliable as well as cost effective services, and the desire to be competitive in the industry.

The proposed fee changes are consistent with section 17A(b)(3)(D) of the Exchange Act in providing for equitable allocations of reasonable dues, fees, and other charges among participants.

(B) Self-Regulatory Organization's Statement on Burdens on Competition

PHILADEP does not perceive any burden on competition as a result of the proposed rule change, which is intended to align more closely the charge for a particular service with the cost of producing it.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments on the proposed rule change have not yet been received because the new schedule is being printed. A forthcoming SCCP/PHILADEP Member Bulletin will advise members of officials to whom they may direct questions upon receipt of the new schedule.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Exchange Act and subparagraph (e) of Rule 19b–4 thereunder. At any time within 60 days of the filing of this rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Exchange Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Those making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at PHILADEP. All submissions should refer to File No. SR–PHILADEP–86–2 and should be submitted by June 20, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 22, 1986.

Shirley E. Hollis,

Assistant Secretary.

PHILADEP SCHEDULE OF CHARGES—PHILADEP 86–2

[New material in italics; deleted material in bold brackets]

Service	Charge
1. Account Charges:	
a. Maintenance Fee	[$150.00 per month] *$260.00 per month with account activity. $150.00 per month for accounts with less than $10 of deposit activity.*
b. Pledgee Bank Fee	$100 per month.
2. Custody Fee	* * *
3. Deposit Fee	[$0.75] *$0.90* per deposit [1].
4. Legal Deposits	* * *
5. Withdrawals:	
a. By transfer	[$1.00 per transfer [1]]. $1.95 per manual transfer [1]. $1.35 per automated tape transfer.
b. By certificate	$5.00 per withdrawal same day or next day.
6. Accommodation Transfers, Ironclads.	* * *
7. MDO Movements	* * *
8. CNS/PHILADEP Movements.	* * *
9. Pledge Fees	* * *
10. Divided And Interest Payments.	[$0.80] *$1.20* per credit.
11. Reject Fees	[$5.00] *$7.50* per reject if total rejected deposits are [2%] *1%* or more of total.
Deposits	For the month.
12. Research Fees	* * *
15. Customer Name Mailing	[$1.50 per envelope; for participants with less than 10,000 items per month, plus normal transfer withdrawal charge $1.35]. *$0.65* per envelope [for participants with 10,000 or more items per month,] plus [normal] *appropriate* transfer withdrawal. Charge fees; fees include [postage,] stationary and insurance *but not postage.*
16. Stock Loan Program	* * *
17. Reorganization Fees	* * *
a. Mandatory Exchanges, Cash and Stock Mergers, and Reverse Splits.	[$9.00] *$15.00* per position.
b. Voluntary Tender Offers	[$10.00] *$15.00* per instruction received before cutoff. $25.00 per instruction received after cut off, with authorization.
c. Voluntary Conversions	[$10.00] *$15.00* per instruction.
d. Redemptions: Stocks, Corporate Bonds, Registered Municipal Bonds, etc..	[$8.00] *$15.00* per position.
18. National Institutional Delivery System (NIDS).	* * *
19. PHILADEP Discount	* * *

[1] Plus applicable transfer agent issuance fee; $5.00 per deposit or withdrawal.

[FR Doc. 86–12174 Filed 5–29–86; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–15109; File No. 812–5766]

IDS Mutual, Inc. et al.; Application

May 20, 1986.

Notice is hereby given that IDS Mutual, Inc., IDS Stock Fund, Inc., IDS Selective Fund, Inc., IDS Equity Plus Fund, Inc., IDS new Dimensions Fund, Inc., IDS Progressive Fund, Inc., IDS Growth Fund, Inc., IDS Bond Fund, Inc., IDS Cash Management Fund, Inc., IDS Tax-Exempt Bond Fund, Inc., IDS High Yield Tax-Exempt Fund, Inc., IDS Tax-Free Money Fund, Inc., IDS Discovery Fund, Inc., IDS Extra Income Fund, Inc., IDS International Fund, Inc., IDS Strategy Fund, Inc., IDS Precious Metals Fund, Inc., IDS Managed Retirement Fund, Inc., IDS Life Capital Resource Fund, Inc., IDS Life Income Fund, Inc., IDS Life Moneyshare Fund, Inc. (individually a "Fund" and collectively the "Funds" or the "IDS Mutual Fund Group" and where appropriate the last three Funds referred to as the "Life Funds"); and Shearson Lehman Brothers Inc. ("Shearson") (collectively with the IDS Mutual Fund Group, "Applicants") filed an application on February 10, 1984, and amendments thereto on April 20, 1984, June 19, 1984, December 18, 1984, August 20, 1985, and December 19, 1985, requesting an order of the Commission, pursuant to sections 6(c) and 17(b) of the Investment Company Act of 1940 (the "Act"), exempting Applicants from the provisions of section 17(a)(3) and, pursuant to section 17(d) of the Act and Rule 17d–1 thereunder, permitting the IDS Mutual Fund Group to lend portfolio securities to Shearson, certain broker-dealer affiliates of Shearson, and future broker-dealer affiliates of Shearson that may enter into portfolio securities lending programs with the IDS Mutual Fund Group. Applicants also seek an exemption on behalf of registered investment companies that may, in the future, join the IDS Mutual Fund Group and adopt portfolio securities lending programs substantially identical to those described 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 rules thereunder for the text of the applicable provisions thereof.

Applicants represent that the Funds and the Life Funds are open-end diversified management investment companies registered under the Act. According to the application, the investment manager for the Funds is IDS Financial Services Inc. ("New IDS") and the investment manager for each Life Fund is IDS Life Insurance Company, Inc. ("IDS Life"), a wholly-owned subsidiary of IDS. Applicants state that Shearson is a wholly-owned subsidiary of American Express Company and a broker-dealer registered under the Securities Exchange Act of 1934.

Applicants represent that prior to January 12, 1984, Investors Diversified Services, Inc. ("Old IDS"), a wholly-owned subsidiary of Alleghany Corporation, served as investment manager of each Fund and that IDS Life, then a wholly-owned subsidiary of Old IDS, served as investment manager of each Life Fund. Applicants state that on September 26, 1983, Alleghany

Corporation and American Express Company entered into a Plan of Reorganization and Merger Related Agreement (which was subsequently amended on December 22, 1983) providing for the merger of Old IDS into New IDS, a wholly-owned subsidiary of American Express Company (the "Merger"). Applicants state that the Merger was completed on January 12, 1984.

According to the application, the Funds began lending their portfolio securities to brokers in 1974, and, in connection with the decision to lend portfolio securities, the Board of Directors of each Fund ("Boards") adopted certain procedures. Applicants state that, in October 1977, Shearson became an approved broker under the procedures adopted by the Funds and from that time until the day preceding the date of the Merger, the Funds had on occasion loaned portfolio securities to Shearson pursuant to those procedures. Applicants represent that prior to the Merger, Shearson had become one of the Funds' largest borrowers of portfolio securities. It is further represented that the Life Funds have also authorized and implemented a portfolio securities lending program. Applicants state that upon completion of the Merger, Shearson became, for purposes of section 17(a)(3), an affiliated person of an affiliated person of each Fund and of each Life Fund.

Applicants propose to continue the lending relationship with Shearson pursuant to the same procedures as those in place prior to the Merger and submit that these procedures assure that shareholders will be adequately protected from the potential abuses which section 17(a)(3) was designed to prevent. Applicants assert that Shearson's participation in the proposed loan transactions will be on a basis which is no more favorable than the participation of unaffiliated borrowers of securities from the IDS Mutual Fund Group and thus the conditions of Rule 17d-1 will be met. According to the application, the Boards of the IDS Mutual Fund Group have determined that the IDS Mutual Fund Group should be permitted to lend portfolio securities to Shearson subject to the adopted procedures, at rates determined on a case-by-case basis in the manner presently followed for all loans of portfolio securities. Applicants represent that, pursuant to the resolutions adopted by the Boards, a schedule of fees (and in the case of cash collateral, rates of interest to be remitted) is established by New IDS and is applied uniformly with respect to loans made to affiliated and non-affiliated brokers. Applicants state that substantially all loans are made at predetermined charges which are applied uniformly to all borrowers. Applicants represent that no loan will be made to an affiliated broker at less than the minimum charge set forth in paragraph 9 of the Boards' resolutions, and further that no loan will be made to an affiliated broker at a charge less than that specified in the schedule. Further, although the member funds of the IDS Mutual Fund Group may from time to time lend portfolio securities at higher charges than those reflected on the schedule, it is represented that such occurrences have been infrequent. Applicants represent that, in the unusual case where a security is loaned at a higher charge, all comparable loans of the security will be made at the same rate as required by paragraph 9(c) of the Boards' resolution, regardless of whether the loan is made to an affiliated or a non-affiliated broker.

In addition, to assure that there is no overreaching on the part of an affiliated borrower, Applicants also consent to the imposition of the following conditions to the requested order:

1. The IDS Mutual Fund Group will continue to make at least 50% of their portfolio securities loans to unaffiliated borrowers.

2. A Fund may not lend portfolio securities to Shearson if, at the time such loan is made, more than 10% of such Fund's assets computed at market, would be loaned to Shearson.

3. A Fund will not make any loan to Shearson unless the income attributable to such loan fully covers the transaction costs incurred in making such loan.

4. If the Funds receive cash as collateral, they may not remit to Shearson a portion of the interest earned on such collateral at a rate in excess of 85% of the weekly average of the 30-day commercial paper rate; if U.S. Government securities are received as collateral, the loan premium paid by Shearson shall not be less than ½% of the par value of debt instruments or the market value assigned to equities at the time of borrowing.

5. The Funds' Boards of Directors, including a majority of the directors who are not interested persons, (a) will determine no less frequently than quarterly that all transactions with Shearson effected during the preceding quarter were effected in compliance with the requirements of the resolution adopted by the Boards and the conditions of any order permitting such transactions and that such transactions were conducted on terms which were reasonable and fair; and (b) will review no less frequently than annually such requirements and conditions for their continuing appropriateness.

6. The IDS Mutual Fund group will maintain and preserve permanently a written copy of the procedures (and any modifications thereto) which are followed in lending securities. The Funds shall maintain and preserve a written record of each loan setting forth the number of shares loaned or the face amount of the securities loaned, the fee received (or the rate of interest remitted), the identity of the borrower, the terms of the loan, the information or materials upon which the findings that each loan made to Shearson was fair and reasonable and that the procedures followed in making the loan were in accordance with the other undertakings set forth above.

7. The IDS Mutual Fund Group will only accept cash or U.S. Government securities as collateral for securities loaned to an affiliated broker.

Applicants state that since the Funds began their lending program in 1974, no Fund has experienced any difficulties and the program has resulted in additional income to shareholders which, it is claimed, they would not otherwise have enjoyed. The IDS Mutual Fund Group represents that if the member funds of the IDS Mutual Fund Group are not able to lend securities to affiliated brokers, the premium income and benefits to shareholders attributable to such loans will be lost and cannot be replaced. Applicants submit that the loans of portfolio securities to Shearson in accordance with the procedures and guidelines which have been adopted would benefit the IDS Mutual Fund Group, that the participation of the IDS Mutual Fund Group in portfolio securities loans with Shearson subject to such procedures is fair and reasonable and will not involve overreaching on the part of any person, and that the proposed transactions are consistent with the policies of the IDS Mutual Fund Group and with the general purposes of the Act. Applicants also submit that the granting of the requested order is 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.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 16, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities

and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicants at the addresses 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.

By the Commission.

Shirley E. Hollis,

Assistant Secretary

[FR Doc. 86-12131 Filed 5-29-86; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Region VII Advisory Council; Public Meeting

The U.S. Small Business Administration, Region VII, located in the geographical area of Cedar Rapids, Iowa, will hold a public meeting at 9:30 a.m. on Tuesday, June 17, 1986, at the Dubuque Area Chamber of Commerce, 770 Town Clock Plaza, Dubuque, Iowa, 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 Ralph W. Potter, District Director, U.S. Small Business Administration, 373 Collins Road NE., Cedar Rapids, Iowa 54202, telephone number (319) 399-2571.

Jean M. Nowak,

Director, Office of Advisory Councils.

May 22, 1986.

[FR Doc. 86-12103 Filed 5-29-86; 8:45 am]

BILLING CODE 8025-01-M

Region IV Advisory Council; Public Meeting

The U.S. Small Business Administration Region IV Advisory Council, located in the geographical area of Louisville, Kentucky, will hold a public meeting from 10:00 a.m. to 2:00 p.m., Wednesday, June 25, 1986, at the Louisville District Office, 600 Federal Place, Room 188, Louisville, Kentucky, to discuss such matters as may be presented by members and staff of the U.S. Small Business Administration, P.O. Box 3517, Louisville, KY 40201—(502) 582-5971, and others attending.

Jean M. Nowak,

Director Office of Advisory Councils.

May 22, 1986.

[FR Doc. 86-12104 Filed 5-29-86; 8:45 am]

BILLING CODE 8025-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301-55]

Unfair Trade Practices; Icicle Seafoods; Initiation of an Investigation

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of decision to initiate an investigation under section 301.

SUMMARY: Pursuant to 19 U.S.C. 2412(a), the United States Trade Representative has decided to initiate an investigation of the petition submitted by Icicle Seafoods, et al., and described below.

DATE: Written comments will be accepted through June 16, 1986.

ADDRESS: Written comments should be addressed to the Chairman, Section 301 Committee, Office of the United States Trade Representative, Room 223, 600 17th St., NW., Washington, DC 20506. Copies of the petition are available at this address.

FOR FURTHER INFORMATION CONTACT: Richard Parker, Assistant General Counsel, Office of the United States Trade Representative, (202) 395-6800.

SUPPLEMENTARY INFORMATION: On April 1, 1986, Icicle Seafoods and nine other companies with fish processing facilities in Washington or southeastern Alaska filed a petition under section 301 of the Trade Act of 1974, as amended (19 U.S.C. 2411, et seq.) alleging that Canada prohibits exports of unprocessed herring and salmon, and that this policy deprives petitioners of access to supplies of raw fish needed to maintain capacity utilization in petitioner's processing facilities. Petitioners allege that the Canadian prohibition is unreasonable and a burden on U.S. commerce, and a violation of Article XI of the General Agreement on Tariffs and Trade ("GATT"), which prohibits most types of export restrictions.

On May 16, 1986, pursuant to 19 U.S.C. 2412(a), the United States Trade Representative decided to initiate an investigation on the basis of this petition.

USTR has requested bilateral consultations with representatives of the Government of Canada. To assist USTR in preparing for these discussions, interested parties are invited to submit written comments regarding the issues raised by the petition. USTR is particularly interested in information on the following points:

(1) To what extent does the Canadian prohibition on unprocessed herring and salmon exports depress the price of unprocessed herring and salmon in Canada?

(2) To what extent does denial of access to unprocessed Canadian herring and salmon impair access of U.S. processors to adequate supplies of herring and salmon and/or increase unit costs in U.S. processing facilities?

(3) What would be the economic effects on U.S. and Canadian fishermen and processors of eliminating the Canadian prohibition on unprocessed herring and salmon exports?

Comments should be filed in accordance with the regulations in 15 CFR 2006.8 and are due no later than June 20, 1986.

Judith H. Bello,

Chairman, Section 301 Committee.

[FR Doc. 86-12120 Filed 5-27-86; 12:17 pm]

BILLING CODE 3190-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular, Cabin Pressurization Systems in Small Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Draft Advisory Circular (AC) Availability and Request for Comments.

SUMMARY: This AC provides information and guidance concerning compliance with the requirement of §§ 23.841(b)(3) and 23.841(b)(6) of the Federal Aviation Regulations (FAR) pertaining to pressurized cabins in small airplanes.

DATE: Commenters must identify File AC 23.841-XX; Subject: Cabin Pressurization Systems in Small Airplanes, and comments must be received on or before June 29, 1986.

ADDRESS: Send all comments on the proposed draft AC to: Federal Aviation Administration, ATTN: Regulations and Policy Office (ACE-110), 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Ervin Dvorak, Aerospace Engineer, Regulations and Policy Office (ACE-110), Aircraft Certification Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; commercial telephone (816) 374-6941, or FTS 758-6941.

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this proposed draft AC by writing to: Federal Aviation Administration, Aircraft Certification Division, Regulations and Policy Office (ACE-110), 601 East 12th Street, Kansas City, Missouri 64106.

Comments invited: Interested parties are invited to submit comments on the

proposed draft AC. The proposed draft AC and comments received may be inspected at the offices of the Regulations and Policy Office (ACE-110), Room 1656, Federal Office Building, 601 East 12th Street, Kansas City, Missouri, between the hours of 7:30 a.m. and 4:00 p.m. weekdays, except Federal holidays.

Background

For pressurized cabins in small airplanes, questions have been raised for showing an acceptable means of compliance pertaining to the following requirements in §§ 23.841(b)(3) and 23.841(b)(6): (1) Provision of means by which the pressure differential can be rapidly equalized; and (2) provision of a warning indication at the pilot station to indicate when a cabin pressure altitude of 10,000 feet is exceeded. The AC discusses these requirements by first presenting a brief history on the development of the applicable airworthiness regulations and then the intent of the airworthiness requirements for small airplanes is explained.

Issued in Kansas City, Missouri, May 14, 1986.

Barry D. Clements,

Manager, Aircraft Certification Division.

[FR Doc. 86-12080 Filed 5-29-86; 8:45 am]

BILLING CODE 4910-13-M

Advisory Circular; Flight Test Guide for Certification of Small Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Draft Advisory Circular (AC) Availability and Request for Comments.

SUMMARY: This AC provides information and guidance concerning acceptable means of showing compliance with Part 23 of the Federal Aviation Regulations (FAR) concerning flight tests and pilot judgments.

DATE: Commenters must identify File AC 23-XX-13; Subject: Flight Test Guide for Certification of Small Airplanes, and comments must be received on or before August 28, 1986.

ADDRESS: Send all comments on the proposed draft AC to: Federal Aviation Administration, ATTN: Regulations and Policy Office (ACE-110), 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Frank Stogsdill, Aerospace Engineer and Pilot, Regulations and Policy Office (ACE-110), Aircraft Certification Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; commercial telephone (816) 374-6941, or FTS 758-6941.

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this proposed draft AC by writing to: Federal Aviation Administration, Aircraft Certification Division, Regulations and Policy Office (ACE-110), 601 East 12th Street, Kansas City, Missouri 64106.

Comments Invited

Interested parties are invited to submit comments on the proposed draft AC. The proposed draft AC and comments received may be inspected at the offices of the Regulations and Policy Office (ACE-110), Room 1656, Federal Office Building, 601 East 12th Street, Kansas City, Missouri, between the hours of 7:30 a.m. and 4:00 p.m. weekdays, except Federal holidays.

Background

FAA Order 8110.7, "Engineering Flight Test Guide for Small Airplanes," dated June 20, 1972, was published for internal FAA use to describe acceptable methods of compliance with the flight test portions of Part 23 of the FAR. Conversion of FAA Order 8110.7 to an AC is part of FAA's effort to convert internal FAA orders which contain certification guidance to ACs. This AC consolidates Order 8110.7, policy contained in correspondence between FAA Headquarters and certificating regions and subsequently developed policy. The methods and procedures contained in this AC are being promulgated for use during small airplane type certification and supplemental type certification flight testing.

Issued in Kansas City, Missouri, May 19, 1986.

Barry D. Clements,

Manager, Aircraft Certification Division.

[FR Doc. 86-12081 Filed 5-29-86; 8:45 am]

BILLING CODE 4910-13-M

Tri-Cities Airport, Pasco, WA; Receipt of Noise Compatibility Program and Request for Review

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by Tri-Cities Airport (PSC) under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR Part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for PSC under Part 150 in conjunction with the noise exposure maps, and that this program will be approved or disapproved on or before November 12, 1986.

DATES: The effective date of the FAA's determination on the PSC noise exposure maps and of the start of its review of the associated noise compatibility program is May 16, 1986. The public comment period ends December 12, 1986.

FOR FURTHER INFORMATION CONTACT: Dennis Ossenkop, FAA, Airports Division, ANM-611, 17900 Pacific Hwy S., C-68966, Seattle, WA 98168.

Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps for PSC are in compliance with applicable requirements of Part 150, effective May 16, 1986. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before November 12, 1986. This notice also announces the availability of this program for public review and comment.

Under section 103 on Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA a noise exposure map which met applicable regulations and which depicts noncompatible land uses as of the date of submission of such map, a description of projected aircraft operations, and the ways in which such operations will affect such map. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies and persons using the airport.

An airport operator who has submitted a noise exposure map that has been found by FAA to be in compliance with the requirements of Federal Aviation Regulation (FAR) Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

PSC submitted to the FAA on February 27, 1986, noise exposure maps, descriptions and other documentation which were produced during an airport Noise Compatibility Study. It was

requested that the FAA review this material as the noise exposure maps, as described in section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by PSC. The specific maps under consideration are Exhibits 4–1 and 8–2 in the submission. The FAA has determined that these maps for PSC are in compliance with applicable requirements. This determination is effective on May 16, 1986. FAA's determination on an airport operator's noise exposure maps is limited to the determination that the maps were developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on noise exposure maps submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the maps depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under § 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for PSC, also effective on May 16, 1986. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before November 12, 1986.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibililty program are available for examination at the following locations:

Federal Aviation Administration, Independence Avenue, SW. Room 615 Washington, DC

Federal Aviation Administration, Airports Division, ANM–600, 17900 Pacific Hwy S. C–68966 Seattle, Washington 98168

Tri-Cities Airport, Pasco, Washington

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Seattle, Washington, May 16, 1986.

Edward G. Tatum,

Manager, Airports Division, Northwest Mountain Region.

[FR Doc. 86–12082 Filed 5–29–86; 8:45 am]

BILLING CODE 4910–13–M

Research and Special Programs Administration

Hazardous Material; Grants and Denials of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT

ACTION: Notice of grants and denials of applications for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in April 1986. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWAL AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
6064–X	DOT–E 6064	Sandoz Chemicals Corporation, Sodyeco Plant, Charlotte, NC.	49 CFR 173.65(e), 178.24–4(a)	To authorize transport of a high explosive in DOT Specification 21P fiber drum having an inside polyethylene container similar to DOT Specification 2U with certain exceptions. (Mode 1.)
7052–X	DOT–E 7052	General Motors Corp., Warren, MI	49 CFR 172.101, 172.420, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as a flammable solids. (Modes 1, 2, 3, and 4.)
7052–X	DOT–E 7052	Ocean Technology, Inc., Burbank, CA	49 CFR 172.101, 172.420, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as a flammable solids. (Modes 1, 2, 3, and 4.)
7052–P	DOT–E 7052	Beckman Instruments, Inc., Fullerton, CA	49 CFR 172.101, 172.420, 175.3	To become a party to Exemption 7052. (Modes 1, 2, 3, and 4.)
7052–X	DOT–E 7052	Sippican Ocean Systems, Inc., Marion, MA.	49 CFR 172.101, 172.420, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as a flammable solids. (Modes 1, 2, 3, and 4.)
7052–X	DOT–E 7052	DME Corp., Ft. Lauderdale, FL	49 CFR 172.101, 172.420, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as a flammable solids. (Modes 1, 2, 3, and 4.)
7052–P	DOT–E 7052	University of Washington, Seattle, WA	49 CFR 172.101, 172.420, 175.3	To become a party to Exemption 7052. (Modes 1, 2, 3, and 4.)
7052–X	DOT–E 7052	Panasonic Industrial Co., Secaucus, NJ	49 CFR 172.101, 172.420, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as a flammable solids. (Modes 1, 2, 3, and 4.)
7052–X	DOT–E 7052	TNR Technical, Inc., Deer Park, NY	49 CFR 172.101, 172.420, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as a flammable solids. (Modes 1, 2, 3, and 4.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7052-X	DOT-E 7052	Rayovac Corp., Madison, WI	49 CFR 172.101, 172.420, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as a flammable solids. (Modes 1, 2, 3, and 4.)
7218-X	DOT-E 7218	Structural Composites Industries, Inc., Pomona, CA.	49 CFR 173.302(a), 173.304(a), 175.3	To authorize manufacture, marking and sale of non-DOT specification fiber reinforced plastic full composite cylinders, for shipment of certain nonflammable compressed gases. (Modes 1, 2, 3, 4, and 5.)
7277-X	DOT-E 7277	Structural Composites Industries, Inc., Pomona, CA.	49 CFR 173.302(a)(1), 173.304(a), 173.304(d), 175.3.	To authorize manufacture, marking and sale of non-DOT specification fiber reinforced plastic full composite cylinder, for transportation of certain nonflammable compressed gases. (Modes 1, 2, 3, 4, and 5.)
7959-X	DOT-E 7959	Woods Hole, Marthas Vineyard & Nantucket Steamship, Woods Hole, MA.	49 CFR 172.101, 176.78(k)	To authorize stowage of recreational vehicles carrying liquefied petroleum gas for heating and cooking on the vehicle deck of passenger-carrying ferries and other passenger-carrying vessels. (Mode 3.)
8091-X	DOT-E 8091	AT&T Technologies, Inc., Greensboro, NC.	49 CFR Parts 100-177	To authorize transport of certain mercury relays exempted from 49 CFR 100-177, in heat sealed glass vials. (Modes 4, 5.)
8091-X	DOT-E 8091	Northwestern Bell, Omaha, NE	49 CFR Parts 100-177	To authorize transport of certain mercury relays exempted from 49 CFR 100-177, in heat sealed glass vials. (Modes 4, 5.)
8091-X	DOT-E 8091	Pacific Northwest Bell, Portland, OR	49 CFR Parts 100-177	To authorize transport of certain mercury relays exempted from 49 CFR 100-177, in heat sealed glass vials. (Modes 4, 5.)
8091-X	DOT-E 8091	Mountain Bell, Denver, CO	49 CFR Parts 100-177	To authorize transport of certain mercury relays exempted from 49 CFR 100-177, in heat sealed glass vials. (Modes 4, 5.)
8362-X	DOT-E 8362	Altus Corp., San Jose, CA	49 CFR 172.101, 173.206, 173.247	To authorize shipment of batteries containing lithium metal and thionyl chloride in a rigid metal structure of aluminum steel and components which secure the location of each of the 30 cell units, packed in a sturdy wooden box bolted to the base support plate of the internal metal structure. (Mode 1.)
8390-P	DOT-E 8390	Jones-Hamilton Co., Newark, CA	49 CFR 173.272, 178.210, 178.24a	To become a party to Exemption 8390. (Mode 1.)
8401-X	DOT-E 8401	ERA Helicopters, Inc., Anchorage, AK	49 CFR 175.3, 175.310(c)(3), 175.310(d)	To authorize carriage of fuel in Canadian 5B drums loaded in cargo compartments of passenger-carrying helicopters. (Mode 5.)
8451-P	DOT-E 8451	The Ensign-Bickford Co., Simsbury, CT	49 CFR 173.65, 173.86(e), 175.3	To become a party to Exemption 8451. (Modes 1, 2, and 4.)
8451-P	DOT-E 8451	Monongahela Power Co., Fairmont, WV	49 CFR 173.65, 173.86(e), 175.3	To become a party to Exemption 8451. (Modes 1, 2, and 4.)
8582-X	DOT-E 8582	Chicago and Northwestern Transportation Co., Chicago, IL.	49 CFR Parts 100-177	To authorize transportation of railway track torpedoes and fusees packed in metal kits, in motor vehicles by railroad maintenance crews as non-regulated rail carrier equipment. (Mode 1.)
8582-X	DOT-E 8582	The Atchison, Topeka and Santa Fe Railway Co., Chicago, IL.	49 CFR Parts 100-177	To authorize transportation of railway track torpedoes and fusees packed in metal kits, in motor vehicles by railroad maintenance crews as non-regulated rail carrier equipment. (Mode 1.)
8582-P	DOT-E 8582	Southern Pacific Transportation Co., San Francisco, CA.	49 CFR Parts 100-177	To become a party to Exemption 8582. (Mode 1.)
8692-X	DOT-E 8692	Mitsubishi International Corp., New York, NY.	49 CFR 173.154	To authorize ammonium persulfate, classed as an oxidizer, as an additional commodity and to authorize a smaller 1,100 pound capacity bag. (Modes 1, 2, and 3.)
8717-X	DOT-E 8717	Goodloe E. Moore, Inc., Danville, IL	49 CFR 173.28(m)	To authorize reuse of DOT Specification 17H steel drums of 55-gallon capacity, with an inside polyethylene liner of 0.010 inch minimum thickness, for shipment of certain adhesives, classed as a flammable liquid. (Mode 1.)
8761-X	DOT-E 8761	The Heil Co., Milwaukee, WI	49 CFR 173.119(a), 173.119(m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.343-5.	To authorize manufacture, marking and sale of non-DOT specification cargo tanks complying with DOT Specification MC-307/312 except for bottom outlet valve variations for transportation of liquid and semi-solid waste materials. (Mode 1.)
8791-X	DOT-E 8791	Stauffer Chemical Co., Westport, CT	49 CFR 173.245a, 173.3a, 178.245-1	To authorize use of a non-DOT specification portable tank equivalent to a DOT Specification 51 portable tank, for transportation of ethyl chloroformate. (Modes 1, 2, and 3.)
9077-X	DOT-E 9077	Central Vermont Railway, Inc., St. Albans, VT.	49 CFR Parts 100-177	To increase number of railway track torpedoes contained in flagging kits from 7 to 18. (Mode 1).
9077-X	DOT-E 9077	Central Vermont Railway, Inc., St. Albans, VT.	49 CFR Parts 100-177	To authorize transport of railway track torpedoes and railway fusees in flagging kits constructed of 24 gauge galvanized steel. (Mode 1.)
9105-X	DOT-E 9105	Sea-Land Service, Inc., Elizabeth, NJ	49 CFR 176.76(g)(3)	To authorize below deck stowage of DOT Specification IM 101 and IM 102 portable tanks containing a flammable liquid. (Mode 3.)
9106-X	DOT-E 9106	Kitty Hawk Airways, Inc., Dallas, TX	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize carriage of certain Class A, B and C explosives that are not permitted for air shipment or are in quantities greater than those prescribed for shipment by air. (Mode 4.)
9130-X	DOT-E 9130	Bio-Lab, Inc., Conyers, GA	49 CFR 173.154	To authorize shipment of an oxidizer, n.o.s., in polyethylene containers of not over 10 pounds capacity each, overpacked in a non-DOT specification corrugated fiberboard box as prescribed in 49 CFR 173.217(c). (Modes 1, and 2.)
9211-X	DOT-E 9211	Waterman Steamship Corp., New Orleans, LA.	49 CFR 146.29-35(f)	To authorize installation and operation of electrically-powered lighting, air conditioning, alarm, fire detection, and cargo-handling systems in cargo holds containing Class A, B and C explosives in a Maritme Prepositioning Ship (TAKX). (Mode 3.)
9211-X	DOT-E 9211	Maersk Line, Limited, New York, NY	49 CFR 146.29-35(f)	To authorize installation and operation of electrically-powered lighting, air conditioning, alarm, fire detection, and cargo-handling systems in cargo holds containing Class A, B and C explosives in a Maritme Prepositioning Ship (TAKX). (Mode 3.)
9280-P	DOT-E 9280	Union Carbide Corp., Danbury, CT	49 CFR 173.119(m)	To become a party to Exemption 9280. (Mode 1.)

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9359-N	DOT-E 9359	Bondico, Inc., Jacksonville, FL	49 CFR 173.154, 173.156, 173.160, 173.163, 173.164, 173.168, 173.168, 173.175, 173.182, 173.184, 173.187, 173.188, 173.194, 173.195, 173.196, 173.204, 173.207, 173.217, 173.219, 173.220, 173.229, 173.234, 173.235, 173.239a, 173.245b, 173.369, 173.377, Part 173, Part 178.	To authorize manufacture, marking and sale of non-DOT specification polyethylene/fiberglass removable head salvage drum, not exceeding 90 gallon capacity, or 750 pounds gross weight, for shipment of certain solid and semisolid hazardous materials authorized in removable head drums. (Modes 1, and 2.)
9419-N	DOT-E 9419	FIBA Compressed Gas Equipment, Westboro, MA.	49 CFR 173.302(c)(2), 173.302(c)(3), 173.302(c)(4), 173.34(e), Part 107, Appendix B.	To authorize use of DOT Specification 3AAX or 3T cylinders that (i) are owned or leased by any of its subsidiaries and (ii) are retested by means other than the hydrostatic retest required in 173.34(e), for transportation of certain flammable and nonflammable gases. (Modes 1, and 3.)
9468-N	DOT-E 9468	ABCO Industries, Inc., Roebuck, SC	49 CFR 173.154	To authorize shipment of benzoyl peroxide dispersions and mixtures, classed as organic peroxide, packaged in DOT Specification 21P-600 fiber drums, with inside DOT Specification 2SL polyethylene container. (Mode 1.)
9469-N	DOT-E 9469	Mueller Ltd., Packaging Munchenstein, Switzerland.	49 CFR 171.12(c), 175.3, 178.116-6(a)	To authorize manufacture, marking and sale of non-DOT specification steel drums of one millimeter thickness (19 gauge), to be used in place of 20/18 gauge, 55-gallon capacity, DOT-17E drums, for transportation of various hazardous materials. (Modes 1, 2, 3, and 4.)
9498-N	DOT-E 9498	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 173.370	To authorize shipment of potassium cyanide, solid, and sodium cyanide, solid, in collapsible, water-tight, polyethylene-lined, woven polypropylene bag, each having a capacity not exceeding 2,205 pounds each. (Modes 1, and 2.)
9519-N	DOT-E 9519	Transchem, Inc., South Bend, IN	49 CFR 173.119, 173.256, 173.266, 178.19, 178.253, Part 173, Subpart F.	To authorize manufacture, marking and sale of non-DOT specification rotationally molded, cross-linked polyethylene or linear medium density polyethylene portable tank, enclosed within a protective steel frame for shipment of corrosive liquids, flammable liquids or an oxidizer. (Modes 1, and 2.)
9543-N	DOT-E 9543	Reynolds Manufacturing Co., McAllen, TX	49 CFR 173.119(a), (m), 173.245(a), 173.340-7, 173.346(a), 178.342-5.	To authorize manufacture, marking and sale of non-DOT specification cargo tanks, patterned after DOT Specification MC-307 with certain exceptions, for transportation of certain flammable, corrosive or poison waste liquids or semi-solids. (Mode 1.)
9550-N	DOT-E 9550	U.S. Department of Defense, Falls Church, VA.	49 CFR 172.101, 172.400, 173.206, 173.260, 175.3.	To authorize carriage of a cesium clock containing 5 grams of cesium and wet storage batteries in the passenger compartment of an aircraft. (Modes 1, and 5.)
9553-N	DOT-E 9553	Polaroid Corp., Cambridge, MA	49 CFR 173.119, 173.245	To authorize one-time reuse of refurbished DOT Specification 37M/2SL composite packaging for shipment of certain waste corrosive liquids, n.o.s., and waste flammable liquids, n.o.s. (Mode 1.)
9571-N	DOT-E 9571	U.S. Department of Justice, Washington, DC.	49 CFR Parts 100-177	To authorize transport of not more than 5 grams of an approved or unapproved explosive in a special packaging essentially without regulation. (Modes 1, 2, 3, 4, and 5.)
9578-N	DOT-E 9578	Daniel F. Young, Inc., Miami, FL	49 CFR 172.101 column 6(b), 175.30	To authorize shipment of three rocket motors, having a gross weight in excess of that presently authorized for cargo aircraft. (Mode 4.)

EMERGENCY EXEMPTIONS

Application	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 7052-P	DOT-E 7052	Aluminum Co. of America, Pittsburgh, PA	49 CFR 172.101, 172.420, 175.3	To become a party to Exemption 7052. (Modes 1, 2, 3, and 4.)
EE 9602-N	DOT-E 9602	Olin Corp. East Alton, IL	49 CFR 172.101, 175.30	To authorize transport of ammunition for cannon and other explosives and certain non-hazardous materials aboard cargo aircraft. (Mode 4.)
EE 9603-N	DOT-E 9603	Tennessee Eastman Co., Kingsport, TN	49 CFR 171.2, 173.119, 173.125, 179.201-1.	To authorize use of a non-DOT specification tank car which conforms to DOT Specification 111A100W1 except for a thinner shell thickness in certain areas and for deviations in length of welds used in attaching bar pads. (Mode 2.)
EE 9604-N	DOT-E 9604	Great Lakes Chemical Corp., El Dorado, AK.	49 CFR 173.252(a)(4)	To authorize a DOT Specification MC-312 cargo tank containing bromine to be loaded at less than 92% full capacity. (Mode 1.)
EE 9605-N	DOT-E 9605	Morton Thiokol, Inc., Brigham, UT	49 CFR 172.101, 173.51, 173.65	To authorize shipment of Cyclotetramethylene tetranitramine, dry, (HMX), in conductive velostat plastic bags, overpacked in DOT Specification 21C fiber drums not to exceed 200 pounds per drum. (Mode 1.)
EE 9606-N	DOT-E 9606	The Ensign-Bickford Co., Simsbury, CT	49 CFR 173.66(b)	To authorize two shipments of more than 110 detonators in one inside specially designed package. (Mode 1, 3.)

WITHDRAWALS

Application	Applicant	Regulation(s) affected	Nature of exemption thereof
6626-P	National Welders, Charlotte, NC	49 FR 173.34(e) (15) (i), 173.34(e) (15) (v), 175.3.	To become a party to Exemption 6626. (Modes 1, 2, 3, 4, and 5.)
9554-X	Atlas Powder Co. Dallas, TX	49 FR 173.114a, 173.154, 173.93	To authorize transport of propellant explosives, blasting agents and oxidizers, in a DOT Specification MC-306, MC-307 and MC-312 cargo tank. (Mode 1).

Denials

9057-X Request by Olympic Chemical Company, Orange, CA to renew and authorize an alternate angle valve similar to the one presently authorized except for shape of side port to be used on chlorine cargo tanks denied April 21, 1986.

9516-N Request by Union Carbide Corporation, Danbury, CT to authorize shipment of certain gases and their mixtures in fiberglass insulated (fiberlume) specification 3AL cylinders denied April 18, 1986.

9573–N Request by Chevron Resources Company, Grants, NM to authorize uranium ore to be transported in open rather than closed rail cars denied April 4, 1986.

Issued at Washington, DC, May 19, 1986.

J. Suzanne Hedgepeth,

Acting Chief, Exemptions and Approvals Branch, Office of Hazardous Materials Transportation.

[FR Doc. 86–12135 Filed 5–29–86; 8:45 am]

BILLING CODE 4910–60–M

Urban Mass Transportation Administration

[Docket No. 86-G]

Buy American Requirements, Waiver Extension

AGENCY: Urban mass Transportation Administration, DOT.

ACTION: Notice of Temporary Extension of Buy America Waiver and Request for Comments.

SUMMARY: In the **Federal Register** of May 2, 1985 (50 F.R. 18760), the Urban Mass Transportation Administration (UMTA) published a notice of waiver from the Buy America requirements of the Surface Transportation Assistance Act (STAA) of 1982 for microcomputers. The purpose of this Notice is to temporarily extend the waiver until UMTA can determine whether the waiver should be granted permanently, and to seek comments from interested parties on that question, as to whether or not the waiver should be granted permanently.

DATE: The waiver granted on May 2, 1985, is extended until further notice. Comment period expires June 30, 1986.

ADDRESS: Comments should be submitted to UMTA Docket 86–G, Urban Mass Transportation Administration, Room 9228, 400 Seventh Street, SW., Washington, DC 20590. All comments and suggestions received will be available for examination at the above address between 8:30 a.m. and 5:00 p.m. Monday through Friday. Receipt of comments will be acknowledged by UMTA if a self-addressed stamped postcard is included with each comment.

FOR FURTHER INFORMATION CONTACT: Edward J. Gill, Jr., Office of the Chief Counsel, Room 9228, 400 Seventh Street, SW., Washington, DC 20590, (202) 426–4063.

SUPPLEMENTARY INFORMATION: On May 2, 1985, UMTA granted a temporary waiver for microcomputers from the Buy America requirements in response to a request from the America Association of State Highway and Transportation Officials (AASHTO) which indicated that several UMTA grantees were experiencing difficulty in purchasing domestically produced microcomputer equipment appropriate to their needs.

Section 165(b)(2) of the STAA provides that a waiver may be granted if materials and products being procured are not produced in the United States in sufficient and reasonable quantities and of satisfactory quality. Under UMTA regulations, the item being procured is presumed to be unavailable if no responsive bid is received which will provide a domestically produced product. Given the rapid technological changes in an expanding market for microcomputers, UMTA, at this time, is soliciting comments as to whether or not this waiver should be permanently granted. UMTA will take further action based on the comments received.

Issued on: May 27, 1986.

Ralph L. Stanley,

Administrator.

[FR Doc. 86–12198 Filed 5–29–86; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular—Public Debt Series—No. 20–86]

Treasury Notes of August 15, 1991, Series K–1991

Washington, May 21, 1986.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $7,750,000,000 of United States securities, designated Treasury Notes of August 15, 1991, Series K–1991 (CUSIP No. 912827 TS 1), hereafter referred to a Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated June 3, 1986, and will accrue interest from that date, payable on a semiannual basis on February 15, 1987, and each subsequent 6 months on August 15 and February 15 through the date that the principal becomes payable. They will mature August 15, 1991, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. Notes in registered definitive form will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Notes in book-entry form will be issued in multiples of those amounts. Notes will not be issued in bearer form.

2.5. Denominational exchanges of registered definitive Notes, exchanges of Notes between registered definitive and book-entry forms, and transfers will be permitted.

2.6. The Department of the Treasury's general regulations governing United States securities apply to the Notes offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1 Tender will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239, prior to 1:00 p.m., Eastern Daylight Saving time, Wednesday, May 28, 1986. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, May 27, 1986, and received no later than Tuesday, June 3, 1986.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A

noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a 1/8 of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 98.750. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5. must be made or completed on or before Tuesday, June 3, 1986. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Friday, May 30, 1986. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Tuesday, June 3, 1986. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted are not required to be assigned if the new Notes are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new Notes are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (Notes offered by this circular) in the name of (name and taxpayer identifying number)". Specific instructions for the issuance and delivery of the new Notes, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment must be delivered at the expense and risk of the holder.

5.4. Registered definitive Notes will not be issued if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (e.g., an individual's social security number or an employer identification number) is not furnished. Delivery of the Notes in registered definitive form will be made after the requested form of registration has been validated, the registered interest account has been established, and the Notes have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, to issue and deliver the Notes on full-paid allotments, and to maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public

announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 86-12222 Filed 5-28-86; 10:52 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 104
Friday, May 30, 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

BOARD FOR INTERNATIONAL BROADCASTING

TIME AND DATE: 9:30 a.m., June 10, 1986.

PLACE: RFE/RL, Inc., 1201 Connecticut Ave., NW., Suite 1100, Washington, DC 20036.

STATUS: Closed, pursuant to 5 U.S.C. 552(b)(c)(1) 22 CFR 1302.4(c) and (h) of the Board's rules (42 FR 9388, March 12, 1977).

MATTERS TO BE CONSIDERED: Matters concering the broad foreign policy objectives of the United States Government.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Bruce D. Porter, Executive Director, Board for International Broadcasting, Suite 400, 1201 Connecticut Ave., NW., Washington, DC 20036.

Bruce D. Porter,
Executive Director.
[FR Doc. 86–12258 Filed 5–28–86; 12:54 pm]
BILLING CODE 6155–01–M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., June 6, 1986.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,
Secretary of the Commission.
[FR Doc. 86–12225 Filed 5–28–86; 10:26 a.m.]
BILLING CODE 6351–01–M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., June 13, 1986.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,
Secretary of the Commission.
[FR Doc. 86–12226 Filed 5–28–86; 10:27 a.m.]
BILLING CODE 6351–01–M

4

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., June 20, 1986.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 245–6314.

Jean A. Webb,
Secretary of the Commission.
[FR Doc. 86–12227 Filed 5–28–86; 10:28 a.m.]
BILLING CODE 6351–01–M

5

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., June 27, 1986.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 245–6314.

Jean A. Webb,
Secretary of the Commission.
[FR Doc. 86–12228 Filed 5–28–86; 10:29 am]
BILLING CODE 6351–01–M

6

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 9:30 a.m., Wednesday, June 4, 1986.

LOCATION: Third Floor Hearing Room, 1111—18th Street, NW., Washington, DC

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

Mid-Year Review

The Commission and staff will review and discuss the status of CPSC's Fiscal Year 1986 Operating Plan.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301—492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301—492–6800.

Sheldon D. Butts,
Deputy Secretary.
May 28, 1986.
[FR Doc. 86–12255 Filed 5–28–86; 12:37 pm]
BILLING CODE 6355–01–M

7

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 9:30 a.m., Thursday, June 5, 1986.

LOCATION: Third Floor Hearing Room, 1111–18th Street, NW., Washington, DC

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED:

Enforcement Matter OS # 3789

The Commission will consider Enforcement Matter OS # 3789.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301–492–6800.

Sheldon D. Butts,
Deputy Secretary.
May 28, 1986.
[FR Doc. 86–12256 Filed 5–28–86; 12:38 pm]
BILLING CODE 6355–01–M

8

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Monday, June 9, 1986, 2:00 p.m. (eastern time).

PLACE: Clarence M. Mitchell, Jr., Conference Room No. 200–C on the 2nd Floor of the Columbia Plaza Office Building, 2401 "E" Street, NE., Washington, DC 20507.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open

1. Announcement of Notation Vote(s)
2. A Report on Commission Operations (Optional)
3. Revisions of proposed EEOC Regulations Implementing Section 504 of the Rehabilitation Act in its Federally-Conducted Programs: Response to Department of Justice Comments

Closed

1. Litigation Authorization; General Counsel Recommendations

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 634–6748 at all times for information on these meetings.)

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer at (202) 634–6748.

Dated: May 28, 1986.

Johnnie L. Johnson,

Attorney-Advisor Executive Secretariat.

[FR Doc. 86–12277 Filed 5–28–86; 2:58 pm]

BILLING CODE 6750–06–M

9

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Tuesday, June 10, 1986, 10:00 a.m. (eastern time).

PLACE: Suite 900, Skyline II Building, 5203 Leesburg Pike, Falls Church, Virginia 22041.

STATUS: Closed to the public.

MATTERS TO BE CONSIDERED:

Closed

1. Agency Adjudication and Determination on the Record of Federal Agency Discrimination Complaint Appeals

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 634–6748 at all times for information on these meetings.)

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer at (202) 634–6748.

Dated: May 28, 1986.

Johnnie L. Johnson,

Attorney-Advisor Executive Secretariat.

[FR Doc. 86–12278 Filed 5–28–86; 2:58 pm]

BILLING CODE 6750–06–M

10

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 6:08 p.m. on Friday, May 23, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to:

(A)(1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Centennial State Bank of Colorado, Englewood, Colorado, which was closed by the State Bank Commissioner for the State of Colorado on Friday, May 23, 1986; (2) accept the bid for the transaction submitted by First Interstate Bank of Centennial, National Association, Englewood, Colorado, a newly-chartered national 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; and

(B) adopt a resolution making funds available for the payment of insured deposits made in Sunshine State Bank, South Miami, Florida, which was closed by the State Comptroller for the State of Florida on Friday, May 23, 1986.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded 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. 552 (b)(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was recessed at 6:19 p.m. and at 3:03 p.m. on Saturday, May 24, 1986, the meeting was reconvened, by telephone conference call, at which time the Board of Directors adopted a resolution making funds available: (1) For the payment of insured deposits made in First State Bank & Trust Company, Edinburg, Texas, which was closed by the Banking Commissioner for the State of Texas on Friday, May 23, 1986, and (2) for an advance payment to uninsured depositors and other general creditors of the closed bank equal to 15 percent of their uninsured claims.

In reconvening the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded 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) and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8) and (c)(9)(B)).

Dated: May 27, 1986.

Federal Deposit Insurance Corporation

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86–12244 Filed 5–28–86; 11:16 a.m.]

BILLING CODE 6714–01–M

11

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 51 FR 19102, May 27, 1986.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: May 29, 1986, 10:00 a.m.

CHANGE IN THE MEETING: The following docket number has been added:

Item No., Cocket Nos., and Companies

CAG–8

RP86–41–000, Algonquin Gas Transmission Company

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–12229 Filed 5–28–86; 10:37 am]

BILLING CODE 6717–02–M

12

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, June 4, 1986.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: May 27, 1986.

James McAfee

Associate Secretary of the Board.

[FR Doc. 86–12192 Filed 5–28–86; 9:12 am]

BILLING CODE 6210–01–M

13

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: June 2, 1986 at 2:00 p.m.

PLACE: Room 117, 701 E Street, NW., Washington, DC 20436.

STATUS: Emergency meeting—less than ten days' prior notice. Open to the public.

MATTERS TO BE CONSIDERED:

1. Investigations 701-TA–255 [Final] and 731–TA–275/277 [Final] (Oil country tubular goods from Argentina, Canada, and Taiwan)—briefing and vote.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

Issued: May 27, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–12273 Filed 5–28–86 2:28 pm]

BILLING CODE 7020–02–M

14

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: Monday, June 9, 1986, at 10:00 a.m.

PLACE: Room 117, 701 E Street, NW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratification List.
4. Petitions and Complaints:
   a. Certain imported plastic fasteners and the manufacturing processes therefor (Docket Number 1314).
5. Items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523–0161.

Kenneth R. Mason,

Secretary.

May 27, 1986.

[FR Doc. 86–12274 Filed 5–28–86; 2:28 pm]

BILLING CODE 7020–02–M

15

NATIONAL TRANSPORTATION SAFETY BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 51 FR 18992, May 23, 1986.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Wednesday, May 28, 1986.

CHANGE IN MEETING: A majority of the Board determined by recorded vote that the business of the Board required revising the agenda of this meeting and that no earlier announcement was possible. The following item was added to the agenda to be discussed in closed session.

3. *Opinion and Order:* Administrator v. Conner Air Lines, Docket SE–7342; disposition of respondent's appeal.
5. *Opinion and Order:* Administrator v. Schwontkowski, Docket SE–6616; disposition of the Administrator's appeal.

CONTRACT PERSON FOR MORE INFORMATION: H. Ray Smith, (202) 382–6525.

Catherine T. Kaputa,

Federal Register Liaison Officer.

May 28, 1986.

[FR Doc. 86–12252 Filed 5–28–86; 12:36 pm]

BILLING CODE 7533–01–M

16

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, June 5, 1986.

PLACE: Room 410, 1825 K Street, NW., Washington, DC 20006.

STATUS: Open Meeting.

MATTERS TO BE CONSIDERED:

Possible Revisions to the Commission's Rules of Procedure, Subpart F.
Post-Hearing Procedures.
29 CFR 2200.90 through 2200.95.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Mary Ann Miller, (202) 634–4015.

Dated: May 28, 1986.

Earl R. Ohman, Jr.,

General Counsel.

[FR Doc. 86–12264 Filed 5–28–86; 1:39 pm]

BILLING CODE 7600–01–M

16

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, June 12, 1986.

PLACE: Room 410, 1825 K Street, NW., Washington, DC 20006.

STATUS: Open Meeting.

MATTERS TO BE CONSIDERED:

Possible Revisions to the Commission's Rules of Procedure, Subparts A and G.
General Provisions amd Miscellaneous Provisions.
29 CFR 2200.1 through 2200.11 and 29 CFR 2200.100 through 2200.110.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Mary Ann Miller, (202) 634–4015.

Dated: May 28, 1986.

Earl R. Ohman, Jr.,

General Counsel.

[FR Doc. 86–12265 Filed 5–28–86; 1:40 pm]

BILLING CODE 7600–01–M

federal register

Friday
May 30, 1986

Part II

General Services Administration

Federal Travel Regulations

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPMR A-40, Supp. 20]

Federal Travel Regulations

AGENCY: Federal Supply Service, GSA.

ACTION: Notice of changes to Federal Travel Regulations.

SUMMARY: GSA has issued GSA Bulletin FPMR A-40, Supplement 20, transmitting changed pages amending the Federal Travel Regulations (FTR), FPMR 101-7, to implement the new statutory provisions contained in Title I—Travel Expenses of Federal Civilian Employees, Pub. L. 99-234 (99 Stat. 1756), January 2, 1986.

The provisions of Title I, Pub. L. 99-234, remove the statutory ceilings on per diem allowances and actual subsistence expense reimbursements for Federal civilian employees on official travel within the conterminous United States and authorize the Administrator of General Services to establish appropriate maximum rates administratively. Title I of Pub. L. 99-234 also allows GSA's Administrator to establish the type of reimbursement system to be used by Federal agencies. GSA Bulletin FPMR A-40, Supplement 20, establishes maximum per diem rates and a lodgings-plus per diem system as the predominant method of reimbursement for travel within CONUS. While authority for reimbursement of the actual and necessary subsistence expenses of travel has been retained, use of this authority is limited and it is expected that such use will be held to a minimum.

Supplement 20 implements other provisions of Title I of Pub. L. 99-234 noted in the Supplementary Information paragraph.

EFFECTIVE DATES: (1) Except as provided in (2), below, the changed provisions of the FTR transmitted by Supplement 20 are effective for travel (including travel incident to change of official station) performed on or after July 1, 1986.

(2) The provisions of Chapter 2, Relocation Allowances, are extended to include officers and employees of the U.S. Postal Service who are transferred in the interest of the Government to an executive agency (see 2-1.2a(1-a)) and whose effective date of transfer (date employee reports for duty at the new official station) is on or after May 30, 1986.

FOR FURTHER INFORMATION CONTACT: Staff members, Regulation and Policy Division FTS 557-1253 or 557-1256 (for non-FTS use AC 703).

SUPPLEMENTARY INFORMATION: GSA, in consultation with the Office of Management and Budget, has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in a major increase in costs to consumers or others, nor otherwise have a significant adverse effect on the national economy. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least cost to society.

Background Information

In addition to the new authority for reimbursement of subsistence expenses discussed in the Summary, above, title I of Pub. L. 99-234:

(1) Requires GSA, at least every 2 years from now until 1991, to collect data on travel, transportation, and relocation payments from agencies spending over $5 million a year on these payments and to submit an analysis thereof to the Office of Management and Budget;

(2) Expands eligibility for certain travel expense reimbursements to employees who experience personal emergencies while on official travel;

(3) Authorizes temporary payments of subsistence and transportation expenses for threatened law enforcement/investigative employees; and

(4) Expands eligibility for relocation allowances to U.S. Postal Service employees transferring to other Federal agencies.

Title II—Travel Expenses of Government Contractors, also contained in Pub. L. 99-234, amends section 201 of the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) by limiting Government-contractors' travel expenses to the rates and amounts established under Title I of Pub. L. 99-234 for Federal civilian employee travel. These provisions affecting Government contractors will be implemented in a change to the Federal Acquisition Regulation.

Notice to Agencies

The provisions of Supplement 20 establish a new lodgings-plus per diem system (without quarter day computations) for subsistence expense reimbursement for travel *within* CONUS. However, the current flat rate per diem system (with quarter day computations) for travel to, from, and between, or while at, locations *outside* CONUS is being retained at this time. As a result, allowable per diem reimbursement under the new regulations is computed differently based on whether travel is within or outside CONUS. A thorough review of the current reimbursement system for travel outside CONUS will be conducted following the issuance of this change to the FTR for CONUS travel.

A review also will be made of the existing structure of reimbursement levels for subsistence expenses incurred by employees incident to changes of official station. The requirement in the new law that GSA collect data from certain agencies on their travel, transportation and relocation payments will be implemented separately through issuance of a temporary regulation. or other publication.

Explanation of Changes

This supplement amends the FTR as follows:

a. Paragraph 1-2.4 is revised to refer the user to new Part 1-12 for provisions covering reimbursement of certain transportation expenses when, due to illness or injury or other personal emergency situation, an employee performs emergency travel (see paragraph f, below).

b. Part 1-7 is revised to make the following changes: (1) Prescribe a standard maximum per diem rate applicable under specified conditions for all locations within the conterminous United States (CONUS) and maximum per diem rates for specific localities (see 1-7.2a, 1-7.5a, and Appendix 1-A);

(2) Provide procedures by which agencies may request GSA to review a particular area to determine if it qualifies for a higher per diem rate (see 1-7.3);

(3) Implement a new lodgings-plus per diem system for travel within CONUS under which reimbursement for subsistence expenses is computed for each travel day based on the amount the traveler pays for lodging plus a fixed allowance for meals and incidental expenses, the total not to exceed a maximum daily rate set by locality (the average cost of lodging computation has been rescinded) (see 1-7.5);

(4) Add guidelines for determining the types of expenses that are allowable for lodgings (see 1-7.5c(2));

(5) Restate and revise, as necessary for clarification, the rules which generally apply on a worldwide basis (see 1-7.1, 1-7.2, 1-7.4, 1-7.7 thru 1-7.11);

(6) Restate and revise, as necessary for clarification, the rules for determining per diem allowances for en

route travel to, from, or between locations outside CONUS, including guidelines for authorization or approval of a rest stop (see 1–7.6);

(7) Provide guidelines for per diem reductions in certain situations, including provisions which reference regulations issued by the Office of Personnel Management (OPM) governing payment of subsistence expenses for extended training assignments (see 1–7.7);

(8) Provide specific guidelines for per diem computations when lodging accommodations are obtained on a weekly or monthly basis or when mobile homes or recreational vehicles are used during temporary duty assignments (see 1–7.9); and

(9) Restate, clarify and revise to some extent the rules for payment of per diem and actual subsistence expenses when the temporary duty assignment involves leave and nonworkdays (see 1–7.11).

c. Part 1–8 is revised to make the following changes:

(1) Delete the actual expense reimbursement authority for designated high rate geographical areas and the $75 statutory ceiling for reimbursement of actual subsistence expenses;

(2) Establish new maximum daily rates that may be authorized or approved for reimbursement of actual and necessary subsistence expenses for travel within CONUS (see 1–8.3a);

(3) Reserve paragraph 1–8.3b pending approval of an executive order delegating the President's authority to establish actual expense rates for localities outside CONUS;

(4) Restate and revise current provisions and add new provisions under which actual subsistence expense reimbursement may be authorized or approved;

(5) Revise and transfer to Part 1–7 the former reference to regulations issued by OPM concerning payment of subsistence expense for extended training assignments (see 1–7.7e);

(6) Revise the former mixed travel rule to reflect the new lodgings-plus per diem reimbursement system (see 1–8.6); and

(7) Make other minor editorial changes for clarity and to conform and standardize the terminology with Part 1–7.

d. Part 1–10 is amended to make the following changes:

(1) Paragraphs 1–10.1 and 1–10.2 are revised to (a) incorporate the authority contained in 41 CFR 101–41.203–2 for agencies to authorize cash purchases of transportation services exceeding $100 in emergency situations; (b) reflect certain provisions of FPMR Temporary Regulation A–25 as it pertains to use of Government contractor-issued charge cards for cash payment of passenger transportation services; and (c) reformat for clarification; and

(2) Paragraph 1–10.3 is revised to limit the advance of funds that an employee may be provided.

e. The following paragraphs in Part 1–11 (annotated with change lines) are amended to conform with other changes made in the regulations resulting from implementation of Public Law 99– 234: 1–11.3c, 1–11.6a, and 1–11.6b.

f. Part 1–12 is added to Chapter 1, Travel Allowances, to implement new statutory authority (5 U.S.C. 5702(b)) for reimbursement of certain transportation expenses and allowable per diem when, due to illness or injury, or other personal emergency situation, an employee returns to his/her official station or performs travel from the temporary duty location to the official station or an alternate location to attend to the emergency situation.

g. Part 1–13 is added to Chapter 1, Travel Allowances, and reserved.

h. Part 1–14 is added to Chapter 1, Travel Allowances, to implement new statutory authority (5 U.S.C. 5706a) for payment of subsistence and transportation expenses under certain circumstances when the life of an employee who is employed in a law enforcement or investigative position, or similar capacity, or members of the employee's immediate family, is threatened as a result of the employee's assigned duties.

i. Paragraph 2–1.1 is amended and paragraph 2–1.2a(1–a) is added to implement new statutory authority (5 U.S.C. 5734), expanding the coverage of Chapter 2, Relocation Allowances, to include employees of the U.S. Postal Service who are transferred in the interest of the Government to an Executive Agency (as defined in 5 U.S.C. 5721) to the same extent as employees transferring between such Executive agencies.

j. Paragraphs 2–2.1, 2–2.2, and 2–2.3d are revised to reflect use of the new lodgings-plus per diem system rules under Chapter 1 for computing per diem for en route travel incident to changes of official station wholly within CONUS and to clarify that the applicable maximum per diem rate for such travel is still $50 (standard CONUS rate).

k. Part 2–5 is amended as indicated below:

(1) Paragraph 2–5.2g is revised to incorporate a new rule for determining the beginning of the eligibility period for reimbursement of temporary quarters subsistence expenses when the en route travel incident to a change of official station within CONUS and occupancy of temporary quarters occur in the same calendar day. Although reformatted, the rule has not changed for this determination when en route travel incident to changes of official station is computed under the quarter day system.

(2) Paragraph 2–5.4c(1) is revised to clarify that the maximum per diem rate of $50 (now referred to as the standard CONUS rate) is still applicable for computation of the maximum daily subsistence allowance when temporary quarters are located within CONUS.

l. Other minor and/or editorial changes have been made where indicated by change lines.

Accordingly, the Federal Travel Regulations, are amended as follows:

CHAPTER 1. TRAVEL ALLOWANCES

1. **Authority.** (Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); Executive Order No. 11609, July 22, 1971; 5 U.S.C. 5707)

Part 2. Transportation Allowable

2. Paragraph 1–2.4 is revised to read as follows:

1–2.4. *Emergency travel due to illness or injury or a personal emergency situation.* Provisions governing reimbursement for allowable transportation in connection with emergency travel due to illness or injury or a personal emergency situation are in Part 1–12.

Part 7. Per Diem Instead of Actual Subsistence

3. Part 7 is revised to read as follows:

Part 7. Per Diem Allowances

1–7.1. *General.* The provisions of this Part 1–7 apply worldwide (both within and outside CONUS) except as specifically provided herein.

a. *Authority.* Per diem allowances shall be paid as prescribed in Part 1–7 for official travel away from the official station (including travel incidental to a change of official station), except when actual subsistence expense reimbursement is authorized or approved as provided in Part 1–8.

b. *Definitions.* For purposes of this Part 1–7, the following definitions apply:

(1) *Calendar day.* Calendar day means the 24-hour period from one midnight to the next midnight. For purposes of these regulations, the calendar day technically begins one second after midnight (reflected herein as 12:01 a.m.) and ends at 12:00 midnight.

(2) *CONUS.* CONUS refers to both the "Continental United States", defined in 5 U.S.C. 5701(6), and the "conterminous United States", defined in 1–1.3c(2) as the 48 contiguous States and the District of Columbia.

(3) *Locality rates.* Locality rates are maximum per diem rates prescribed for specific localities within CONUS. Locality rates are listed by State and city in appendix 1–A.

(4) *Standard CONUS rate.* Generally, the standard CONUS rate is prescribed for any location within CONUS that is not included in one of the defined localities or areas for which a specific rate is prescribed in appendix 1–A. The standard CONUS rate is also prescribed in certain specified circumstances as provided herein for *all* locations within CONUS, including the separately defined localities.

(5) *Per diem allowance.* The per diem allowance is a daily payment instead of actual expenses for lodging, meals and related incidental expenses (see 1–7.1c). The per diem allowance is distinguished from transportation expenses and other miscellaneous travel expenses as described below.

(a) *Transportation expenses.* Transportation expenses include commercial bus, air, rail, or vessel/steamship fares and are reimbursable in addition to the per diem allowance. Transportation expenses also include local transit system and taxi fares, cost of commercial rental cars and other special conveyances, and mileage and other allowances for use of privately owned conveyances, including fees for parking, ferries, etc. (See Parts 1–2, 1–3, and 1–4 for governing provisions.)

(b) *Other miscellaneous travel expenses.* Other miscellaneous travel expenses are those described in Part 1–9 that are directly attributable and necessary to the travel and temporary duty as authorized and performed. When authorized or approved by the agency concerned, these expenses are reimbursable in addition to the per diem allowance and transportation expenses.

c. *Types of expenses covered by per diem.* The per diem allowance covers all charges, including taxes and service charges where applicable, for the following types of subsistence expenses.

(1) *Lodging.*

(a) The term "lodging"includes expenses for overnight sleeping facilities; baths; personal use of the room during daytime; and service charges for fans, air conditioners, heaters, and fires furnished in rooms when such charges are not included in the room rate.

(b) The term "lodging" does not include accommodations on airplanes, trains, buses, or vessels. The cost of accommodations furnished aboard common carriers is included in the transportation cost and is not considered a subsistence expense. However, in determining the overall cost to the Government when authorizing the mode of transportation to be used (see 1–2.2), the availability of these accommodations shall be considered.

(2) *Meals.* Expenses for breakfast, lunch, and dinner (specifically excluded are alcoholic beverage and entertainment expenses, and any expenses incurred for other persons).

(3) *Incidental expenses related to subsistence.*

(a) Fees and tips to waiters and waitresses, porters, baggage carriers, bellhops, hotel maids, dining room stewards or stewardesses and others on vessels, and hotel servants in foreign countries.

(b) Laundry and cleaning and pressing of clothing.

(c) Transportation between places of lodging or business and places where meals are taken except as provided in 1–2.3b.

(d) Telegrams and telephone calls necessary to reserve lodging accommodations. (See Part 1–6 for allowable telegram and telephone expenses incurred for other purposes.)

d. *Employee responsibility.* An employee traveling on official business is expected to exercise the same care in incurring expenses that a prudent person would exercise if traveling on personal business and expending personal funds (see 1–1.3a). Excess costs, circuitous routes, delays, or luxury accommodations and services unnecessary or unjustified in the performance of official business are not acceptable under this standard. Employees will be responsible for excess costs and any additional expenses incurred for personal preference or convenience.

e. *Agency responsibilities for authorizing/approving rates.* It is the responsibility of the head of each agency, or his/her designee, to authorize or approve only those per diem allowances that are justified by the circumstances affecting the travel and are allowable under the specific rules in Part 1–7. However, the per diem rates provided for under these rules represent the maximum allowable. To prevent authorization or approval of per diem allowances in excess of amounts required to meet the necessary subsistence expenses of official travel, consideration shall be given to factors such as those listed below that reduce the necessary expenses of employees. (See specific guidelines in 1–7.7 for reducing rates.)

(1) Known arrangements or established cost experience at temporary duty locations showing that lodging and/or meals can be obtained without cost or at reduced cost to the employee;

(2) Situations in which special rates for accommodations have been made available for a particular meeting, conference, training or other temporary duty assignment;

(3) Traveler's familiarity with establishments providing lodging and meals at a lower cost in certain localities, particularly where repetitive travel or extended stays are involved;

(4) Modes of transportation where accommodations are provided as part of the transportation cost; and

(5) Situations in which the Government furnishes lodging, such as Government quarters or other lodging procured for the employee by means of an agency purchase order (see 1–7.7a).

1–7.2. *Maximum per diem rates.* Per diem allowances for official travel authorized or approved under this Part 1–7 shall be at daily rates not in excess of the maximum per diem rates established as follows:

a. *Conterminous United States (CONUS).* The per diem allowances payable for official travel within CONUS shall not exceed the maximum per diem rates established by the Administrator of General Services and listed in appendix 1–A of this regulation. (See instructions in 1–7.3 for requesting rate adjustments and 1–7.5 for application of per diem rules within CONUS.)

b. *Nonforeign areas outside CONUS.* The per diem allowances payable for official travel in nonforeign areas shall not exceed the maximum per diem rates established by the Secretary of Defense and listed in Civilian Personnel Per Diem Bulletins published periodically in the Federal Register. The term "nonforeign areas" includes the States of Alaska and Hawaii, the Commonwealth of Puerto Rico, and the possessions of the United States.

c. *Foreign areas.* Per diem allowances payable for official travel in foreign areas shall not exceed the maximum per diem rates established by the Secretary of State and published in the Per Diem Supplement to the Standardized Regulations (Government Civilians, Foreign Areas). The term "foreign areas" includes any area (including the Trust Territory of the Pacific Islands) situated both outside CONUS and the nonforeign areas as described in a and b, above.

1–7.3. *Rate adjustment requests for travel within CONUS.*

a. Federal agencies may submit a request to GSA for review of the subsistence costs in a particular city or area when travel to that location is repetitive or on a continuing basis and

travelers' experiences indicate that the prescribed standard CONUS per diem rate is inadequate. Other per diem rates listed in appendix 1–A will be surveyed on an annual basis by GSA to determine whether rates are adequate. Agencies' requests shall be submitted to the General Services Administration, Federal Supply Service, Attn: Regulations and Policy Division (FFY), Washington, DC 20406.

b. Requests for rate adjustments shall include a description of the location involved (city, county, or other defined area) and a recommended rate supported by a statement explaining the circumstances that cause the existing rate to be inadequate. The request also should contain an estimate of the annual number of trips to the location and the average duration of such trips.

1–7.4. *General rules affecting entitlement to per diem.*

a. *No allowance at official station.* A per diem allowance shall not be allowed within the limits of the official station (see definition in 1–1.3c(1)) at, or within the vicinity of, the place of abode (home) from which the employee commutes daily to the official station except as provided in Part 1–14. Agencies may define a radius or commuting area that is broader than the limits of the official station within which per diem will not be allowed for travel within one calendar day.

b. *Travel of 10 hours or less (10-hour rule).* A per diem allowance shall not be allowed when the period of official travel is 10 hours or less during the same calendar day except as provided in 1–7.6b(1). (Also see 1–7.5b(1).)

c. *Beginning and ending of entitlement.* For computing per diem allowances, official travel begins at the time an employee leaves his/her home, office, or other authorized point of departure and ends when the traveler returns to his/her home, office, or other authorized point at the conclusion of the trip.

d. *Deductions for meals and/or lodgings furnished.* Where meals and/or lodging are furnished without charge or at a nominal cost by a Federal Government agency at a temporary duty station, an appropriate deduction shall be made from the authorized per diem rate. (See 1–7.5a(2), 1–7.6e and 1–7.7b.)

1–7.5. *Lodgings-plus per diem computation rules for travel within CONUS.* Except as otherwise provided in Part 1–7, the per diem allowances authorized or approved for all official travel within CONUS, including travel incident to a change of official station, shall be computed under the lodgings-plus per diem system as prescribed herein. Under this system, the per diem allowance for each travel day is established on the basis of the actual amount the traveler pays for lodgings plus a prescribed allowance for meals and incidental expenses (M&IE)—the total not to exceed the applicable maximum per diem rate. The rules provided in a through d, below, shall be applied in the specific situations covered.

a. *Maximum CONUS per diem rates (appendix 1–A).* Maximum per diem rates prescribed under 1–7.2a for travel within CONUS are listed in appendix 1–A for certain specific localities. For all CONUS locations not specifically listed, a standard maximum per diem rate of $50 is prescribed. For all CONUS locations, whether or not they are specifically listed in appendix 1–A, the standard CONUS rate applies in certain specified travel circumstances (see b(2), below) and for subsistence allowances incident to a change of official station (see Parts 2–2, 2–4 and 2–5). The following elements comprise the per diem allowance:

(1) *Maximum lodging expense allowance.* The maximum per diem rates include a maximum amount for lodging expenses. The employee will be reimbursed for actual lodging costs incurred up to the applicable maximum amounts listed in appendix 1–A. Receipts for lodging are required as provided in c(1), below.

(2) *Meals and incidental expenses (M&IE) allowance.* The maximum per diem rates include a fixed allowance for meals and incidental expenses related to subsistence. This allowance is reflected in appendix 1–A as the M&IE rate. When the M&IE rate, or fraction thereof, is authorized or approved as provided herein, it is payable to the traveler without itemization of expenses or receipts. The M&IE rate shall be allocated as shown below when making necessary deductions from the per diem for meals furnished to the employee without charge by the Federal Government.

M&IE rates	$25	$33
Breakfast	5	7
Lunch	5	7
Dinner	13	17
Incidentals	2	2

b. *Per diem allowance computations.* The per diem allowance is to be calculated using the rules stated in (1) through (4), below.

(1) *Travel of less than 24 hours.*

(a) *10 hours or less.* Per diem shall not be allowed for travel of 10 hours or less within the same calendar day (see 1–7.4b). This prohibition is also applicable to travel incident to a change of official station within CONUS.

(b) *Exception to 10-hour rule.* Per diem shall not be allowed for employees who qualify for per diem solely on the basis of working a non-standard workday (e.g., four 10-hour days or other compressed schedule). In such instances, per diem shall not be allowed for travel periods less than or equal to the employee's scheduled workday hours plus 2 hours.

(c) *More than 10 hours.* When the travel period is more than 10 hours but less than 24 hours, the following rules apply:

(i) *Lodging not required.* If lodging is not required, the per diem allowable shall be one-half of the M&IE rate applicable to the location of the temporary duty assignment. If more than one temporary duty point is involved, the allowance will be one-half of the M&IE rate prescribed for the location where the majority of the time is spent performing official business.

(ii) *Lodging required.* If lodging is required, the rules for travel of 24 hours or more apply.

(2) *Travel of 24 hours or more.* The applicable maximum per diem rate (standard CONUS or locality rate from appendix 1–A) for each calendar day of travel shall be determined by the travel status and location of the employee at 12:00 midnight and whether lodging is required at such location. When lodging is required, the applicable maximum per diem rate shall be the maximum rate prescribed in appendix 1–A for the temporary duty location or en route stopover point where the lodging is obtained (see (3) and (4), below, for rules on lodging location and travel incident to a change of official station). Only one maximum rate will be applicable to a calendar day (12:01 a.m.–12:00 midnight). The following rules shall be applied in calculating the allowable per diem:

(a) *Day of departure.*

(i) *With lodging.* When lodging is required on the day travel begins (day of departure from the official station or other authorized point), the per diem allowable shall be the actual cost of lodging incurred by the employee, limited to the maximum applicable lodging allowance, plus one-half of the applicable M&IE rate.

(ii) *Without lodging.* When lodging is not required on the day travel begins, the per diem allowable shall be one-half the standard CONUS M&IE rate.

(b) *Full calendar days of travel.*

(i) *Lodging required.* For each full calendar day (12:01 a.m.–12:00 midnight) that the employee is in a travel status

and lodging is required (whether en route or at a temporary duty location), the actual cost of lodging incurred by the traveler shall be added to the applicable M&IE rate. The resulting amount, limited to the maximum per diem rate prescribed for the location in appendix 1–A, shall be the allowable per diem for the full calendar day.

(ii) *Lodging not required.* For any full calendar day of travel when lodging is not required (such as when employee is en route overnight returning to the official station), the maximum per diem rate shall be the M&IE rate applicable to the preceding travel day.

(c) *Day of return.* For the day travel ends (when employee returns to the official station or other authorized point), the per diem allowance shall be one-half the M&IE rate applicable to the preceding calendar day. The M&IE rate for the preceding day will be the M&IE rate for the last temporary duty point, except when lodging is required at an intervening en route stopover point. When this occurs, the M&IE rate for the en route stopover point will be applicable.

(d) *Lodging obtained after midnight.* Although per diem generally is based on the employee's location at midnight, there will be instances in which he/she is en route and does not arrive at the lodging location until after midnight. In such cases, the lodging shall be claimed for the preceding calendar day and the applicable maximum per diem will be determined as if the employee had been at the lodging location at 12:00 midnight of the preceding day.

(3) *Lodging location rules.*

(a) *Lodging at temporary duty location.* It is presumed that the employee will obtain lodging at the temporary duty location. However, if the employee obtains lodging away from or outside the temporary duty location because of personal preference or convenience, the allowable per diem shall be limited to the maximum per diem rate prescribed for the temporary duty location.

(b) *Lodging not available at temporary duty location.* In certain circumstances, lodging accommodations may not be available at the temporary duty location and the employee must obtain lodging in an adjacent locality where the prescribed maximum per diem rate is higher than the maximum per diem rate for the location of the temporary duty point. In such instances, if the lodging costs are excessive, the agency may make an administrative determination on an individual case basis to either authorize or approve the higher maximum per diem rate or reimburse the employee on an actual expense basis (see 1–8.2a). If the higher maximum rate is not justified and authorized in advance, the employee must furnish a statement with the travel voucher satisfactorily explaining the circumstances that caused him/her to obtain lodging in an area other than at the temporary duty point designated in the travel authorization.

(4) *Maximum rate applicable to change of official station travel.* The standard CONUS rate shall be the applicable maximum per diem rate for en route travel performed incident to a change of official station.

c. *Receipt requirements and allowable lodging expenses.*

(1) *Lodging receipt requirements.* Receipts shall be required to support all lodging costs for which an allowance is claimed under the lodgings-plus per diem system except that a statement instead of a receipt may be accepted for the fee or service charge incurred for the use of Government quarters.

(a) *Double occupancy.* If the lodging receipt shows a charge for double occupancy, such fact shall be shown on the travel voucher with the name and employing agency or office of the person sharing the room if such person is a Government employee on official travel. One-half of the double occupancy charge shall be allowable for each employee. If the person sharing the room is not another Government employee on official travel, identification of the person sharing the room is not required and the employee may be allowed the single room rate.

(b) *Receipts lost or impractical to obtain.* If receipts have been lost or destroyed or are impractical to obtain, a statement acceptable to the agency explaining the circumstances shall be furnished with the travel voucher, including the name and address of the lodging facility, the dates the lodging was obtained, and the cost incurred. Agencies may require employees to obtain copies of lost or destroyed receipts from the lodging establishment. (See also 1–11.3d.)

(2) *Allowable lodging expenses.* As provided in 1–7.5a(1), the traveler will be reimbursed only for his/her actual cost of lodging up to the maximum amount. No minimum amount is authorized for lodging under the lodgings-plus per diem system since reimbursement is based on the actual cost of lodging incurred by the employee. Expenses incurred in the situations described below will be allowed as lodging expenses.

(a) *Conventional lodging.* When an employee uses conventional lodging facilities (e.g., hotels, motels, and boarding houses), the allowable lodging expense will be based on the single room rate for the lodging used (for double occupancy, see c(1)(a), above). (See 1–7.9a for computing daily lodging expense when lodging is rented on a weekly or monthly basis.)

(b) *Government quarters.* A fee or service charge paid for the use of Government quarters is an allowable lodging expense.

(c) *Lodging with friends or relatives.* When the employee obtains lodging from friends or relatives (including members of the immediate family) with or without charge, no part of the per diem allowance will be allowed for lodging unless the host actually incurs additional costs in accommodating the traveler. In such instances, the additional costs substantiated by the employee and determined to be reasonable by the agency will be allowed as a lodging expense. Neither costs based on room rates for comparable commercial lodging in the area nor flat "token" amounts will be considered as reasonable.

(d) *Lodging in nonconventional facilities.* When no conventional lodging facilities are present (e.g., in remote areas) or when there is a shortage of rooms because of an influx of attendees at special events (e.g., world's fairs or Olympics), costs of lodging obtained in nonconventional facilities may be allowed. Such facilities may include college dormitories or similar facilities as well as rooms made available to the public by area residents in their homes. In such cases, the traveler must provide an explanation of the circumstances which is acceptable to the agency.

(e) *Use of travel trailer or camping vehicle for lodgings.* A per diem allowance for lodging may be allowed when the traveler uses a travel trailer or camping vehicle while on temporary duty assignments away from his/her official station. (See 1–7.9b for per diem computations in such situations.)

d. *Deviation from lodgings-plus per diem system.* An agency may determine that the lodgings-plus method as prescribed in 1–7.5 is not appropriate for certain travel assignment situations, such as when quarters or meals, or both, are provided at no cost or at a nominal cost by the Government or when for some other reason the subsistence costs to be incurred by the employee can be determined in advance. In such instances a specific per diem rate may be established within the maximum per diem otherwise applicable to the travel situation and appropriate reductions made in accordance with 1–7.7, provided the exception from the lodgings-plus per diem system and the specific per diem

rate are authorized in advance on the travel authorization by an appropriate official of the agency concerned.

1–7.6. *Per diem computation rules for travel to, from, between, or within locations outside CONUS.* Except as otherwise provided in Part 1–7, per diem allowances authorized or approved for official travel to, from, between, or within locations outside CONUS (including travel incident to a change of official station) shall be computed as provided in a through f, below.

a. *Maximum per diem allowable.* Per diem allowances for official travel within localities outside CONUS will be at rates not to exceed the maximum per diem rate established under 1–7.2b and c for the locality in which the travel is performed. Per diem allowances for en route travel to, from, or between localities outside CONUS will be determined as provided in c, below. Whenever lodging is not required during a calendar day of official travel under 1–7.6, the applicable maximum rate shall be reduced to reflect such fact as provided in 1–7.7a.

b. *Computation of basic per diem entitlements.*

(1) *Travel of 10 hours or less.*

(a) *10-hour rule.* Per diem shall not be allowed when the travel period is 10 hours or less during the same calendar day, except when the travel period exceeds 6 hours and either begins before 6 a.m. or ends after 8 p.m. (This rule does not apply for en route travel incident to a change of official station.)

(b) *Exception to 10-hour rule.* Per diem shall not be allowed for employees who qualify for per diem solely on the basis of working a non-standard workday (e.g., four 10-hour days or other compressed schedule). In such instances per diem shall not be allowed for travel periods less than or equal to the employee's scheduled workday hours plus two hours.

(2) *Methods of prorating travel days.* Basic per diem entitlements will be calculated on a calendar day basis. When a change in travel status requires a change in the applicable rate during a calendar day or a per diem allowance must be calculated for partial days of travel, the travel day will be prorated as follows:

(a) *Travel of 24 hours or less.* For continuous travel of 24 hours or less, the travel period will be divided into 6-hour periods starting from the actual time travel begins and ending with its completion at home, office, or other authorized point. For each 6-hour period, or fraction thereof, one-fourth of the applicable per diem rate for a calendar day will be allowed.

(b) *Travel of more than 24 hours.* In computing per diem allowances for travel periods covering more than 24 hours, the calendar day (midnight to midnight) shall be the unit. The calendar day shall be divided into four 6-hour periods (quarter days). The per diem rate in effect at the beginning of a quarter day shall continue to the end of that quarter. When the per diem rate is changed during a calendar day, such rate will take effect at the beginning of the next quarter day immediately following the quarter day in which the rate change occurred. For a partial day at the beginning or ending of a travel period, one-fourth of the applicable per diem rate for the calendar day shall be allowed for each quarter day, or fraction thereof, that the employee is in a travel status during the partial day.

(c) *30-minute rule.* When the time of departure from home, office, or other authorized point at the beginning of the trip or the time of return thereto at the end of the trip involves only a 30-minute fraction of a quarter day, per diem shall not be allowed for either such quarter day unless the traveler provides a statement with the travel voucher explaining the necessity for the specific time of departure or return that is acceptable to the agency. The 30-minute rule applicable to the payment of per diem as provided herein does not apply to the beginning of continuous travel of 24 hours or less as provided in (a), above; however, it is applicable to the end of such travel.

(3) *International dateline.* In computing per diem in cases where the traveler crosses the international dateline (180th meridian), the actual elapsed time shall be used to compute per diem rather than calendar days.

c. *Computation of per diem rates for en route travel to, from, or between locations outside CONUS.* The maximum per diem rate for en route travel to, from, or between locations outside CONUS is based on the traveler's actual travel time (including time spent at rest stop locations or stopovers at intermediate points) between duty points as prescribed below.

(1) *Duty point.* As used herein, the term "duty point" means the official station outside CONUS, any other place outside CONUS at which official travel begins or ends, or the point of exit or entry within CONUS.

(2) *Rates and conditions.* For en route travel beyond the limits of CONUS by airplane, train, or boat (regardless of whether commercially or Government-owned), whether en route between a duty point within CONUS and a locality beyond or between localities outside CONUS, including stopovers of less than 6 hours, the maximum per diem that may be authorized or approved is as follows:

(a) *Same day return.* When the traveler departs from a duty point within CONUS or a locality outside CONUS and returns during the same calendar day to a duty point within CONUS or the locality outside CONUS, respectively, the maximum per diem rate allowable for the trip shall be that of the duty point at which the trip began. Since lodging is not required in this instance, the per diem rate applicable to any duty point within CONUS shall be the standard CONUS M&IE rate prescribed in appendix 1–A. For the same reason, the maximum per diem rate for the origin locality outside CONUS shall be reduced to an appropriate amount to reflect no lodging costs.

(b) *En route less than 6 hours.* For travel other than that described in (a), above, when the en route travel time is less than 6 hours between a duty point within CONUS and a duty point in a locality outside CONUS or between two duty points outside CONUS, the maximum per diem rate allowable between duty points shall be that of the destination duty point. When the destination duty point is within CONUS, the maximum per diem rate shall be the standard CONUS rate prescribed in appendix 1–A.

(c) *En route 6 hours or more.* When the en route travel time is 6 hours or more between the duty points described in (b), above, the per diem rate applicable for travel between the duty points is $6, except:

(i) For vessel travel of more than 9 successive calendar days, in addition to the fractional days of embarkation and debarkation, the per diem rate for the succeeding calendar days and for the fractional day of debarkation is $2; and

(ii) When either the $6 or $2 rate prescribed herein is not commensurate with a traveler's subsistence expenses, a different per diem rate may be authorized or approved not in excess of the maximum per diem rate applicable to the destination duty point or, with respect to vessel travel, not in excess of $9, except that the rate for travel by the Alaska Ferry System shall not exceed the standard M&IE rate for CONUS.

(3) *Stopovers of 6 hours or more.* When the en route travel period between duty points involves a stopover at an intermediate point outside CONUS and the time spent at the stopover point is 6 hours or more, the per diem rate for the travel period at the stopover point shall be the rate applicable to the locality in which the stopover takes place. The applicable per diem rate shall

take effect at the beginning of the quarter day following the actual time of arrival at the intermediate stopover point. For purposes of determining per diem rates for en route travel, the length of time at an intermediate stopover point is controlling regardless of whether the stopover is necessary because of official duty, common carrier scheduling, or an authorized rest stop (see (6), below). Stopovers of less than 6 hours are considered part of the en route travel as provided in (2), above.

(4) *Travel beginning or ending within CONUS.* When the en route travel period begins or ends at a place (other than duty point) within CONUS, the maximum per diem applicable to the travel between such place and the duty point (place of entry or exit) within CONUS shall be the standard CONUS per diem rate prescribed in appendix 1–A, except that such maximum rate shall be limited to the M&IE rate portion of the standard CONUS rate in the following travel circumstances (calculation shall be under the quarter day system as prescribed in this 1–7.6):

(a) For the day travel begins when the traveler is in an en route travel status at 12:00 midnight and no lodging is required that day because of the en route travel status; or

(b) For the day(s) of return travel when lodging is not required because of en route status at 12:00 midnight or arrival at home or official station.

(5) *Travel beginning or ending outside CONUS.* When en route travel is required between a home, official station or some other location and the common carrier or other terminal, per diem for the quarter days involved will be based on the origin rate.

(6) *Rest stops.*

(a) When travel is direct between duty points which are separated by several time zones and at least one duty point is outside CONUS, a rest period not in excess of 24 hours may be authorized or approved when air travel between the duty points is by less-than-first-class accommodations and the scheduled flight time (including stopovers of less than 8 hours) exceeds 14 hours by a direct or usually traveled route.

(b) The rest stop may be at any intermediate point, including points within CONUS, provided the point is midway in the journey or as near to midway as requirements for use of U.S. flag air carriers and carrier scheduling permit.

(c) A rest stop shall not be authorized when an employee, for personal convenience, elects to travel by an indirect route resulting in travel time in excess of 14 hours.

(d) The per diem rate for the rest stop shall be the rate applicable for the rest stop location (see (3), above).

(e) When carrier schedules or the requirements for use of U.S. flag air carriers preclude an intermediate rest stop, or a rest stop is not authorized, it is recommended that the employee be scheduled to arrive at the temporary duty point with sufficient time to allow a reasonable rest period before reporting for duty. (See 1–3.6 for guidelines on the use of U.S. flag carriers.)

d. *When lodging is not located at duty point outside CONUS.* When suitable lodging is not available at place of temporary duty in a locality outside CONUS and the employee is required to obtain lodging in a different locality, the maximum applicable per diem rate shall be that of the locality in which the lodging is obtained.

e. *Deductions for meals and/or lodgings furnished.* Where meals and/or lodging are furnished without charge or at a nominal cost by a Federal Government agency at a temporary duty station, an appropriate deduction shall be made from the authorized per diem rate. (See 1–7.7b.)

f. *Travel involving temporary duty within CONUS.*

(1) When travel is from a duty point outside CONUS to a temporary duty location within CONUS, the lodgings-plus per diem system prescribed in 1–7.5. shall be followed to compute per diem for travel days at the CONUS temporary duty locations beginning from 12:01 a.m. on the day of arrival at the first temporary duty location through 12:00 midnight of the last full calendar day at a last temporary duty location within CONUS. (If actual subsistence expense reimbursement has been authorized or approved for the CONUS temporary duty location(s), the provisions of 1–8 are applicable for the same time period.)

(2) The quarter day system for en route travel as prescribed in b and c, above, is applicable only for the en route travel to CONUS beginning with the time of departure from the duty point outside CONUS through 12:00 midnight of the calendar day prior to the day of arrival at the CONUS temporary duty location and for the return travel day(s) beginning at 12:01 a.m. on the day of departure from the last CONUS temporary duty location through the time of arrival at the duty point outside CONUS.

1–7.7. *Reductions in maximum per diem rates when appropriate (worldwide).* An agency may, in individual cases or situations, authorize a reduced per diem rate under certain circumstances, such as when lodgings and/or meals are obtained by the employee at a reduced cost or furnished to the employee at no cost or a nominal cost by the Government; or when for some other reason the subsistence costs to be incurred by the employee can be determined in advance. In exercising its responsibilities outlined in 1–7.1e, the agency should consider any known factors that will cause the traveler's subsistence expenses in a specific situation to be less than the applicable maximum rates prescribed in 1–7.2. If it can be determined in advance of the travel that such factors are present, the agency should authorize a reduced rate that is commensurate with the known expense levels. Such reduced rate authorized on the travel authorization shall be the per diem rate payable on the travel voucher without receipts and/or itemization by the employee. Specific guidelines for reducing rates and situations where reduced rates may be appropriate are provided below.

a. *When no lodgings expenses incurred.* For travel within or outside CONUS which is less than 24 hours or in any other travel situation where lodging expenses will not be incurred, including instances where lodging is furnished by the Government without charge, the maximum per diem rate shall be reduced accordingly. For CONUS travel, the lodgings-plus per diem system automatically reduces the maximum per diem rate to the M&IE rate (or fraction thereof). When lodging is furnished at no cost to the employee through use of an agency purchase order, the agency shall not authorize or approve a per diem allowance for other subsistence expenses that will, when combined with the cost of lodging furnished, exceed the applicable maximum per diem rate prescribed under 1–7.2.

b. *When meals/lodgings are furnished by the Government.* When all or part of the meals and/or lodging are furnished at no cost or at a nominal cost to the employee by the Federal Government, the applicable maximum per diem rate or the M&IE rate, as appropriate, shall be reduced to a daily amount commensurate with the remaining expenses expected to be incurred by the employee. If a reduced per diem rate was not authorized in advance of the travel, an appropriate deduction shall be made from the total per diem payable on the travel voucher. (See 1–7.4d, 1–7.5a(2) and 1–7.6e.)

c. *Extended stays.* When travel assignments involve extended periods of more than 30 days at temporary duty locations and travelers are able to secure lodging and/or meals at lower costs, the per diem rate should be

reduced accordingly. If the extended temporary duty is for purposes of training, see e, below. (See also 1–7.9 for allowable expenses in special situations.)

d. *Meetings and conventions.* In the interest of uniform treatment of employees, whenever a meeting or conference is arranged which will involve the travel of attendees from other agencies or components of the same agency, and reduced cost lodging accommodations have been prearranged at the meeting or conference site, the agency or agencies sponsoring the meeting or conference shall recommend to the other participating agencies or components a per diem allowance that would be reasonable.

e. *Subsistence payments for extended training assignments.*

(1) The Government Employees Training Act (5 U.S.C. 4101–4118) authorizes agencies to pay all or a part of the subsistence expenses of an employee assigned to training at a temporary duty station. Implementing regulations prescribed by the Office of Personnel Management (OPM) in § 410.603 of Title 5, Code of Federal Regulations (5 CFR 410.603), provide specific guidelines for payment of subsistence expenses for employees on extended training assignments of more than 30 calendar days at temporary duty locations.

(2) Generally the OPM guidelines require a reduced subsistence payment of not more than 55 percent of the applicable maximum per diem rate prescribed in these regulations (see 1–7.2). Subsistence payments above these levels (not to exceed the maximum per diem rates) must be justified. Agencies shall refer to the OPM guidelines in 5 CFR 410.603 for specific criteria to determine the appropriate subsistence payments. Guidelines are also published by OPM in the Federal Personnel Manual, Chapter 410, Section 6–3.

1–7.8. *"Mixed travel" reimbursements.* "Mixed travel" occurs when travel days within a single trip are subject to reimbursement of the daily subsistence expenses under different computation methods or different maximum rates.

a. *General rule.* Reimbursement for subsistence expenses will be computed under only one method of reimbursement for each calendar day except when the provisions of 1–8.2b apply. Reimbursement for each day will be subject to only one maximum rate, except for travel under 1–7.6 which may require different rates within a calendar day due to the quarter day per diem calculation method.

b. *Same reimbursement method with different daily maximum rates.* The applicable rules for transition between different maximum rates are provided in 1–7.5, 1–7.6, and 1–8 for each reimbursement method.

c. *Transition between reimbursement methods.*

(1) *Travel wholly within CONUS.* Subsistence expenses for the majority of travel within CONUS will be reimbursed on a per diem basis for each calendar day. However, when actual expense reimbursement for certain travel days is intermittent with the per diem method for others, the traveler's status and location at 12:00 midnight on any given day control the method of reimbursement for that day (except as provided in 1–8.2b). (See 1–7.5 and 1–8.6 for specific rules.)

(2) *Travel to, from, between, or while at locations outside CONUS.*

(a) All travel to, from, between, and while at locations outside CONUS will be reimbursed under the quarter-day system as provided in 1–7.6 including travel time within CONUS incident to such travel except as provided in (b), below.

(b) When travel is from outside CONUS for temporary duty within CONUS, the transition from the quarter-day system to the CONUS lodgings-plus per diem system or actual expense method is governed by the rules in 1–7.6f.

1–7.9. *Per diem allowance computations for special situations (worldwide).*

a. *Per diem for weekly or monthly rentals.*

(1) *Types of expenses included in lodging costs.* When an employee rents a room, apartment, house, or other lodging incident to a temporary duty assignment, the following expenses may be considered part of the lodging cost: the rental cost; if unfurnished, the rental cost of appropriate and necessary furniture and appliances, such as a stove, refrigerator, chairs, tables, bed, sofa, television, and vacuum cleaner; cost of connection, use, and disconnection of utilities; cost of reasonable maid fee and cleaning charges; monthly telephone use fee (does not include installation and long-distance calls); and, if ordinarily included in the price of a hotel or motel room in the area concerned, the cost of special user fees, such as cable TV charges and plug-in charges for automobile head bolt heaters.

(2) *Computation of daily lodging costs.* When the employee obtains lodging on a weekly or monthly rental basis, the daily lodging cost shall be computed by dividing the total lodging cost for the expenses listed in (1), above, by the number of days in the rental period (e.g., 7 or 30 days, as appropriate).

(3) *Per diem allowable.*

(a) Under the lodgings-plus system for CONUS travel, the allowable per diem consists of the daily lodging cost calculated under (2), above, plus the applicable M&IE rate not to exceed the maximum per diem rate prescribed for the location involved.

(b) When a reduced per diem rate is being established (see 1–7.7) in advance of the travel, the daily lodging cost calculated in (2), above, shall be added to the amount determined by the agency to be necessary for meals and incidental expenses.

b. *Per diem allowances for use of a recreational vehicle for lodging.* The term "recreational vehicle" includes mobile homes, campers, camping trailers, or self-propelled mobile recreational vehicles.

(1) *Privately owned.*

(a) *Lodging costs.* When an employee uses a privately owned camping or recreational vehicle while on official travel, allowable expenses which may be considered as a lodging cost include parking fees; fees for connection, use, and disconnection of utilities (electricity, gas, water, and sewage); bath or shower fees; and dumping fees. Depreciation shall not be considered as a lodging cost.

(b) *Meals and incidental expenses.* The agency shall determine an appropriate amount for meals and incidental expenses based on whether the type of recreational vehicle used by the employee has meal preparation facilities. When use of the recreational vehicle is for a temporary duty assignment within CONUS, such amount shall not exceed the applicable M&IE rate.

(c) *Per diem computation.* The daily lodging costs plus an appropriate rate for meals and incidental expenses determined under (b), above, shall be the per diem rate, limited to the applicable maximum rate prescribed under 1–7.2 for the locality involved. An agency may authorize a reduced per diem rate within the applicable maximum per diem rates if the actual costs expected to be incurred can be determined in advance of the travel.

(2) *Rented recreational vehicle.* When the use of a rented recreational vehicle is authorized or approved as advantageous to the Government, the rental fee and the allowable expenses shown in (1)(a), above, may be considered as lodging costs. Advantageous use might occur when the employee is on an extended temporary duty assignment in a remote area or

where conventional lodging facilities are limited or not available. If use of a rented recreational vehicle is not authorized or approved as advantageous, only those expenses listed in (1)(a), above, may be considered as lodging costs.

c. *Per diem computations when temporary duty is curtailed, canceled, or interrupted for official purposes (see 59 Comp. Gen. 609 (1980), 59 Comp. Gen. 612 (1980), 60 Comp. Gen. 630 (1981), and cases cited therein).* When an employee has made advance arrangements for lodging (such as those described in a or b, above), with reasonable expectation of the travel assignment being completed as ordered or directed, and subsequently the temporary duty assignment is curtailed; canceled, or interrupted for official purposes, or for other reasons beyond the employee's control that are acceptable to the agency, lodging costs may be calculated and paid as follows:

(1) *Travel assignment curtailed or interrupted.* When the temporary duty assignment is curtailed or interrupted for the benefit of the Government or for other reasons beyond the employee's control and the employee is unable to obtain a refund of prepaid rent, expenses incurred for unused lodging may be reimbursed under the following conditions:

(a) *Determination of reasonableness.* The agency must determine that the employee acted reasonably and prudently in incurring allowable lodging expenses pursuant to temporary duty travel orders. Included in this determination should be a consideration of whether the employee sought to obtain a refund of the prepaid lodging cost or otherwise took steps to minimize the costs once the temporary duty was officially curtailed or interrupted.

(b) *Adjusted calculation and reimbursement of lodging costs.* If the agency determines that the employee acted reasonably, the unused portion of the prepaid lodging cost may be reimbursed as follows:

(i) The daily lodging costs for the period covered by the voucher shall be calculated by dividing the total cost for the rental period by the number of days of actual occupancy. The total of the lodging costs thus calculated plus the appropriate daily amount authorized for meals and incidental expenses may be reimbursed not to exceed the per diem rate authorized in the employee's travel orders for the days that the lodging was occupied.

(ii) If the authorized per diem rate is insufficient for the days of occupancy, the daily lodging cost calculated in (i) plus the amount authorized for meals and incidental expenses may be reimbursed on an actual expense basis not to exceed appropriate maximum daily rates determined as provided in 1–8.3.

(iii) The excess amount (if any) of the unrefunded lodging cost not reimbursed under (ii), above, may be paid as a miscellaneous travel expense incident to the travel assignment, if otherwise proper.

(iv) In instances where the travel assignment was interrupted for official purposes (e.g., when the employee is directed to perform temporary duty at another location), allowable subsistence expenses (if any) incurred during the interruption may be reimbursed separately from those reimbursements outlined in (i) and (ii), above, if otherwise proper, and in conformance with the provisions of this Part 1–7.

(2) *Travel assignment canceled.* When the employee incurs lodging expenses in reasonable expectation of a travel assignment being completed as ordered or directed, and due to a change in travel orders the travel assignment is canceled prior to its commencement, the prepaid lodging expenses may be reimbursed as a miscellaneous travel expense provided the amounts are reasonable and the conditions in (1)(a) are met.

(3) *Forfeited rental deposits.* If, in situations described in (1) and (2), above, the employee was required by the terms of a lease or rental agreement to pay a rental deposit and all or part of the deposit is forfeited to cover unpaid lodging costs, the amount of the forfeited deposit may be reimbursed as a miscellaneous travel expense provided the conditions in (1)(a), above, are met. Reimbursement for deposits forfeited for damages to lodging accommodations shall not be allowed.

d. *Per diem while aboard Government vessel.* For temporary duty aboard Government vessels where meals and lodgings are furnished at no cost or at a reduced cost, agencies shall prescribe an appropriate per diem rate within the provisions of this Part 1–7. The term "Government vessel" includes vessels owned and operated, leased and operated, or chartered by the Government.

1–7.10. *Time determinations.*

a. *Duty to record pertinent times.* The date and hour of departure from and arrival at the official station or any other place at which official travel begins or ends must be shown on the travel voucher. The same information also must be shown for points at which temporary duty is performed when such arrival or departure affects the per diem allowance or other travel expenses. Other points visited should also be shown but the time of arrival and departure need not be entered.

b. *Use of standard time.* The hours of departure and arrival recorded on the voucher shall be those of the standard time in effect at the place involved. (See 15 U.S.C. 262.)

1–7.11. *Interruptions of per diem entitlement.* For purposes of this paragraph, the term "place of abode" means the place from which the employee commutes daily to the official station.

a. *Leave and nonworkdays.*

(1) *General.* Leave of absence (other than as provided in 1–7.11d) for one-half, or less, of the prescribed daily working hours shall be disregarded for per diem purposes. Where the leave is more than one-half of the prescribed daily working hours, no per diem shall be allowed for that day.

(2) *Nonworkdays.* Legal Federal Government holidays and weekends or other scheduled nonworkdays are considered nonworkdays. Employees are considered to be in a per diem status on nonworkdays except when they return to their official station or place of abode (see b, below), or except under conditions stated in (a) or (b), below.

(a) *Leave before and after nonworkdays.* Per diem shall not be paid for nonworkdays when:

(i) Employees are in a leave status at the end of the workday before the nonworkdays and at the beginning of the workday following the nonworkdays, and

(ii) The period of leave on either of those days is more than one-half of the prescribed working hours for that day.

(b) *Leave between nonworkdays.* Per diem shall not be paid for more than two nonworkdays in cases where leave of absence is taken for all of the prescribed working hours between the nonworkdays.

b. *Return to official station for nonworkdays.*

(1) *Required return—official business.* An employee who is required by appropriate agency officials to return to his or her official station for the nonworkdays to perform official business or because it is otherwise advantageous to the Government shall be allowed the round-trip transportation expenses and per diem for the en route travel.

(2) *Authorized return—substantial cost savings.* An agency may authorize per diem and transportation expenses to an employee to return home for nonworkdays where a significant cost savings will be achieved. Travel time shall be scheduled within the

employee's duty hours to the extent practicable. The cost of lost productivity attributable to the duty hours involved in traveling to and from the employee's residence for nonworkdays shall be considered in determining the cost savings (Comp. Gen. B–202544, August 31, 1981).

(3) *Authorized return incident to extended temporary duty.* Employees who are required to routinely perform extended periods of temporary duty may, at agency discretion and within the limits of appropriations available for payment of travel expenses, be authorized round-trip transportation expenses and per diem en route for periodic return travel to their official stations or places of abode for nonworkdays. Agencies are cautioned that this authority is to be used with the utmost discretion and consideration of the length and purpose of the temporary duty assignments and the distance of the return travel. (See 55 Comp. Gen. 1291 (1976).) The periodic return travel may be authorized as provided in (a) and (b), below.

(a) The head of the agency has determined, based on an appropriate cost analysis, that the costs of periodic weekend return travel (including the costs of potential overtime, if applicable) are outweighed by savings in terms of increased employee efficiency and productivity, as well as reduced costs of recruitment and retention of employees. This cost analysis shall be conducted no less frequently than every other year.

(b) Return travel for nonworkdays authorized under these provisions constitutes an exception to the directive on scheduling of travel contained in 5 U.S.C. 6101(b)(2) and therefore should be performed outside the employee's regularly scheduled duty hours or during periods of authorized leave. However, in the case of employees not exempt from the Fair Labor Standards Act overtime provisions, consideration should be given to scheduling the authorized travel to minimize payment of overtime, including scheduling of travel during regularly scheduled duty hours when necessary. (See Office of Personnel Management regulations for further guidelines covering overtime during travel.)

(4) *Voluntary return.* When an employee voluntarily returns to his/her official station or place of abode for nonworkdays, the maximum reimbursement for the round-trip transportation and per diem en route shall be limited to the per diem allowance and travel expenses which would have been allowed had the employee remained at the temporary duty station. The employee shall perform any such voluntary return travel during non-duty hours or periods of authorized leave.

c. *Indirect route or interrupted travel.* If there is an interruption of travel or deviation from the direct route resulting in excess travel time because of an employee's personal preference or convenience or through the taking of leave, the per diem allowed shall not exceed that which would have been allowed on uninterrupted travel by a direct or usually traveled route except as provided in Part 1–12 for certain emergency travel situations. (See 1–2.5, 1–7.10a, and 1–11.5a(3).)

d. *Illness or injury or a personal emergency situation.* Provisions governing per diem allowable for emergency travel performed due to an employee's incapacitating illness or injury or because of a personal emergency situation, as well as the continuation of per diem due to incapacitating illness or injury of the employee, are found in Part 1–12.

4. Part 8 is revised to read as follows:

Part 8. Reimbursement of Actual Subsistence Expenses

1–8.1. *General.* The provisions contained herein apply to travel within and outside the conterminous United States (CONUS).

a. *Authority.* Agencies may authorize or approve reimbursement for the actual and necessary subsistence expenses of official travel when such expenses are unusually high due to special or unusual circumstances or for occasional meals and/or lodging as provided herein. This authority shall be used for individual travel assignments or specific travel situations only after appropriate consideration of the actual facts existing at the time the travel is directed and performed.

b. *Delegation of authority.* Heads of agencies may delegate, with provisions for limited redelegation, the authority to authorize or approve travel on an actual subsistence expense basis. Such delegation or redelegation shall be held to as high an administrative level as practicable to ensure that authorization or approval of travel on an actual subsistence expense basis or reimbursement therefor is based on adequate consideration and review of the travel circumstances warranting such reimbursement.

c. *Agency responsibility.* Heads of agencies, as defined in 1–1.3c(8), shall, in accordance with provisions of this part, prescribe administrative policies and procedures under which reimbursement for actual and necessary expenses of official travel may be authorized or approved to ensure that the authority contained herein is administered in accordance with the intent of these regulations.

d. *Relationship to per diem.* Generally, authorization or approval of actual subsistence expenses is contingent on the entitlement to per diem. Except as otherwise provided herein, the definitions and rules stated in Part 1–7 applicable to the employee's entitlement to a per diem allowance shall apply to travel on an actual expense basis.

e. *Allowable expenses.* Actual subsistence expense reimbursement may be allowed for the same types of expenses that are covered by the per diem allowance in 1–7.1c provided such expenses are determined to be actual and necessary expenses incident to the particular travel assignment.

f. *Prudent traveler.* An employee traveling on the actual subsistence expense basis is expected to exercise the same care in incurring expenses as set forth in 1–7 for travel on a per diem basis.

1–8.2. *Conditions warranting authorization or approval of actual expenses.*

a. *Travel assignments involving special or unusual circumstances.* Travel on an actual subsistence expense basis may be authorized or approved for travel assignments within and outside CONUS when the applicable maximum per diem rate (see 1–7.2) is inadequate due to special or unusual circumstances. The maximum per diem rate, although generally adequate, may be insufficient for a particular travel assignment because the actual and necessary subsistence expenses are unusually high due to special duties or because subsistence costs have escalated temporarily during special events. Actual subsistence expense reimbursement shall not be authorized or approved when the actual and necessary subsistence expenses exceed or are expected to exceed the applicable maximum per diem allowance by only a small amount. Since lodging costs constitute a major portion of the subsistence expenses, travel on an actual expense basis may be authorized or approved for travel when, due to special or unusual circumstances, the lodging costs absorb all or nearly all of the applicable maximum per diem allowance (see 1–7.2). Examples of travel assignments or situations that may warrant authorization or approval of actual and necessary expenses include but are not limited to the following:

(1) The employee attends a meeting, conference, or training session away from the official duty station where lodging and meals must be procured at a prearranged place (such as the hotel where the meeting, conference, or training session is being held) and the lodging costs incurred, because of these prearranged accommodations, absorb all or practically all of the applicable maximum per diem allowance;

(2) The travel is to an area where the applicable maximum per diem allowance is generally adequate but subsistence costs have escalated for short periods of time during special functions or events such as missile launching periods, international or national sports events, world's fairs, conventions or natural disasters;

(3) Based on a situation described in (2), above, affordable lodging accommodations are not available or cannot be obtained within a reasonable commuting distance of the employee's temporary duty point and transportation costs to commute to and from the less expensive lodging facility consume most or all of the savings achieved from occupying less expensive lodging;

(4) The employee, because of special duties of the assignment, necessarily incurs unusually high expenses in the conduct of official business, such as to procure superior or extraordinary accommodations including a suite or other quarters for which the charge is well above that which he/she would normally have to pay for accommodations; or

(5) The employee necessarily incurs unusually high expenses incident to his/her assignment to accompany another employee in a situation as described in (4), above.

b. *Situations requiring reimbursement for occasional meals and/or lodging.* Although lodging and/or meals are furnished without cost (or at a nominal cost) for a particular assignment, the employee may necessarily incur expenses for occasional lodgings and/or meals. The agency may approve reimbursement of appropriate expenses incurred for occasional meals or lodging that are determined to be necessary and justified by the circumstances involved. For travel assignments within CONUS the actual expense allowable for lodging or each meal may not exceed the lodging or individual meal allowance set out in 1–7.5a, or 150 percent of those amounts if special or unusual circumstances are involved; for travel assignments outside CONUS, similar limitations on the amount of reimbursement for such expenses shall be determined by the authorizing agency. Each agency shall establish necessary administrative procedures for travel under these provisions.

1–8.3. *Maximum daily rates and reimbursement limitations.* The maximum amount of reimbursement for actual subsistence expenses that may be authorized or approved for each calendar day or fraction thereof is as provided in a and b, below. Agencies shall determine appropriate and necessary daily maximum rates not to exceed these amounts when authorizing or approving travel under this Part 1–8. Maximum daily rates need not be prorated for fractions of a day.

a. *Travel within CONUS.*

(1) *Maximum daily rates.* For travel within CONUS, the maximum daily rate for subsistence expenses shall not exceed 150 percent of the applicable maximum per diem rate (rounded to the next highest dollar) prescribed in appendix 1–A for the travel assignment location.

(2) *Reimbursement limitation.* When the actual subsistence expenses incurred during any 1 day are less than the maximum daily rate authorized, the employee shall be reimbursed only for the lesser amount. Expenses incurred and claimed (including those for fractional days) shall be reviewed and allowed only to the extent determined to be necessary and reasonable by the agency (see 1–8.5b). Reimbursement for meals and incidental expenses shall not, under any circumstances, exceed 150 percent of the M&IE rate applicable to the temporary duty location.

b. *Travel outside CONUS.* Reserved.

c. *When lodging is procured through use of an agency purchase order.* When actual subsistence expense reimbursement is authorized or approved under this Part 1–8 and lodging is furnished to the employee at no cost through use of an agency purchase order, the agency shall not authorize or approve reimbursement for other subsistence expenses that will, when combined with the cost of lodging furnished, exceed the maximum daily rate authorized under a or b, above.

1–8.4. *Authorization or approval.*

a. *Requests for authorization or approval of actual expense reimbursement.* It is the employee's responsibility to request authorization or approval for actual subsistence expense reimbursement when conditions appear to warrant such reimbursement and to furnish appropriate justification to support the request.

b. *Prior authorization of actual expense travel.* Normally, travel on an actual expense basis should be authorized in advance and the daily maximum rate authorized by the agency shall be stated in the travel authorization. Maximum daily rates need not be prorated for fractions of a day on the travel authorization.

c. *Approval after travel is completed.* If travel is performed without prior written authorization or is authorized on a per diem basis and otherwise conforms to the provisions of Part 1–8, reimbursement for actual and necessary subsistence expenses may be approved after completion of the travel.

1–8.5. *Requirements for documentation, review and administrative controls.*

a. *Documentation of actual expenses on the voucher.*

(1) *Itemization.* When travel is authorized or approved on an actual subsistence expense basis, the employee shall itemize on the travel voucher each expense for which reimbursement is claimed on a daily basis. Meals must be itemized separately; i.e., breakfast, lunch, and dinner. Those expenses that do not usually accrue on a daily basis, such as laundry and cleaning and pressing of clothing, may be averaged over the number of days that actual expense reimbursement is authorized or approved.

(2) *Receipts.* Receipts shall be required for lodging, regardless of amount, and any individual meal when the cost is over $25. Agencies may, at their discretion, require receipts for other allowable subsistence expenses; however, the employee must be informed of this requirement in advance of the travel. The provisions of 1–7.5c(1) (a) and (b) covering double occupancy and missing receipts apply to this Part 1–8.

b. *Agency review and administrative controls.* Procedures shall be established by each agency to ensure that actual subsistence expense reimbursement under the provisions of this Part 8 is properly administered and controlled to prevent abuse of the authority contained herein (see 1–8.1c). An appropriate review of the justification for travel on an actual subsistence expense basis shall be made. Expenses claimed by an employee shall be reviewed by the agency to determine whether the expenses are reasonable and allowable subsistence expenses and necessarily incurred in connection with the travel assignment.

1–8.6. *Mixed travel (per diem and actual subsistence expense) reimbursement.* Mixed travel involves more than one maximum reimbursement rate during a single trip and/or reimbursement on both a per diem and an actual subsistence basis. Generally,

the applicable rate and/or reimbursement method for each calendar day (beginning at 12:01 a.m.) will be determined by the employee's status and location at 12:00 midnight of that calendar day. Only one rate and reimbursement method will be authorized for each day except when reimbursement is authorized for occasional meals or lodging as provided in 1–8.2b. The reimbursement method and maximum rate for the day of departure from the official station will be the same as that authorized for the first location where lodging is required. On the day of return to the official station, the same method and maximum rate of reimbursement applicable to the previous calendar day shall apply.

1–8.7. *Interruption of subsistence entitlements.* The provisions of 1–7.11 applicable to interruptions of per diem entitlements (leave and nonworkdays, return to official station for nonworkdays, indirect route or interrupted travel, and illness or injury or a personal emergency situation) shall also apply to travel on an actual subsistence basis.

Part 10. Sources of Funds

5. Paragraph 1–10.1 is revised to read as follows:

1–10.1. *Employee to provide funds.* Employees traveling on official business shall provide themselves with funds for all current expenses. However, Government contractor-issued charge cards, transportation request forms, and travel advances as authorized by 1–10.2 and 1–10.3, respectively, should be used to reduce the need for travelers to use their own money. Employees issued a Government charge card in accordance with FPMR Temporary Regulation A–25 are encouraged to use the charge card to pay for official travel expenses to the maximum extent possible.

6. Paragraph 1–10.2b is revised to read as follows:

1–10.2. *Procurement of common carrier transportation.*

* * * * *

b. *Cash payments for procurement of common carrier transportation services.* The use of cash to procure passenger transportation services may not be authorized except under the conditions specified in (1) through (3), below. For the purpose of this paragraph b, the use of checks (personal or travelers), personal credit cards, or individual Government contractor-issued charg cards is considered the equivalent of cash. Cash payments may be made with a travel advance (see 1–10.3) or through the use of personal funds.

(1) *Procedures for the use of cash.* The procedures for the use of cash to procure passenger transportation services are prescribed by the Administrator of General Services in 41 CFR 101–41.203–2, as follows:

(a) *When cost of transportation is $10 or less.* Travelers shall use cash to procure all passenger transportation services costing $10 or less, excluding Federal transportation tax, and to pay excess baggage charges costing $15 or less for each leg of a trip, unless special circumstances justify the use of a GTR.

(b) *When cost of transportation is over $10 but does not exceed $100.* Agencies may, by appropriate regulations, require a traveler to use cash to procure passenger transportation services from, to, or between points in the United States and its possessions or the trust territories when the cost is over $10 but does not exceed $100, excluding Federal transportation tax, for each trip as authorized on the travel authorization (see note below).

Note.—The National Railroad Passenger Corporation (AMTRAK) will not accept a GTR for travel under $100. AMTRAK will accept personal checks or major credit cards provided proper identification is shown when purchasing a ticket.

(c) *When cost of transportation exceeds $100.* Except as noted in (2), below, a GTR must be used to procure passenger transportation services costing in excess of $100, excluding Federal transportation tax, unless otherwise exempted in writing by GSA as provided in 41 CFR 101–41.203–2.

(2) *Exception to cash payment limitation.* As an exception to the rule stated in (1)(c), above, cash payment of official transportation expenses, without regard to the $100 limitation, is authorized under the following conditions:

(a) *Reduced group or excursion fares available from travel agencies.* Cash payments in excess of $100 may be authorized by the agency for individual employees or a group of employees to secure reduced group or excursion fares available only through travel agents under certain conditions as provided in 1–3.4b(2). A copy of the administrative determination required under paragraph 1–3.4b(2) shall accompany the travel voucher.

(b) *Use of individual Government contractor-issued charge card for procurement of transportation exceeding $100.* Cash payment of passenger transportation services in excess of $100 is authorized when a participating agency or its employees use a charge card issued by a contractor under contract with the General Services Administration, for official travel. Use of charge or credit cards held by the employee for personal use and issued by any other credit card company is not authorized under this exception. (See FPMR Temporary Regulation A–25 governing the Government's charge card program.)

(c) *Emergency circumstances.* Under emergency circumstances when the use of GTR's is not possible, heads of agencies, or their designated representatives, may authorize or approve travelers' use of cash exceeding the $100 limitation when procuring passenger transportation services as provided in 41 CFR 101–41.203–2(b). Under this cited provision, the delegation of authority to authorize or approve the use of cash in excess of $100 for the procurement of emergency transportation services shall be held to as high an administrative level as practicable to ensure adequate consideration and review of the circumstances.

(3) *Reimbursement.*

(a) *Claim.* The travel voucher claiming reimbursement for cash payments for transportation services shall show the ticket number, carrier name, accommodations used, origin and destination of travel performed, and the agent's valuation of the transportation ticket. A traveler who has procured passenger transportation services with cash (whether using personal funds, a travel advance, or a Government charge card) shall assign to the Government his/her right to recover any excess payment involving a carrier's use of improper rates. (See statement/voucher requirements in 1–11.5c(3). Also see 1–1.6b for provisions on promotional materials received from carriers and 1–1.6c and 1–3.5 for provisions on denied boarding compensation.)

(b) *Documentation required.* Receipts, passenger coupons, or other appropriate evidence shall be required to support reimbursement claims for cash payments for passenger transportation services in all cases except for use of local transit systems (see 1–11.3c(18) and 1–11.5c(3)).

7. Paragraph 1–10.3a is revised to read as follows:

1–10.3. *Advance of funds.*

a. *Authority.* The head of each agency or his/her designated representative may advance through proper disbursing officers to any person entitled to per diem, mileage allowance, or subsistence expenses, or for the procurement of transportation by group or charter under 1–3.4b(2), any sums as may be deemed advisable considering the character and probable duration of the travel to be performed or the cost of the

transportation to be paid for by the employee. However, the amount of the advance shall not exceed 80 percent of the minimum estimated expenses that the employee is expected to incur prior to reimbursement. As a general rule, especially when the traveler is a Government contractor-issued charge card holder, advances shall be held to a minimum and allowed only when circumstances indicate that an advance is warranted and only in conjunction with a travel authorization. These provisions apply to advances issued for trip-by-trip authorizations as well as to permanent advances issued in conjunction with open travel authorizations. The need for a permanent advance and the amount of the advance shall be reviewed and justified when the corresponding open travel authorization is reviewed and justified. (See 1–1.5a and d.)

* * * * *

Part 11. Claims for Reimbursement

8. Paragraph 1–11.3c(18) is amended to read as follows:

1–11.3. *Travel vouchers and attachments.*

* * * * *

c. * * *

* * * * *

(18) *Cash payments for passenger transportation services.* (See 1–10.2b(3)(b).

* * * * *

9. Paragraphs 1–11.6a (1), (4) and (5) and 1–11.6b (15), (16), (17), (18), (26) and (27) are amended to read as follows:

1–11.6. *Administrative approvals.*

a. * * *

(1) *Return to official station due to illness or injury (1–2.4, 1–7.11d, 1–8.7, and Part 1–12).*

* * * * *

(4) *Continuation of per diem during leave of absence due to illness or injury (1–7.11d and 1–12.5a).*

(5) *Continuation of actual subsistence during leave of absence due to illness or injury (1–8.7 and 1–12.5a).*

* * * * *

b. * * *

* * * * *

(15) *Reductions in maximum per diem rates when appropriate (1–7.7).*

(16) *Additional per diem when travel en route is 6 hours or more (1–7.6c(2)(c)).*

(17) *Reimbursement of actual subsistence expense (1–8.4).*

(18) *Maximum daily reimbursement (1–8.3).*

* * * * *

(26) *Return to official station due to a personal emergency situation (1–2.4, 1–7.11d, 1–8.7, and Part 1–12).*

(27) *Travel to an alternate location due to illness or injury or a personal emergency situation (1–2.4, 1–7.11d, 1–8.7, and Part 1–12).*

* * * * *

10. Chapter 1 of the FTR is amended by adding Part 12 to read as follows:

Part 12. Emergency Travel of Employee Due to Illness or Injury or a Personal Emergency Situation, Within or Outside CONUS

1–12.1. *General.* Transportation and subsistence expenses may be allowed to the extent provided herein when an employee discontinues or interrupts a temporary duty travel assignment prior to its completion because of incapacitating illness or injury or a personal emergency situation.

1–12.2. *Agency responsibility/delegation of authority.* Agencies may authorize or approve reimbursement for transportation and per diem expenses under Part 1–12 based on the exigencies of the employee's personal situation and the agency mission. Each agency shall prescribe written administrative policies and procedures to govern its authorizations and approvals under these provisions. Agency heads may delegate their authority under this Part 1–12. Such delegation shall be held to as high an administrative level as practical to ensure adequate consideration and review of the circumstances surrounding the need for emergency travel.

1–12.3. *Employee responsibility and documentation.* As soon as an employee is incapacitated by illness or injury or informed of an emergency situation which necessitates discontinuance or interruption of the temporary duty travel assignment, he/she should attempt to contact the designated travel-approving official for instructions. In the event that such contact cannot be made on a timely basis, agencies may approve payments after the travel has been performed.

1–12.4. *Definitions.* As used in this part, the following definitions apply:

a. *Official station.* The term "official station" also refers to the home or regular place of business as it pertains to experts and consultants described in 5 U.S.C. 5703 (see 1–1.3c(6)).

b. *Alternate location.* An alternate location is a destination, other than the employee's official station or the point of interruption, where necessary medical services or a personal emergency situation exists. In the case of illness or injury of the employee, the nearest hospital or medical facility capable of treating the illness or injury is not considered to be an alternate location.

c. *Incapacitating illness or injury of employee.* For purposes of Part 1–12, an incapacitating illness or injury is one that occurs suddenly for reasons other than the employee's own misconduct and renders the employee incapable of continuing, either temporarily or permanently, the travel assignment. A sudden illness or injury may include a recurrence of a previous medical condition thought to have been cured or under control. The illness or injury may occur while the employee is at, or en route to or from, a temporary duty location.

d. *Family.* Family means those individuals defined in 2–1.4d who are members of the employee's household at the time the emergency situation arises. For compassionate reasons, when warranted by the circumstances of a particular emergency situation, an agency may on an individual case basis expand this definition to encompass other members of the extended family of an employee and employee's spouse, such as the individuals named in 2–1.4d who are not dependents of the employee or members of the employee's immediate household. In using this authority and deciding each case, agencies shall evaluate the extent of the emergency and the employee's relationship to, and degree of responsibility for, the individual(s) involved in the emergency situation.

e. *Personal emergency situation.* Personal emergency situation means the death or serious illness or injury of a member of the employee's family or a catastrophic occurrence or impending disaster such as a fire, flood, or act of God which directly affects the employee's home at the official station or the family and occurs while the employee is at, or en route to or from, a temporary duty location.

f. *Serious illness or injury of family member.* Serious illness or injury of a family member means a grave, critical, or potentially life-threatening illness or injury; a sudden injury such as an automobile or other accident where the exact extent of injury may be undetermined but is thought to be critical or potentially life threatening based on the best assessment available; or other situations involving less serious illness or injury of a family member in which the absence of the employee would result in great personal hardship for the immediate family.

g. *Fire, flood, or Act of God.* Fires or floods may be due to natural causes or human actions (e.g., arson) or other identifiable causes. Act of God means an extraordinary happening by a natural cause (as fire, flood, tornado, hurricane,

earthquake, or other natural catastrophe) for which no one is liable because experience, foresight, or care could not prevent it.

1–12.5. *Incapacitating illness or injury of employee.* When an employee interrupts or discontinues a travel assignment because of an incapacitating illness or injury (as defined in 1–12.4c), transportation expenses and per diem may be allowed to the extent provided below.

a. *Continuation of per diem at point of interruption.* An employee who interrupts the temporary duty assignment because of an incapacitating illness or injury and takes leave of any kind shall be allowed a per diem allowance under the provisions of 1–7.5 or 1–7.6, as appropriate, not to exceed the maximum rates prescribed under 1–7.2 for the location where the interruption occurs. Such per diem may be continued for a reasonable period, normally not to exceed 14 calendar days (including fractional days) for any one period of absence. However, a longer period may be approved by the employee's agency if justified by the circumstances of a particular case. The point of interruption may include the nearest hospital or medical facility capable of treating the employee's illness or injury. Per diem shall not be allowed while an employee is confined to a hospital or medical facility that is within proximity of the official station or that is the same one the employee would have been admitted to if the illness or injury had occurred while at the official station.

(1) *Receipt of payments from other Federal sources.* If, while in travel status under circumstances described in 1–12.5a, the employee receives hospitalization (or is reimbursed for hospital expenses) under any Federal statute (including hospitalization in a Veterans Administration or military hospital) other than 5 U.S.C. 8901–8913 (Federal Employees Health Benefits Program), the per diem allowance for the period involved shall not be paid or, if paid, shall be collected from the employee.

(2) *Documentation and evidence of illness.* The type of leave and its duration must be stated on the travel voucher. No additional evidence of the illness or injury need be submitted with the travel voucher. The evidence filed with the agency concerned, as required by that agency under the annual and sick leave regulations of the Office of Personnel Management, shall suffice.

b. *Return to official station or home.* When an employee discontinues a temporary duty assignment before its completion because of an incapacitating illness or injury, expenses of appropriate transportation and per diem while en route shall be allowed for return travel to the official station. Such return travel may be from the point of interruption or other point where the per diem allowance was continued as provided in a, above. If, when the employee's health has been restored, the agency decides that it is in the Government's interest to return the employee to the temporary duty location, such return is considered to be a new travel assignment at Government expense.

c. *Travel to an alternate location and return to the temporary duty assignment.*

(1) *Conditions and allowable expenses.* When an employee, with the approval of an appropriate agency official, interrupts a temporary duty assignment because of an incapacitating illness or injury and takes leave of absence for travel to an alternate location to obtain medical services and returns to the temporary duty assignment, reimbursement for certain excess travel costs may be allowed as provided in (2), below. The nearest hospital or medical facility capable of treating the employee's illness or injury will not be considered an alternate location (see 1–12.4b).

(2) *Calculation of excess costs.* The reimbursement that may be authorized or approved under (1), above, shall be the excess (if any) of actual costs of travel from the point of interruption to the alternate location and return to the temporary duty assignment, over the constructive costs of round-trip travel between the official station and the alternate location. The actual cost of travel will be the transportation expenses incurred and en route per diem for the travel as actually performed from the point of interruption to the alternate location and from the alternate location to the temporary duty assignment. (No per diem is allowed for the time spent at the alternate location.) The constructive cost of travel is the sum of transportation expenses the employee would reasonably have incurred for round-trip travel between the official station and the alternate location (had the travel begun at the official station) plus per diem calculated under Part 1–7 for the appropriate en route travel time. The excess cost that may be reimbursed is the difference between the two calculations.

1–12.6. *Personal emergency situation.*

a. *Return to official station or home.* When an employee discontinues a temporary duty assignment before its completion because of a personal emergency situation as defined in 1–12.4e, expenses of appropriate transportation and per diem while en route may be allowed, with the approval of an appropriate agency official, for return travel from the point of interruption to the official station. If, when the personal emergency situation has been resolved, the agency decides that it is in the Government's interest to return the employee to the temporary duty location, such return is considered to be a new travel assignment at Government expense.

b. *Travel to an alternate location and return to the temporary duty assignment.* When an employee, with the approval of an appropriate agency official, interrupts a temporary duty assignment because of a personal emergency situation as defined in 1–12.4e, and takes leave of absence for travel to an alternate location where the personal emergency exists, and returns to the temporary duty assignment, reimbursement may be allowed for certain excess travel costs (transportation and en route per diem) to the same extent as provided in 1–12.5c for incapacitating illness or injury of the employee.

1–12.7. *Procurement of transportation.*

a. *Use of discount fares.* The discount fares offered by contract air carriers in certain city pairs, as well as other reduced fares available to Federal travelers on official business, should be used to the extent possible for travel authorized or approved under this Part 1–12.

b. *Return to official station.* When the employee is authorized emergency return travel, from the point of interruption or discontinuance of the travel assignment to the official station, appropriate transportation services may be purchased by the agency or the employee. The unused return portion of round-trip transportation tickets procured by the agency for the travel assignment shall be used if appropriate for the mode of transportation required for the emergency travel. If not used, the agency and the employee shall ensure that all unused tickets are properly accounted for (see 1–3.5).

c. *Travel to alternate location.* An agency may require employees to use personal funds for emergency travel to an alternate location and return to the temporary duty assignment. A Government contractor-issued charge card also may be used for this purpose. However, if the employee does not have sufficient personal funds available and is not a Government charge card holder, the agency may procure (or provide an advance of funds for the employee to procure) appropriate transportation. The employee, upon completion of the

emergency travel, shall reimburse the Government for any cost of such transportation or travel advance that is above the amount of allowable reimbursement that may be authorized or approved under this Part 1–12.

11. Chapter 1 of the FTR is amended by adding and reserving Part 13 and by adding Part 14 to read as follows:

Part 13. [Reserved]

Part 14. Payment of Subsistence and Transportation Expenses for Threatened Law Enforcement/Investigative Employees

1–14.1. *Authority.* The head of an employing agency, as described in 1–14.2 (hereafter referred to as "agency"), may authorize or approve payment of subsistence and certain transportation expenses for threatened individuals (see 1–14.4) whose lives are placed in jeopardy as a result of the employee's assigned duties and who, as a protective measure, are moved to temporary living accommodations at or away from the official station within or outside CONUS.

1–14.2. *Agency responsibility/delegation of authority.* Heads of agencies are responsible for issuing regulations or guidelines to implement the provisions of this part and for ensuring that the agency's policy is adhered to. The agency head may delegate the authority to authorize or approve payment of allowable subsistence and transportation expenses for the use of temporary living accommodations by eligible individuals as provided herein. The delegation of authority shall be held to as high an administrative level as practical to ensure proper review of the circumstances surrounding the need to take protective action by moving eligible individuals from their homes.

1–14.3. *Policy.* The authority under 1–14.1 is to be given priority consideration when the life-threatening situation is expected to be of temporary duration (normally no more than 60 days) and the only feasible alternative is to transfer the employee to a new duty station. The head of an agency or his/her designee must make the final decision as to how long such payments should continue based on the specific nature and potential duration of the life-threatening situation and the alternative costs of a change of official station for protective purposes.

1–14.4. *Eligible individuals.* Employees (as defined in 1–1.3c(6)) who specifically serve in a law enforcement, investigative, or similar capacity, or other Federal employees detailed into these capacities for specific law enforcement/investigational purposes, are eligible for the allowances covered by this part. The employing agency shall be deemed to be the one to whom the employee was assigned at the time of the threat. Members of such employees' immediate families (as defined in 2–1.4d) also are eligible.

1–14.5. *Procedures for evaluating risk to threatened individuals.* When a situation occurs that appears to be life-threatening, the agency's first responsibility is to take any appropriate action necessary to protect the eligible individual(s), including removal from the home. The agency may ask the Criminal Division of the Department of Justice (DOJ) for assistance in determining the degree and seriousness of the threat. The agency, however, ultimately is responsible for deciding in each individual case, based on its own assessment of the situation (and the advice of the DOJ, if requested and furnished), whether protective action should be initiated, or continued if already undertaken, and the amount of subsistence and transportation expenses that will be approved. At 30-day intervals the agency will reevaluate the situation and decide whether any further extension of the time period is appropriate.

1–14.6. *Eligibility conditions and limitations.*

a. *Limits on duration of temporary living accommodations.* Subsistence payments may begin as soon as the agency determines that the provisions of this part should be invoked in a particular situation. Normally subsistence payments may be allowed for a period of no more than 60 days; the agency may, however, approve extensions of the time period as provided in 1–14.5. If the threatened individuals are directed to move immediately into temporary accommodations while the agency assesses the degree and seriousness of the threat, subsistence payments for this period may be allowed, even when the agency ultimately determines that the threat is not serious or no longer exists and decides to return the individuals to their home. When necessary occupancy of temporary living accommodations is expected to exceed 120 days, the agency should consider whether permanently relocating the employee would be advantageous given the specific nature of the threat, the continued disruption of the family, and the alternative costs of a change of official station.

b. *Location of temporary living accommodations.* The temporary living accommodations may be located in the vicinity of the employee's official station or at an alternate location away from the official station as circumstances warrant. When justified, the employee and immediate family members may occupy temporary living accommodations at different locations. The agency will designate the appropriate locations.

1–14.7. *Allowable subsistence payments.*

a. *Expenses covered.* Payments under this authority are intended to cover only reasonable and necessary subsistence expenses actually incurred incident to the occupancy of temporary living accommodations. Subsistence payments under this part generally will be limited to the cost of lodgings. However, certain expenses for meals, laundry, and cleaning of clothing may be allowed as provided in c, below.

b. *Determining allowable lodging costs.*

(1) *Allowable costs for daily rentals.* The same costs allowed in 1–7.5c(2) for lodging facilities obtained in connection with temporary duty travel may be allowed for temporary living accommodations under this part.

(2) *Allowable types of costs for other-than-daily rentals.* When an eligible individual rents lodgings on an other-than-daily basis for temporary occupancy under this part, the allowable costs shall be converted to a daily basis using the general guidelines under 1–7.9 which apply to lodgings obtained in connection with temporary duty travel.

c. *Determining other allowable expenses.* Costs of food, laundry, and cleaning of clothing are expenses incurred in day-to-day living. Such expenses should be considered the responsibility of the employee and normally will not be reimbursed. However, if temporary living accommodations do not contain cooking and/or laundry facilities, or other extenuating circumstances are present, certain of these expenses may be allowed to the extent determined appropriate by the agency.

d. *Maximum allowable amount.*

(1) *Method of computation.* An agency may approve the actual amount of allowable expenses incurred in each 30-day period (or fraction thereof) up to a maximum amount based on the daily limitations calculated under (2), below, multiplied by 30 (or the actual number of days used if fewer than 30). The daily actual subsistence expenses required to be itemized under e, below, will be totaled for each 30-day period (or fraction thereof) and compared with the maximum allowable for the particular period as prescribed under (2), below.

(2) *Daily limitations.* The maximum amount of subsistence payments for

each 30-day period (or fraction thereof) will be based on daily limitations calculated as provided in (a) through (e), below. If subsistence payments are authorized only for lodging costs, the daily limitations shall be reduced appropriately.

(a) For the employee, or for the unaccompanied spouse (one who necessarily occupies temporary accommodations without the employee or in a location separate from the employee), the daily limitation shall be an amount prescribed by the agency that shall not exceed the applicable maximum per diem rate prescribed under 1–7.2 for the location of the temporary living accommodations.

(b) For the spouse accompanied by the employee, the daily limitation shall not exceed three-fourths of the employee's daily limitation established in (a), above.

(c) For each other member of the employee's immediate family who is 12 years of age or older, the daily limitation shall not exceed three-fourths of the daily limitation established in (a), above, for the employee or the unaccompanied spouse, as appropriate.

(d) For each member of the employee's immediate family who is under 12 years of age, the daily limitation shall not exceed one-half of the daily limitation established in (a), above, for the employee or the unaccompanied spouse, as appropriate.

(e) For each member of the immediate family who necessarily occupies temporary living accommodations without, or at a location separate from, either the employee or the spouse, the agency may, when the limitations stated in (c) and (d), above, are inadequate, establish an appropriate higher daily limitation, that is within the limitation prescribed in (a), above.

e. *Itemization and receipts.* The actual expenses shall be itemized in a manner prescribed by the agency which will permit at a minimum a review of the amounts spent daily for (1) lodging, (2) meals, and (3) other allowable items of subsistence expenses (see a, above). Receipts shall be required at least for lodging and for any other allowable expenses as required by the agency.

1–14.8. *Transportation to and from a location away from the employee's designated post of duty.* The agency may approve the payment of transportation expenses when a situation described in 1–14.1 requires the employee and/or members of the immediate family to be temporarily relocated to a place away from the employee's designated post of duty. Transportation to and from such location shall be in accordance with the governing provisions of Parts 2 through 4 of this Chapter 1 unless the agency specifically approves a deviation from the rules for security reasons (see 1–10.2 regarding use of cash to procure transportation services in emergency circumstances). The documentation provisions of 1–14.9 govern in such instances.

1–14.9. *Authorizations and payment of claims.* Due to the unique nature of the situations covered under this part, agency heads shall establish specific administrative procedures for issuing authorizations and for payment of claims. In instances when documentation might compromise the security of the individuals involved, the head of the agency may waive all but absolutely essential documentation requirements.

1–14.10. *Advance of funds.* Funds may be advanced for subsistence and transportation expenses covered under this part in accordance with 1–10.3. The advance of funds will be at intervals prescribed by the agency but for no more than a 30-day period at a time. The amount of the advance shall not exceed an amount based on the daily limitations established by the agency under 1–14.7d(2).

12. Appendix 1–B, entitled "Travel Purpose Categories," is amended by redesignating category number 9 as number 10 and inserting new category 9 to read as follows:

* * * * *

9. *Emergency travel*—Travel to return an employee from a temporary assignment location at Government expense to his/her designated post of duty or home, or other alternate location, where he/she would normally be present to take care of the emergency situation if the Government had not directed or assigned the employee to another location to perform official business.

* * * * *

CHAPTER 2. RELOCATION ALLOWANCES

Part 1. Applicability and General Rules

13. Paragraph 2–1.1 is revised to read as follows:

2–1.1. *Authority.* These regulations are issued pursuant to 5 U.S.C. 5721–5734 and 20 U.S.C. 905(a).

14. Paragraph 2–1.2a is amended by revising subparagraph a(1) and adding paragraph a(1–a) to read as follows:

2–1.2. *Applicability.*

a. * * *

(1) Civilian officers and employees upon transfer from one official station or agency to another for permanent duty.

(1–a) Civilian officers and employees of the United States Postal Service transferred under 39 U.S.C. 1006 from the Postal Service to an agency as defined in 5 U.S.C. 5721 for permanent duty.

* * * * *

15. Paragraph 2–1.6a(3)(a) is revised to read as follows:

2–1.6. *Use of funds.*

* * * * *

(a) Per diem, mileage, and common carrier costs incident to his/her change of official station as set forth in 2–2.4;

* * * * *

Part 2. Allowances for Subsistence and Transportation

16. Paragraph 2–2.1 is revised to read as follows:

2–2.1. *For the employee.* Except as specifically provided in these regulations, per diem instead of subsistence expenses, transportation costs, and other travel expenses of the employee shall be allowed in accordance with the provisions of 5 U.S.C. 5701–5709 and Chapter 1; the maximum per diem rate allowable for travel within CONUS shall be the standard CONUS rate prescribed under 1–7.2 (see also 1–7.5a). Within CONUS, the prohibition on paying per diem for travel of less than 10 hours will apply to change of official station travel; outside CONUS, the 10-hour exclusion does not apply (see 1–7.4b). This part applies to travel of transferred employees, new appointees (including those covered in 2–1.5f), and employees assigned to posts of duty outside the conterminous United States in connection with either overseas tour renewal agreement travel or return travel to places of residence for the purpose of separation.

17. Paragraph 2–2.2b is revised to read as follows:

2–2.2. *For members of an employee's immediate family.*

* * * * *

b. *Per diem allowance when en route between employee's old and new official stations.* When an employee is transferred, an allowance shall be paid for per diem instead of subsistence expenses incurred by the employee's immediate family while traveling between the old and new official stations regardless of where the old and new stations are located. If the actual travel involves departure and/or destination points other than the old or new official station, the per diem allowance shall not exceed the amount to which members of the immediate family would have been entitled if they had traveled by usually traveled route between the old and new official stations. In computing the per diem

allowance under provisions of Chapter 1, within CONUS, the prohibition on paying per diem for travel of less than 10 hours will apply to permanent change of station travel; outside CONUS, the 10-hour exclusion does not apply (see 1–7.4b). The maximum allowable per diem rates are as follows:

* * * * *

18. Paragraph 2–2.3d(1) is revised to read as follows:

d. *Maximum per diem allowances when privately owned automobile is used.*

* * * * *

(1) *Rates as prescribed by agency.* The per diem allowance for the employee while en route between the old and new duty stations shall be at appropriate rates, as prescribed by the agency concerned, within the applicable maximums and in accordance with provisions of 2–2.1 and Chapter 1. The per diem allowances prescribed in 2–2.2b apply for members of an employee's immediate family, except as excluded in 2–2.2c.

* * * * *

Part 5. Subsistence While Occupying Temporary Quarters

19. Paragraph 2–5.2g is revised to read as follows:

2–5.2. *Conditions and limitations for eligibility.*

* * * * *

g. *Effect of partial days on eligibility period.* Occupancy of temporary quarters for less than a whole day constitutes one full calendar day of the eligibility period.

(1) *Claim for temporary quarters when occupancy begins the same day en route travel ends.* The guidelines in (a) and (b), below, shall be used for determining the eligibility period for temporary quarters subsistence expense reimbursement and in computing maximum reimbursement when occupancy of temporary quarters for reimbursement purposes occurs the same day that en route travel per diem ends.

(a) *Old and new official station within the conterminous United States.* When en route travel (between official stations within the conterminous United States) ends and occupancy of temporary quarters for reimbursement purposes occurs in the same calendar day, the eligibility period for reimbursement for temporary quarters subsistence expenses shall start when en route travel terminates upon arrival at the temporary quarters location.

(b) *Old and/or new official station outside the conterminous United States.*

(i) *En route travel of more than 24 hours.* When en route travel is more than 24 hours, the eligibility period for reimbursement for temporary quarters subsistence expenses shall start at the beginning of the calendar day quarter immediately following the calendar day quarter in which en route travel per diem ends.

(ii) *En route travel of 24 hours or less.* When en route travel is 24 hours or less, the eligibility period for reimbursement for temporary quarters subsistence expense shall start at the beginning of the same calendar day quarter in which en route travel per diem ends.

(2) *Claims for temporary quarters occupancy in all other cases.* In all cases other than those covered in (1), above (e.g., when occupancy of temporary quarters occurs at the old official station or when reimbursement for occupancy of temporary quarters is not claimed on the same day that en route travel per diem begins or ends), the temporary quarters period shall start as provided in (a) or (b), below.

(a) *Old and new official stations within the conterminous United States.* When both the old and new official stations are within the conterminous United States, the temporary quarters period shall start at 12:01 a.m. of the calendar day (see 1–7.1b(1)) in which temporary quarters subsistence expense reimbursements is claimed, provided that temporary quarters are occupied during that calendar day.

(b) *Old and/or new official station outside the conterminous United States.* When the old and/or new official station is outside the conterminous United States, the temporary quarters shall start with the first quarter of the calendar day in which temporary quarters subsistence expense reimbursement is claimed, provided that temporary quarters are occupied during that calendar day.

(3) *Termination of eligibility period.* The temporary quarters period shall terminate at midnight of the last day of eligibility.

* * * * *

20. Paragraph 2–5.4c(1) is revised to read as follows:

2–5.4. *Allowable amount.*

* * * * *

(1) *Applicable maximum per diem rates.* The maximum per diem rates to be used for computations under (2) through (4), below, shall be as follows:

(a) For temporary quarters located in the conterminous United States, the applicable maximum per diem rate is the standard CONUS rate ($50) prescribed under 1–7.5a.

(b) For temporary quarters in applicable locations outside the conterminous United States, the maximum per diem rate is the rate prescribed by the Secretary of Defense or by the Secretary of State under 1–7.2b or c for the locality of the temporary quarters.

* * * * *

Appendix 1–A, Prescribed Maximum Per Diem Rates for CONUS

21. Appendix 1–A of the FTR is amended by removing Appendix 1–A entitled "Designated High Rate Geographical Areas (HRGA's)" and adding new Appendix 1–A entitled "Prescribed Maximum Per Diem Rates for CONUS" to read as follows:

BILLING CODE 6820-AM-M

APPENDIX 1-A, PRESCRIBED MAXIMUM PER DIEM RATES FOR CONUS

The maximum rates listed below are prescribed under paragraph 1-7.2 of these regulations (Federal Travel Regulations (FTR)) for reimbursement of subsistence expenses incurred during official travel within CONUS (the conterminous United States). The amount shown in column (a) is the maximum that will be reimbursed for lodging expenses. The MI&E rate shown in column (b) is a fixed amount allowed for meals and incidental expenses related to subsistence. The per diem payment calculated in accordance with Part 1-7 of the FTR for lodging expenses plus the M&IE rate may not exceed the maximum per diem rate shown in column (c).

Per Diem Locality		Maximum Lodging Amount (a)	+	M&IE Rate (b)	=	Maximum Per Diem Rate (c) 4/
CONUS, Standard rate (applies to all locations within CONUS not specifically defined below. However, the standard CONUS rate applies to all locations within CONUS, including those defined below, under certain specified travel circumstances and for certain relocation subsistence allowances. See Parts 1-7, 2-2, 2-4 and 2-5 of the FTR)		$25		$25		$50
Key City 1/	County and/or other defined location 2/ 3/					
ALABAMA						
Anniston	Calhoun	38		25		63
Auburn	Lee	31		25		56
Birmingham	Jefferson	50		25		75
Dothan	Houston	36		25		61
Florence	Lauderdale	35		25		60
Huntsville	Madison	48		25		73
Mobile	Mobile	38		25		63
Montgomery	Montgomery	37		25		62
Sheffield	Colbert	57		25		82
ARIZONA						
Kayenta	Navajo	49		25		74
Page/Flagstaff	Coconino	45		25		70
Phoenix/Scottsdale	Maricopa	50		25		75
Tucson	Pima County; Davis-Monthan AFB	48		25		73
Yuma	Yuma	38		25		63
ARKANSAS						
Fayetteville	Washington	38		25		63
Fort Smith	Sebastian	37		25		62
Hot Springs	Garland	35		25		60
Little Rock	Pulaski	48		25		73
CALIFORNIA						
Barstow	San Bernardino	46		25		71
Bridgeport	Mono	34		25		59
El Centro	Imperial	37		25		62
Fresno	Fresno	50		25		75
Los Angeles	Los Angeles, Kern, Orange & Ventura Counties; Edwards AFB; Naval Weapons Center & Ordnance Test Station, China Lake	77		33		110
Monterey	Monterey	66		25		91
Palm Springs	Riverside	67		33		100
Sacramento	Sacramento	54		33		87
San Diego	San Diego	67		33		100

Per Diem Locality		Maximum Lodging Amount		M&IE Rate		Maximum Per Diem Rate
Key City 1/	County and/or other defined location 2/ 3/	(a)	+	(b)	=	(c) 4/
San Francisco	San Francisco, Alameda, Contra Costa & Marin	62		33		95
San Jose	Santa Clara	57		33		90
San Luis Obispo	San Luis Obispo	52		25		77
San Mateo	San Mateo	54		33		87
Santa Barbara	Santa Barbara	71		25		96
Santa Cruz	Santa Cruz	50		25		75
Stockton	San Joaquin	44		25		69
Tahoe City	Placer	46		25		71
Vallejo	Solano	40		25		65
West Sacramento	Yolo	43		25		68
COLORADO						
Aspen	Pitkin	65		33		98
Boulder	Boulder	55		33		88
Colorado Springs	El Paso	43		25		68
Denver	Denver, Adams, Arapahoe & Jefferson	57		33		90
Durango	La Plata	46		25		71
Ft. Collins	Larimer	34		25		59
Glenwood Springs	Garfield	45		25		70
Grand Junction	Mesa	37		25		62
Steamboat Springs	Routt	46		25		71
Pagosa Springs	Archuleta	36		25		61
Pueblo	Pueblo	37		25		62
Silverthorne/Keystone	Summit	50		25		75
Vail	Eagle	69		33		102
CONNECTICUT						
Bridgeport/Danbury	Fairfield	62		25		87
Hartford	Hartford & Middlesex	50		33		83
New Haven	New Haven	61		25		86
New London/Groton	New London	50		25		75
Putnam/Danielson	Windham	52		25		77
DELAWARE						
Dover	Kent	38		25		63
Lewes	Sussex	40		25		65
Wilmington	New Castle	55		25		80
DISTRICT OF COLUMBIA						
Washington, DC (also the cities of Alexandria, Falls Church, and Fairfax, and the counties of Arlington, Loudoun, and Fairfax in Virginia; and the counties of Montgomery and Prince Georges in Maryland) (see also Maryland and Virginia)		79		33		112
FLORIDA						
Bradenton Beach/ Bradenton	Manatee	79		25		104
Cocoa Beach	Brevard	50		25		75
Daytona Beach/Ormond Beach/New Smyrna	Volusia	41		25		66
Fort Lauderdale	Broward	55		25		80
Fort Myers	Lee	42		25		67
Fort Pierce	Saint Lucie	45		25		70
Fort Walton Beach	Okaloosa	50		25		75
Gainesville	Alachua	40		25		65
Jacksonville	Duval County; Naval Station Mayport; (also see St. Marys, GA)	46		25		71

Per Diem Locality		Maximum Lodging Amount		M&IE Rate		Maximum Per Diem Rate
Key City 1/	County and/or other defined location 2/ 3/	(a)	+	(b)	=	(c) 4/
Miami	Dade & Monroe	50		33		83
Naples	Collier	34		25		59
Orlando	Orange	54		25		79
Panama City	Bay	50		25		75
Pensacola	Escambia	44		25		69
Sarasota	Sarasota	37		25		62
Saint Augustine	Saint Johns	48		25		73
Stuart	Martin	45		25		70
Tallahassee	Leon	42		25		67
Tampa/St. Petersburg	Hillsborough & Pinellas	52		25		77
West Palm Beach	Palm Beach	54		25		79
GEORGIA						
Albany	Dougherty	41		25		66
Athens	Clarke	35		25		60
Atlanta	Clayton, De Kalb, Fulton & Cobb	62		33		95
Augusta	Richmond	41		25		66
Brunswick	Glynn	39		25		64
Columbus	Muscogee	36		25		61
Macon	Bibb (including Robbins AFB)	36		25		61
Savannah	Chatham	41		25		66
St. Marys	The Naval Submarine Base, Kings Bay (See also Jacksonville, FL)	46		25		71
IDAHO						
Boise	Ada	44		25		69
Coeur d'Alene	Kootenai	37		25		62
Ketchum	Blaine	49		25		74
McCall	Valley	32		25		57
Pocatello	Bannock	41		25		66
ILLINOIS						
Alton	Madison	45		25		70
Champaign/Urbana	Champaign	38		25		63
Chicago	Du Page, Cook & Lake	72		33		105
Danville	Vermilion	40		25		65
Dixon	Lee	33		25		58
East St. Louis	St. Clair	35		25		60
Macomb	McDonough	40		25		65
Moline/Rock Island	Rock Island	45		25		70
Peoria	Peoria	48		25		73
Rockford	Winnebago	37		25		62
Springfield	Sangamon	44		25		69
INDIANA						
Bloomington	Monroe	45		25		70
Charlestown/ Jeffersonville	Clark County; Indiana Army Ammunition Plant	46		25		71
Columbus	Bartholomew	35		25		60
Elkhart	Elkhart	45		25		70
Fort Wayne	Allen	50		25		75
Gary	Lake	37		25		62
Indianapolis	Marion County; Fort Benjamin Harrison	50		25		75
Lafayette	Tippecanoe	39		25		64
Logansport	Cass	35		25		60
Marion	Grant	31		25		56
Michigan City	La Porte	34		25		59
Muncie	Delaware	44		25		69
New Albany	Floyd	32		25		57
South Bend	St. Joseph	44		25		69

Per Diem Locality		Maximum Lodging Amount		M&IE Rate		Maximum Per Diem Rate
Key City 1/	County and/or other defined location 2/ 3/	(a)	+	(b)	=	(c) 4/
IOWA						
Bettendorf/Davenport	Scott	43		25		68
Cedar Rapids	Linn	38		25		63
Des Moines	Polk	48		25		73
Dubuque	Dubuque	34		25		59
Iowa City	Johnson	37		25		62
Sioux City	Woodbury	36		25		61
Waterloo	Black Hawk	39		25		64
KANSAS						
Hays	Ellis	33		25		58
Kansas City	Johnson & Wyandotte (See also Kansas City, MO)	60		25		85
Lawrence	Douglas	30		25		55
Topeka	Shawnee	40		25		65
Wichita	Sedgwick	50		25		75
KENTUCKY						
Covington	Kenton	46		25		71
Frankfort	Franklin	40		25		65
Lexington	Fayette	52		25		77
Louisville	Jefferson	46		25		71
Prestonburg	Floyd	34		25		59
LOUISIANA						
Alexandria	Rapides Parish	43		25		68
Baton Rouge	East Baton Rouge Parish	50		25		75
Bossier City	Bossier Parish	57		25		82
Lafayette	Lafayette Parish	41		25		66
Lake Charles	Calcasieu Parish	42		25		67
Monroe	Ouachita Parish	41		25		66
New Orleans	Parishes of Jefferson, Orleans, Plaquemines & St. Bernard	52		33		85
Shreveport	Caddo Parish	50		25		75
Slidell	St. Tammany Parish	39		25		64
MAINE						
Augusta	Kennebec	40		25		65
Bangor	Penobscot	48		25		73
Bath	Sagadahoc	32		25		57
Kittery	Portsmouth Naval Shipyard (See also Portsmouth, NH)	40		25		65
Portland	Cumberland	55		25		80
Presque Isle	Aroostook	38		25		63
MARYLAND						
(For the counties of Montgomery and Prince Georges, see District of Columbia)						
Annapolis	Anne Arundel	63		25		88
Baltimore	Baltimore & Harford	50		25		75
Columbia	Howard	81		25		106
Cumberland	Allegany	41		25		66
Easton	Talbot	39		25		64
Frederick	Frederick	50		25		75
Lexington Park/St. Inigoes/Leonardtown	St. Marys	44		25		69
Ocean City	Worcester	74		25		99
Salisbury	Wicomico	44		25		69
Waldorf	Charles	41		25		66

Per Diem Locality		Maximum Lodging Amount		M&IE Rate		Maximum Per Diem Rate
Key City 1/	County and/or other defined location 2/ 3/	(a)	+	(b)	=	(c) 4/
MASSACHUSETTS						
Andover	Essex	72		33		105
Boston	Middlesex, Norfolk & Suffolk	75		33		108
Hyannis	Barnstable	50		25		75
Martha's Vineyard/ Nantucket	Dukes & Nantucket	85		33		118
New Bedford	Bristol	46		25		71
Northampton	Hampshire	46		25		71
Pittsfield	Berkshire	48		25		73
Springfield	Hampden	50		25		75
Worcester	Worcester	50		25		75
MICHIGAN						
Adrian	Lenawee	36		25		61
Ann Arbor	Washtenaw	50		25		75
Battle Creek	Calhoun	37		25		62
Bay City	Bay	37		25		62
Detroit	Wayne	57		25		82
Flint	Genesee	37		25		62
Grand Rapids	Kent	48		25		73
Holland	Ottawa	31		25		56
Jackson	Jackson	38		25		63
Kalamazoo	Kalamazoo	48		25		73
Lansing/East Lansing	Ingham	45		25		70
Marquette	Marquette	32		25		57
Midland	Midland	45		25		70
Monroe	Monroe	30		25		55
Muskegon	Muskegon	32		25		57
Pontiac	Oakland	48		25		73
Port Huron	St. Clair	42		25		67
Saginaw	Saginaw	40		25		65
St. Joseph/Benton Harbor/Niles	Berrien	39		25		64
Traverse City	Grand Traverse	40		25		65
Warren	Macomb	43		25		68
MINNESOTA						
Bemidji	Beltrami	36		25		61
Duluth	St. Louis	42		25		67
Minneapolis/St. Paul	Anoka, Hennepin & Ramsey Counties; Fort Snelling Military Reservation & Navy Astronautics Group (Detachment BRAVO), Rosemount	50		25		75
St. Cloud	Stearns	33		25		58
MISSISSIPPI						
Gulfport	Harrison	39		25		64
Jackson	Hinds	50		25		75
Natchez	Adams	44		25		69
Oxford	Lafayette	36		25		61
Pascagoula	Jackson	31		25		56
Vicksburg	Warren	37		25		62
MISSOURI						
Cape Girardeau	Cape Girardeau	40		25		65
Columbia	Boone	46		25		71
Jefferson City	Cole	39		25		64
Joplin	Jasper	30		25		55
Kansas City	Clay, Jackson & Platte (See also Kansas City, KS)	60		25		85

Per Diem Locality						
Key City 1/	County and/or other defined location 2/ 3/	Maximum Lodging Amount (a)	+	M&IE Rate (b)	=	Maximum Per Diem Rate (c) 4/
Springfield	Greene	43		25		68
St. Louis	St. Charles & St. Louis	53		25		78
MONTANA						
Billings	Yellowstone	34		25		59
Great Falls	Cascade	37		25		62
Helena	Lewis & Clark	33		25		58
NEBRASKA						
Grand Island	Hall	35		25		60
Lincoln	Lancaster	39		25		64
Norfolk	Madison	36		25		61
Omaha	Douglas	50		25		75
Scottsbluff	Scottsbluff	33		25		58
NEVADA						
Beatty/Tonopah	Nye	30		25		55
Carson City	Carson City	32		25		57
Las Vegas	Clark County; Nellis AFB	69		33		102
Reno	Washoe	44		25		69
NEW HAMPSHIRE						
Concord	Merrimack	44		25		69
Laconia	Belknap	50		25		75
Manchester	Hillsborough	55		25		80
Portsmouth/Newington	Rockingham County; Pease AFB (See also Kittery, ME)	40		25		65
NEW JERSEY						
Atlantic City	Atlantic	93		33		126
Belle Mead	Somerset	59		25		84
Camden	Camden	50		25		75
Cape May	Cape May	50		25		75
Dover	Morris County; Picatinny Arsenal	55		25		80
Eatontown	Monmouth County; Fort Monmouth	50		25		75
Edison	Middlesex	50		25		75
Newark	Bergen, Essex, Hudson, Passaic & Union	75		25		100
Princeton/Trenton	Mercer	61		25		86
Tom's River	Ocean	45		25		70
NEW MEXICO						
Albuquerque	Bernalillo	59		25		84
Las Cruces/White Sands	Dona Ana	39		25		64
Los Alamos	Los Alamos	42		25		67
Santa Fe	Santa Fe	55		25		80
Taos	Taos	49		25		74
NEW YORK						
Albany	Albany	54		25		79
Binghampton	Broome	52		25		77
Buffalo	Erie	50		25		75
Catskill	Greene	32		25		57
Corning	Steuben	48		25		73
Glens Falls	Warren	40		25		65
Ithaca	Tompkins	51		25		76
Lake Placid	Essex	50		25		75

Per Diem Locality		Maximum Lodging Amount		M&IE Rate		Maximum Per Diem Rate
Key City 1/	County and/or other defined location 2/ 3/	(a)	+	(b)	=	(c) 4/
New York City	The boroughs of the Bronx, Brooklyn, Manhattan, Queens & Staten Island; Nassau & Suffolk Counties	93		33		126
Niagara Falls	Niagara	53		25		78
Owego	Tioga	39		25		64
Poughkeepsie	Dutchess	50		25		75
Rochester	Monroe	63		25		88
Schenectady	Schenectady	49		25		74
Syracuse	Onondaga	57		25		82
Troy	Rensselaer	48		25		73
West Point	Orange	38		25		63
White Plains	Westchester	76		33		109
NORTH CAROLINA						
Asheville	Buncombe	43		25		68
Boone	Watauga	36		25		61
Charlotte	Mecklenburg	52		25		77
Duck	Dare	50		25		75
Durham	Durham	33		25		58
Fayetteville	Cumberland	38		25		63
Greensboro	Guilford	49		25		74
Morehead City	Carteret	53		25		78
Raleigh	Wake	54		25		79
Wilmington	New Hanover	45		25		70
Winston-Salem	Forsyth	44		25		69
NORTH DAKOTA						
Bismarck	Burleigh	44		25		69
Fargo	Cass	46		25		71
Minot	Ward	42		25		67
OHIO						
Akron	Summit	46		25		71
Bridgeport/Martins Ferry/Belaire	Belmont	37		25		62
Chillicothe	Ross	40		25		65
Cincinnati/Evendale	Hamilton & Warren	50		25		75
Cleveland	Cuyahoga	51		33		84
Columbus	Franklin	51		25		76
Dayton	Montgomery County; Wright-Patterson AFB	53		25		78
Defiance	Defiance	40		25		65
Freemont	Sandusky	33		25		58
Geneva	Ashtabula	43		25		68
Hamilton/Fairfield	Butler	41		25		66
Ironton	Lawrence	35		25		60
Lima	Allen	35		25		60
Portsmouth	Scioto	38		25		63
Sandusky	Erie	44		25		69
Springfield	Clark	43		25		68
Toledo	Lucas	50		25		75
OKLAHOMA						
Clinton	Custer	32		25		57
Eufaula	McIntosh	34		25		59
Lawton	Comanche	35		25		60
Muskogee	Muskogee	35		25		60
Norman	Cleveland	44		25		69
Oklahoma City	Oklahoma	47		25		72
Stillwater	Payne	43		25		68
Tulsa	Osage, Tulsa & Washington	39		25		64

Per Diem Locality		Maximum Lodging Amount		M&IE Rate		Maximum Per Diem Rate
Key City 1/	County and/or other defined location 2/ 3/	(a)	+	(b)	=	(c) 4/
OREGON						
Beaverton	Washington	40		25		65
Bend	Deschutes	36		25		61
Portland	Multnomah	50		25		75
Salem	Marion	37		25		62
PENNSYLVANIA						
Allentown	Lehigh	45		25		70
Chester	Delaware	46		25		71
Erie	Erie	41		25		66
Harrisburg	Dauphin	58		25		83
King of Prussia/ Ft. Washington	Montgomery County, except Bala Cynwyd (see also Philadelphia, PA)	59		25		84
Lancaster	Lancaster	41		25		66
Mechanicsburg	Cumberland	36		25		61
Philadelphia	Philadelphia County; city of Bala Cynwyd in Montgomery County	72		33		105
Pittsburgh/Monroeville	Allegheny	59		25		84
Reading	Berks	47		25		72
State College	Centre	38		25		63
Valley Forge	Chester	73		25		98
Warminster	Bucks County; Naval Air Development Center	48		25		73
York	York	50		25		75
RHODE ISLAND						
East Greenwich	Kent County; Naval Construction Battalion Center, Davisville	49		25		74
Newport	Newport	72		33		105
Providence	Providence	64		25		89
SOUTH CAROLINA						
Cayce	Lexington	32		25		57
Charleston	Charleston & Berkeley	44		25		69
Columbia	Richland	48		25		73
Greenville	Greenville	40		25		65
Hilton Head	Beaufort	76		33		109
Myrtle Beach	Horry County; Myrtle Beach AFB	63		25		88
Spartanburg	Spartanburg	41		25		66
SOUTH DAKOTA						
Pierre	Hughes	31		25		56
Rapid City	Pennington	46		25		71
Sioux Falls	Minnehaha	42		25		67
TENNESSEE						
Chattanooga	Hamilton	38		25		63
Clarksville	Montgomery	37		25		62
Elizabethton	Carter	37		25		62
Greenville	Greene	37		25		62
Johnson City	Washington	45		25		70
Kingsport/Bristol	Sullivan	42		25		67
Knoxville	Knox County; city of Oak Ridge	41		25		66
Memphis	Shelby	50		25		75
Morristown	Hamblen	30		25		55
Nashville	Davidson	52		25		77

Per Diem Locality		Maximum Lodging Amount		M&IE Rate		Maximum Per Diem Rate
Key City 1/	County and/or other defined location 2/ 3/	(a)	+	(b)	=	(c) 4/
TEXAS						
Amarillo	Potter	46		25		71
Austin	Travis	55		25		80
Bastrop	Bastrop	37		25		62
Beaumont	Jefferson	36		25		61
Brownsville	Cameron	39		25		64
College Station/Bryan	Brazos	43		25		68
Corpus Christi	Nueces	53		25		78
Dallas/Fort Worth	Dallas & Tarrant	74		33		107
El Paso	El Paso	49		25		74
Galveston	Galveston	51		25		76
Houston	Harris County; L. B. Johnson Space Center & Ellington AFB	60		33		93
Kingsville	Kleburg	35		25		60
Lajitas	Brewster	48		25		73
Laredo	Webb	47		25		72
Longview	Gregg	41		25		66
Lubbock	Lubbock	37		25		62
Lufkin	Angelina	36		25		61
McAllen	Hidalgo	43		25		68
Midland/Odessa	Ector & Midland	43		25		68
Nacogdoches	Nacogdoches	41		25		66
San Antonio	Bexar	50		25		75
Temple	Bell	37		25		62
Wichita Falls	Wichita	41		25		66
UTAH						
Cedar City	Iron	32		25		57
Ogden	Weber	36		25		61
Provo	Utah	33		25		58
Salt Lake City	Salt Lake County; Dugway Proving Ground & Toole Army Depot	53		25		78
Vernal	Uintah	39		25		64
VERMONT						
Burlington	Chittenden	43		25		68
Montpelier	Washington	32		25		57
Rutland	Rutland	50		25		75
VIRGINIA						
(For the cities of Alexandria, Fairfax, and Falls Church, and the counties of Arlington, Fairfax, and Loudoun, see District of Columbia)						
Blacksburg	Montgomery	50		25		75
Bristol*		42		25		67
Charlottesville*		51		25		76
Covington*		33		25		58
Fredericksburg*		34		25		59
Lexington*		35		25		60
Lynchburg*		33		25		58
Manassas/Manassas Park*	Prince William County	45		25		70
Norfolk* (also Virginia Beach, Portsmouth, Hampton, Newport News & Chesapeake*)	York County; Naval Weapons Stations, Yorktown	55		25		80
Petersburg*	Fort Lee	38		25		63
Richmond*	Chesterfield & Henrico Counties; also Defense Supply Center	52		25		77

Per Diem Locality		Maximum Lodging Amount		M&IE Rate		Maximum Per Diem Rate
Key City 1/	County and/or other defined location 2/ 3/	(a)	+	(b)	=	(c) 4/
Roanoke*	Roanoke County	42		25		67
Staunton*		37		25		62
Wallops Island	Accomack	46		25		71
Warrenton	Fauquier	37		25		62
Waynesboro*		33		25		58
Williamsburg*		58		25		83
* Denotes independent cities.						
WASHINGTON						
Longview	Cowlitz	36		25		61
Olympia	Thurston	43		25		68
Richland	Benton	34		25		59
Seattle	King	53		33		86
Spokane	Spokane	47		25		72
Takoma	Pierce	39		25		64
Yakima	Yakima	34		25		59
WEST VIRGINIA						
Charleston	Kanawha	45		25		70
Harpers Ferry	Jefferson	45		25		70
Huntington	Cabell	41		25		66
Morgantown	Monongalia	40		25		65
Wheeling	Ohio	40		25		65
WISCONSIN						
Brookfield	Waukesha	50		25		75
Green Bay	Brown	40		25		65
La Crosse	La Crosse	48		25		73
Madison	Dane	51		25		76
Milwaukee	Milwaukee	51		25		76
Rhinelander	Oneida	37		25		62
Tomah	Monroe	32		25		57
Wausau	Marathon	42		25		67
WYOMING						
Casper	Natrona	37		25		62
Cheyenne	Laramie	43		25		68
Evanston	Uinta	32		25		57
Gillette	Campbell	42		25		67
Jackson	Teton	51		25		76
Rock Springs	Sweetwater	35		25		60

1/ Unless otherwise specified, the per diem locality is defined as "all locations within, or entirely surrounded by, the corporate limits of the key city, including independent entities located within those boundaries."

2/ Per diem localities with county definitions shall include "all locations within, or entirely surrounded by, the corporate limits of the key city as well as the boundaries of the listed counties, including independent entities located within the boundaries of the key city and the listed counties."

3/ Military installations or Government-related facilities (whether or not specifically named) that are located partially within the city or county boundary shall include "all locations that are geographically part of the military installation or Government-related facility, even though part(s) of such activities may be located outside the defined per diem locality."

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4/ Federal agencies may submit a request to GSA for review of the subsistence cost in a particular city or area when travel to that location is repetitive or on a continuing basis and travelers' experience indicates that the prescribed standard CONUS per diem rate is inadequate. Other per diem locality rates listed in this appendix will be surveyed on an annual basis by GSA to determine whether rates are adequate. Agencies' requests shall be submitted to the General Services Administration, Federal Supply Service, Attn: Regulations and Policy Division (FFY), Washington, DC 20406. Requests for rate adjustments shall include a description of the location involved (city, county or other defined area) and a recommended rate supported by a statement explaining the circumstances that cause the existing rate to be inadequate. The request also should contain an estimate of the annual number of trips to the location and the average duration of such trips.

Dated: May 9, 1986.

T.C. Golden,

Administrator of General Services.

[FR Doc. 86-11995 Filed 5-29-86; 8:45 am]

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federal register

Friday
May 30, 1986

Part III

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Part 31
Federal Acquisition Regulation (FAR); Travel Costs; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 31

Federal Acquisition Regulation (FAR); Travel Costs

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering a change to Federal Acquisition Regulation (FAR) 31.205–46, Travel costs, in order to implement the Federal Civilian Employee and Contractor Travel Expense Act of 1985 (Pub. L. 99–234).

DATE: Comments should be submitted to the FAR Secretariat at the address shown below on or before June 30, 1986, to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW, Room 4041, Washington, DC 20405.

Please cite FAR Case 86–29 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Telephone (202)523–4755.

SUPPLEMENTARY INFORMATION:

A. Background

The provision contained in title II, section 201 of the Federal Civilian Employee and Contractor Travel Expense Act of 1985, specifies ". . . costs incurred by contractor personnel for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered to be reasonable and allowable only to the extent that they do not exceed the rates and amounts set by subchapter I of Chapter 57 of Title 5, United States Code, or by the Administrator of General Services or the President (or his designee) pursuant to any provision of such subchapter." To implement this provision of the Act, the Defense Acquisition Regulatory and Civilian Agency Acquisition Councils are proposing a revision to FAR 31.205–46, Travel costs. The proposed revision states that costs for lodging, meals, and incidental expenses incurred by contractor personnel shall be considered to be reasonable and allowable to the extent that they do not exceed on a daily basis the per diem rates set forth in the: (1) Federal Travel Regulations, (2) Joint Travel Regulations, or (3) Standardized Regulations (Government Civilians, Foreign Areas). In addition, the proposed revision provides for situations where contractors may reimburse their employees for the actual costs in excess of the per diem limits, as authorized for Federal civilian employees.

B. Regulatory Flexibility Act

The proposed change to FAR 31.205–46 is not expected to have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, et seq.) because most supplies and services obtained from small entities are acquired on a competitive fixed-price basis and the cost principles do not apply. For the remainder of the supplies and services that are obtained from small entities, the cost principles are primarily used to establish negotiation objectives. Moreover, the proposed coverage merely implements Pub. L. 99–234, which requires comparable treatment of the costs of lodging, meals, and incidental expenses for contractors and Government employees. Notwithstanding the foregoing, specific comments on the proposed rule are solicited from small businesses.

C. Paperwork Reduction Act

Through contact with some trade associations and contractors, the Councils believe there may be additional recordkeeping burdens caused by the proposed rule. A request for approval of the additional paperwork burden is being submitted to the Office of Management and Budget.

D. Federal Travel Regulations

Revised per diem rates for travel within the continental United States, as set forth in amendments to the Federal Travel Regulations, appear elsewhere in today's issue of the **Federal Register**. Copies of the Federal Travel Regulations amendment are available for purchase from the Government Printing Office, Superintendent of Documents, for $1.50. The revised per diem rates will be effective for Government employees on July 1, 1986. The rates are expected to be made applicable to Government contractors in accordance with the provisions of this proposed FAR rule on or about August 1, 1986. However, the revisions to FAR 31.205–46 will be applicable to contracts awarded on or after the date the final rule is effective.

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: May 23, 1986.

Lawrence J. Rizzi,

Director, Office of Federal Acquisition and Regulatory Policy.

Therefore, it is proposed that 48 CFR Part 31 be amended as set forth below:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

1. The authority citation for Part 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2453(c).

2. Section 31.205–46 is amended by revising paragraph (a) to read as follows:

31.205–46 Travel costs.

(a)(1) Costs for transportation, lodging, meals, and incidental expenses incurred by contractor personnel on official company business are allowable subject to this paragraph and paragraphs (b) through (f) of this subsection. Transportation costs may be based on actual costs incurred, on a mileage basis, or on a combination thereof, provided the method used results in a reasonable charge. Costs for lodging, meals, and incidental expenses may be based on per diem, actual expenses, or a combination thereof, provided the method used results in a reasonable charge.

(2) Except as provided in subparagraph (a)(3) of this subsection, costs incurred for lodging, meals, and incidental expenses (as defined in the regulations cited in (i) through (iii) of this subparagraph) shall be considered to be reasonable and allowable only to the extent that they do not exceed on a daily basis the per diem rates in effect at the time of travel as set forth in the:

(i) Federal Travel Regulations, prescribed by the General Services Administration, for travel in the conterminous 48 United States, available on a subscription basis from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, Stock No. 022–001–81003–7;

(ii) Joint Travel Regulations, Volume 2, DOD Civilian Personnel, Appendix A, prescribed by the Department of Defense, for travel in Alaska, Hawaii, The Commonwealth of Puerto Rico, and territories and possessions of the United States, available on a subscription basis from the Superintendent of Documents,

U.S. Government Printing Office, Washington, DC 20402, Stock No. 908–010–00000–1; or

(iii) Standardized Regulations (Government Civilians, Foreign Areas), Section 925, "Maximum Travel Per Diem Allowances for Foreign Areas," prescribed by the Department of State, for travel in areas not covered in (a)(2)(i) and (ii) of this subsection, available on a subscription basis from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, Stock No. 744–008–00000–0.

(3) In extraordinary and temporary situations, contractors may reimburse their employees for actual costs in excess of the above-referenced daily per diem rates in amounts not exceeding the higher amounts authorized for Federal civilian employees as permitted in the regulations referenced in (a)(2)(i), (ii), or (iii) of this subsection. For the cost of such higher reimbursements to be allowable, all of the following conditions must be met:

(i) One of the conditions warranting approval of the actual expense method, as set forth in the regulations referenced in (a)(2)(i), (ii), or (iii) of this subsection, must exist.

(ii) The authority to use the higher actual expense reimbursement method may be used only on an individual-case basis after appropriate consideration of the facts existing at the time travel is directed and performed. A written justification for use of the higher amounts authorized by this method must be approved on a case-by-case basis by an officer of the contractor's organization or designee to ensure that the authority is properly administered and controlled to prevent abuse.

(iii) Receipts are required to support the expenses incurred and the approved justification must be included in the supporting documentation.

(iv) If it becomes necessary to exercise the authority to use the higher actual expense method repetitively or on a continuing basis in a particular area, the contractor must obtain advance approval from the contracting officer.

* * * * *

[FR Doc. 86–12028 Filed 5–29–86; 8:45 am]
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federal register

Friday
May 30, 1986

Part IV

Department of Defense

Corps of Engineers, Department of the Army

33 CFR Parts 209, 335, 336, 337, and 338

Operations and Maintenance Regulations for Activities Involving the Discharge of Dredged or Fill Material in Waters of the United States and Ocean Waters; Proposed Rule

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Parts 209, 335, 336, 337, and 338

Proposed Amendment to Corps of Engineers Operations and Maintenance Regulations for Activities Involving the Discharge of Dredged or Fill Material in Waters of the United States and Ocean Waters

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Proposed rule.

SUMMARY: The Corps of Engineers is proposing to revise and relocate its 33 CFR 209.145 regulations to new Parts 335 through 338 for Corps operations and maintenance activities involving the discharge of dredged or fill material in waters of the United States and ocean waters. The relocation of this regulation will provide sufficient numbering and will allow easy reference to the permit regulations of 33 CFR Parts 320 through 330. These revisions are needed to reflect a number of new laws (primarily the 1977 Amendments to the Clean Water Act), Executive Orders (EOs), court decisions, and policy changes which have occurred since the current regulations were published on July 22, 1974. This regulation will provide updated procedures for compliance with state water quality and coastal zone certification requirements of Corps maintenance dredging and disposal activities in waters of the United States and ocean waters. A practices and procedures part has been added to explain and provide for consistent implementation of Corps operations and maintenance activities. These proposed regulation revisions will better enable the Corps of Engineers to implement the provisions of the Clean Water Act and Ocean Dumping Act when undertaking operations and maintenance activities involving dredged material disposal in waters of the United States and ocean waters.

DATE: Comments to this regulation must be received on or before July 29, 1986.

ADDRESS: Comments should be submitted in writing to: The Water Resources Support Center, Dredging Division, Casey Building, Ft. Belvoir, VA 22060–5586. Comments will be available for examination at this address.

FOR FURTHER INFORMATION CONTACT: Mr. Dave Mathis or Mr. Joe Wilson, Water Resources Support Center, phone (202) 335–2235.

Background

The legislative histories of the Federal Water Pollution Control Act of 1972 (amended in 1977 and commonly referred to as the Clean Water Act (CWA)) and of the Marine Protection, Research, and Sanctuaries Act of 1972 (commonly referred to as the Ocean Dumping Act (ODA)) reveal that one purpose of sections 404 and 103 of the CWA and ODA, respectively, was to address the dredged material disposal requirements for construction and maintenance of navigation projects. To ensure that essential navigation continues to be maintained in an environmentally responsible manner, Congress enacted special legislation under Pub. L. 91–611, directing that a comprehensive national program of environmental research on dredged material disposal be conducted to identify environmentally acceptable alternatives for the disposal of this material and to develop scientifically acceptable evaluations. This program was initiated in 1973 and included, at the outset, a five-year research effort that involved an expenditure of over $33 million. Current Federal expenditures on dredged material research and development have now cumulatively exceeded $100 million. This research has investigated all facets of disposal alternatives for dredged material, including beneficial uses and state-of-the-art evaluative procedures for contaminated sediments. These investigations have included thorough consideration of the environmental protection mandates of the Resource Conservation and Recovery Act and Toxic Substances Control Act, as well as other Federal environmental protection statutes.

Results of this extensive research on dredged material, which now represents well over a decade of intensive effort, have been widely published and have received close domestic as well as international scientific scrutiny through prominent scientific groups such as the National Research Council and the Scientific Group of the London Dumping Convention. With specific regard to dredged material disposal, we are capable of evaluating the feasibility and environmental acceptability of the full range of disposal alternatives. Based on this extensive scientific research base and experience, we believe that the most appropriate alternative can be selected only on a case-by-case basis by minimizing costs consistent with sound engineering practices and complying with appropriate environmental standards. Thus, all practicable alternatives, including the no dredging alternative, should receive full and equal consideration in the evaluation process. These alternatives include, but are not limited to, land-based diked containment areas, beneficial uses such as beach nourishment and marsh establishment, and aquatic (including ocean) disposal of dredged sediments.

Significant Changes in the 1974 Regulations

Following is a summary of the substantive changes in the 1974 regulation. Those changes that are editorial or self-explanatory in nature are not discussed.

Applicability to Other Corps Programs and Regulations

Through the budget process, the Congress decides which operations and maintenance projects are accomplished. However, before maintenance can be accomplished, the Corps is required to establish compliance with the environmental protection statutes, EOs and regulations. Other Corps regulations deal with similar requirements for Corps pre-authorization and continuing authorities (i.e., planning) projects and for the Corps regulatory program. This regulation prescribes the policies and procedures that should be followed to establish environmental compliance for Corps operations and maintenance activities. Various decisions are made in the budget process regarding need and justification for the operations and maintenance work. Once those decisions are made and the Congress allocates funds, it is the responsibility of the Corps to carry out the operations and maintenance work by selecting the alternative which is the least costly and consistent with sound engineering practices and appropriate environmental quality standards. This regulation focuses on procedures and documentation necessary to establish compliance with certain environmental statutes. Cost and engineering feasibility considerations, however, play a critical role in selecting the ultimate course of action.

Organization

The regulation has been reorganized into four parts to allow for sufficient numbering and easy reference. Part 335 describes the purpose of the regulation and identifies the applicable and related statutes and EOs. Part 336 contains the operating procedures for Corps field offices when undertaking operations and maintenance activities involving the discharge of dredged or fill material into waters of the U.S. or the transportation for disposal of dredged material into

ocean waters. Part 337 describes the Corps documentation process for dredged materials disposal activities related to Federal operations and maintenance projects. Part 338 has been added to address those operations and maintenance activities involving the discharge of fill material.

Recently, the Corps has been faced with a unique and important challenge: removing and disposing in an environmentally responsible manner contaminated sediments from a few contaminated reaches of Federal navigation channels. The Corps has been conducting an extensive research effort to develop a logical and scientifically valid testing, evaluation, and disposal management framework for handling these contaminated sediments. This management framework is now in the demonstration/refinement phase and will be used as the basis for determining the best management approaches for contaminated sediments. The Corps policy at §335.4 is reflective of experience, past and current research, and the necessity of considering all practicable alternatives on an equal basis.

Part 335 Policy.

A policy statement has been added to the regulation to reflect that the Corps undertakes operations and maintenance activities in a manner which recognizes cost, engineering constraints, and other factors that can limit consideration of some alternatives while at the same time ensuring environmentally responsible choices. The construction and maintenance of Congressionally authorized Federal navigation channels is primarily a Corps responsibility. When evaluating operations and maintenance projects, the Corps fully considers all practicable alternatives on an equal basis. Factors considered in determining whether to proceed with a proposed dredging and disposal activity include navigation, economics, engineering practicability, national defense, fish and wildlife, water quality, aesthetics, cultural resources, endangered species, wetlands, floodplains, recreation, etc. As part of the Corps overall effort to assure that needed dredging is accomplished in an economic, timely and environmentally responsible manner, an extensive research and development program was authorized in 1972 and continues as an integral and major support component of the Corps national dredging program. This research effort has resulted in the investigation of nearly every facet of dredging and dredged material disposal. When accomplishing dredging and disposal activities, these extensive research results and the experience gained by the Corps play a vital role in the ultimate selection of dredged material disposal sites.

Section 335.5 Applicable and Related Laws.

The 1974 regulation provides a summary of the Federal laws and EOs that are known to apply to maintenance dredging and disposal activities. To avoid the risk of misinterpretation, the Corps has decided in this proposed revision simply to list the applicable Federal statutes and EOs and not provide interpretive summaries. Interpretations are ultimately resolved by the courts and are often misleading when taken out of context.

Section 335.7 Definitions.

Certain definitions of the regulatory program applicable to Corps dredging and disposal activities have been incorporated by reference. Definitions exclusive to the dredging program have been defined in §335.7.

Section 335.7 Federal Standard.

This new concept has been added to allow the concerned public and the states to understand more fully how the Corps establishes its preferred alternative or alternatives. The ocean dumping criteria and 404(b)(1) guidelines are at 40 CFR Parts 220 through 228 and Part 230, respectively. The regulations for environmental impact statements and environmental assessments are at 40 CFR Parts 1500 through 1508 and 33 CFR Part 230. The procedures of these regulations require the Corps to consider all facets of the dredging and disposal operation to include cost, engineering feasibility, environmental concerns, and other practicable alternatives. The alternative selected should represent the least costly alternative consistent with sound engineering practices and meeting required environmental standards. The Corps' preferred alternative is defined as the Federal standard. When seeking state certification or evaluating Federal agency and public comments, the district engineer will be using the alternative(s) selected on this basis as a point of reference.

Part 336

This part has been divided into two sections to distinguish between Federal activities regulated by the ODA and GWA. The procedural requirements for compliance with these two laws are different and are more appropriately evaluated separately.

Section 336.0 Overlapping Jurisdiction of ODA and CWA in Territorial Sea.

The ODA and CWA have overlapping jurisdiction for dredged material disposal in the territorial sea. Pursuant to 40 CFR 230.2(b), dredged material disposal activities in the territorial sea will be evaluated under the ODA. Rules for dredged material disposal activities in the territorial sea are established in Part 336 and are based on the type of discharge and most appropriate methodology available for evaluating environmental impacts.

Section 336.0 Corps Authority to Select Dredged Material Disposal Sites in Territorial Sea and Ocean Waters.

Presently, the EPA has authority under section 102 of the ODA for designating ocean dump sites in territorial sea and ocean waters. The Corps has authority under section 103 of the ODA to authorize the transportation for disposal of dredged material in the territorial sea and ocean waters and also to select ocean dumping sites should an EPA designated site not be feasible for use. The Corps will continue to exercise this authority as necessary. In exercising its authorities, the Corps is required to apply the criteria established by the EPA pursuant to section 102(a), relating to the effects of the disposal. Presently, the EPA has designated 125 ocean disposal sites serving 115 Federally authorized navigation projects. To the extent feasible, the Corps uses and will continue to use the EPA designated sites; however, the Corps may select an ocean dredged material disposal site or sites under the authority of Section 103 of the ODA in consultation with EPA for situations where no EPA designated site exists or can be used feasibly.

Section 336.0 Dredged Material Disposal Activities Involving Fill Material in the Territorial Sea.

In those cases where the disposal of dredged material is also considered as the discharge of fill material, the activity will be evaluated under the CWA. Such activities include beach nourishment or the construction of underwater berms where the material is intended to return to the littoral transport process for the primary purpose of downdrift beach replenishment.

Section 336.1(a) State Requirements.

Since implementation of the 1977 amendments to the CWA, the Corps has sought state water quality certification for dredged material disposal activities that occur in waters of the United States. In general terms, the Coastal

Zone Management Act (CZMA) requires the Corps to provide a determination that its activities directly affecting the coastal zone are consistent with an approved state coastal zone management plan to the maximum degree practicable.

Some confusion has existed between the Corps and the states over respective authorities and responsibilities under the CWA and CZMA. Appropriate sections have been added to the regulation to recognize the role of the states in evaluating water quality and coastal zone impacts of Corps maintenance dredging disposal projects while ensuring that the states provide timely responses as required by Congress in the relevant Federal statutes.

The CWA and regulations implementing the CZMA provide for waiver if the state fails or refuses to act on requests for water quality certification or coastal zone consistency determinations within a reasonable period of time. The maximum period of time provided by section 401 of the CWA for the state to act on requests for water quality certification is one year from the date of the request. Based on experience since enactment of the CWA and CZMA, the Corps has determined that six months is reasonable as a maximum period of time within which the state must act on maintenance dredging disposal projects of significant scope and complexity. More routine maintenance dredging disposal projects are expected to take much less time. Therefore, we are requesting that the states act within two months after receipt of a request for water quality certification and within 45 days of a coastal zone consistency certification. The District Engineer may extend such time (up to six months from the request) for final state action upon a showing by the state that an additional period of time is warranted. The Corps and the state may mutually agree on alternative requirements to shorten the state water quality certification or coastal zone consistency process.

Section 336.1(b) Certification Requests.

Since implementation of the CWA and CZMA, the Corps has been providing information to affected states in support of requests for water quality certification and coastal zone consistency determinations. Generally, thorough project description information is adequate to determine compliance with state water quality standards and impacts to approved coastal zone programs. The absence of a Federal regulation to specify what information would be provided to the state in support of the water quality certification request and coastal zone consistency certification has invited lengthy delays by some states. Delays by some states of three years or more have been common for routine maintenance dredging and disposal activities. We believe that such long delays are unnecessary, and the proposed regulation seeks to avoid such delays in the future.

Section 336.1(b) National Environmental Policy Act (NEPA).

Since promulgation of NEPA in 1969, the Corps has prepared Environmental Impact Statements (EIS) or Environmental Assessments (EA) for all actively maintained navigation projects. Normally, an EIS or EA is issued for the life of an operations and maintenance activity. Changes in a disposal plan, however, will require re-evaluation under NEPA and may require re-evaluation under the CWA or ODA. The decision to prepare a new EA, EIS, or EIS supplement is made for each project on a case-by-case basis based on the significance of the potential impacts of the changes to the operations and maintenance activity. A preliminary determination on the NEPA requirements should be included in the public notice for the project and comments on the public notice should be used by the district engineer in making the final determination whether a new EIS, or EIS supplement, will be required. The procedures of 33 CFR Part 230 will be used to prepare NEPA documents.

Section 336.1(b) Related Activities.

In order to assure that beneficiaries of Corps navigation projects receive timely authorization of activities related to maintenance of the navigation project, district engineers are encouraged to include such related activities in the enviromental compliance process for the Corps project. This provision was in the 1974 rule. The lack of a procedure in the 1974 rule for authorizing the related activity prevented field offices from fully incorporating related activities in the environmental compliance documentation for the Corps activity. The evaluation of the related activity will include compliance with the substantive requirements of 33 CFR Parts 320 through 330. We are encouraging local users to coordinate with district engineers concerning inclusion of their activities in the Corps compliance process. For consistency with the permit program and to assure that the environmental compliance documentation for the Corps activity is not delayed by the local project, a separate permit and statement of findings, if appropriate, are to be used to authorize the related activity. Local users will be responsible for funding all work necessary in support of their related activity.

Section 336.1(b) Cultural Resource Considerations.

The cultural resources section has been revised to state that cultural resources warranting evaluation against the criteria of the National Register of Historic Places are not normally found in constructed navigation channels or previously used disposal areas. Therefore, cultural resources considerations will normally be limited to areas of new work or to constructed navigation channels and previously used disposal areas where cultural resources are known to exist.

Section 336.1(b) Fish and Wildlife Considerations.

All Corps projects in an active operations and maintenance status have either an EA or EIS. Since fish and wildlife resources are considered in the EA or EIS for the project, subsequent fish and wildlife considerations should address the scope of the action requiring re-evaluation under the CWA, ODA, or NEPA. The importance of fish and wildlife resources cannot be minimized. However, the scope of such considerations should not extend to an entire navigation project when only a minor disposal site modification, addition, or deletion is involved.

Section 336.1(b) Effects on Wetlands.

To avoid unnecessary duplication, the proposed regulation references the Corps regulatory program, the EPA's 404(b)(1) guidelines, and E.O. 11990, when dredging and disposal activities affect wetlands.

Section 336.1(b) Authority to Undertake Federal Projects.

The § 209.145 regulation at (h)(2)(i) was revised and moved to Parts 336 and 337 of the proposed regulation to specify procedures that should be followed when state agency comments significantly exceed the Federal standard established for the project. Specific procedures are required due to the diverse circumstances that can delay Corps maintenance dredging and disposal activities.

Section 336.2 Water Quality Certification of Ocean Disposal Activities.

The terms and legislative history of the ODA leave some doubt regarding whether a state has legal authority to

exert control over ocean dumping activities of the Corps covered under the Act (see section 106(d)). Thus, it is unclear whether the Corps must obtain a state water quality certification pursuant to section 401 of the CWA or certify consistency to the maximum extent practicable with an approved state coastal zone management plan pursuant to the CZMA for the ocean disposal of dredged material in the territorial sea.

Notwithstanding this legal question, the Corps will voluntarily, as a matter of comity, apply for state section 401 water quality certification and determine CZMA consistency for ocean disposal of dredged material within the three-mile extent of the territorial sea. Moreover, the Corps will attempt to comply with any reasonable requirement or condition imposed by a state in the course of the 401 certification process or the CZMA consistency certification process within the limits of the territorial sea. Nevertheless, the Corps reserves its legal rights regarding any case where a state unreasonably denies or conditions a 401 water quality certification for proposed ocean disposal of dredged material within the territorial sea or alleges that such disposal would not be consistent to the maximum extent practicable with an approved state CZMA plan.

If such a circumstance arises, the district engineer must so notify WRSC–D, DAEN–CWZ, and DAEN–CCE for purposes of consultation regarding the Corps' appropriate response and course of action.

Part 337 Practices and Procedures.

A practices and procedures part has been added to explain the Corps documentation process and to establish procedures to be applied consistently throughout the Corps' dredged material disposal maintenance program.

Section 337.1 Public Notices.

The public notice procedures section has been expanded to provide for consideration of the notification requirements of the ODA. Additionally we are emphasizing that normally public notices are issued for the life of a disposal activity unless required changes in a disposal plan warrant re-evaluation under the CWA or ODA.

Section 337.2 State Requirements.

Where state disposal requirements exceed those necessary in establishment of the Federal standard, the district engineer is expected to try to resolve the state's concern. In those cases where a resolution of the state's concern is not forthcoming, district engineers are expected to defer maintenance dredging and consult with higher Corps authority.

Section 337.4 Memoranda of Agreement (MOA).

Presently, public notices of maintenance dredging and disposal are required by sections 401 and 404 of the CWA, 103 of ODA, and 307 of the CZMA. We are encouraging district engineers to develop MOAs in order to avoid duplication with similar state and local procedures. Existing MOAs with the states should be examined and, as appropriate, revised to assure that the policies and procedures of this regulation are fully implemented.

Section 337.5 General Authorizations.

As provided by section 404(e) of the CWA and 104(c) of the ODA, certain categories of activities may be authorized on a regional or nationwide basis. The procedures of Part 336 are to be used for the development of new general authorizations. General authorizations which include local interests will comply with the procedures of 33 CFR Parts 320–329.

To better enable the public to utilize fully the benefits of Corps navigation projects, district engineers should propose for adoption regional general authorizations based on the intended use of the Corps' navigation channels. Conceptually, the district engineer would geographically specify the project boundaries. These areas would generally include port facilities, industrial canals, etc. adjacent to navigation channels. Categories of activities that would fulfill the intended project purposes would be authorized, such as maintenance dredging of boat slips and disposal of dredged material in designated disposal areas, mooring dolphins, wharves, etc. Special conditions based on regional environmental emphasis would also be included. This process would notify prospective applicants of parameters for development in specific geographic regions. Similarly, other areas such as those described in coastal zone management plans where development would be discouraged can also be identified.

Section 337.7 Emergency Actions.

In certain circumstances, the Corps may be required to conduct dredging activities to protect or restore navigation in a time period less than that required under normal circumstances.

Section 337.8 Reports to Higher Echelons.

The reports section has been revised to provide currency with existing requirements for reporting of certain activities to headquarters.

Section 337.9 Identification and Use of Disposal Areas.

This section encourages district engineers to identify long-term disposal sites for dredged material.

District engineers are expected to coordinate with local interests in identifying long-term disposal requirements with a view towards developing long-term dredged material disposal management strategies for Corps navigation channels.

Part 338 Other Operations and Maintenance Activities.

With the publication of a regulation for discharges of dredged material, other operations and maintenance (O&M) activities undertaken by the Corps involving the discharge of dredged or fill material also need a regulatory framework for establishment of compliance with applicable environmental laws and regulations. The Corps' planning regulations apply primarily to construction or new work projects, and the regulatory procedures of the permit regulations do not adequately guide Corps managers when undertaking O&M activities involving the placement of dredged or fill material in waters of the United States. Therefore, Part 338 was established to guide Corps managers when undertaking O&M activities involving fill material or dredged material used as fill discharged into waters of the U.S.

SUPPLEMENTARY INFORMATION:

Classification

Since these revisions primarily clarify the rules published at § 209.145 in 1974, based on amendments to the Clean Water Act, the Corps of Engineers has determined that these regulation revisions are not a major rule requiring a Regulatory Impact Analysis under Executive Order 12291.

Environmental Impact Statement

This regulation primarily pertains to the Corps of Engineers with respect to implementation of the environmental protection statutes and EOs. Although this regulation will change the current § 209.145 regulations in certain respects. We have determined that these changes do not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, we have determined that an EIS under the National Environmental Policy Act of 1969 is not required. An Environmental Assessment has been prepared discussing the proposed changes to the

current regulation, subsequent expected environmental impacts, and overall need for the revisions.

List of Subjects

33 CFR Part 335

Environmental protection, Intergovernmental relations, Navigation, Definitions.

33 CFR Part 336

Environmental protection procedures, Water pollution control, Navigation, Clean Water Act procedures, Marine protection, Research, and Sanctuaries Act procedures.

33 CFR Part 337

Administrative practice and procedure, Intergovernmental relations.

33 CFR Part 338

Administrative practice and procedure.

33 CFR Part 209.145 is proposed to be removed and 33 CFR Parts 335, 336, 337 and 338 are proposed to be added to read as follows:

Dated: April 18, 1986.

Approved:

Robert K. Dawson,

Assistant Secretary of the Army (Civil Works).

PART 335—OPERATION AND MAINTENANCE OF CORPS OF ENGINEERS CIVIL WORKS PROJECTS INVOLVING THE DISCHARGE OF DREDGED OR FILL MATERIAL INTO WATERS OF THE U.S. OR OCEAN WATERS

Sec.

Authority: 33 U.S.C 1344; 33 U.S.C. 1413.

§ 335.1 Purpose.

This regulation prescribes the practices and procedures to be followed by the Corps of Engineers to ensure compliance with the specific statutes governing Civil Works operations and maintenance projects involving the discharge of dredged or fill material into waters of the U.S. or the transportation of dredged material for the purpose of disposal into ocean waters. These practices and procedures should be employed throughout the decision/management process concerning methodologies and alternatives to be used to ensure prudent operation and maintenance activities.

§ 335.2 Authority.

In accordance with section 404 of the Clean Water Act of 1977 (CWA) and section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972, hereinafter referred to as the Ocean Dumping Act (ODA), the Corps of Engineers regulates the discharge of dredged or fill material into waters of the U.S. and the transportation of dredged material for the purpose of disposal into ocean waters. Section 404 of the CWA requires public notice with opportunity for public hearing for discharges of dredged or fill material into waters of the U.S. and that discharge sites be specified through the application of guidelines developed by the Administrator of the Environmental Protection Agency (EPA) in conjunction with the Secretary of the Army. Section 103 of the ODA requires public notice with opportunity for public hearing for the transportation for disposal of dredged material into ocean waters. Ocean disposal of dredged material must be evaluated using the criteria developed by the Administrator of EPA in consultation with the Secretary of the Army. Section 103(e) of the ODA provides that the Corps of Engineers may, in lieu of permit procedures, issue regulations for Federal projects involving the transportation of dredged material for ocean disposal which require the application of the same criteria, procedures, and requirements which apply to the issuance of permits.

§ 335.3 Applicability.

This regulation (33 CFR Parts 335 through 338) is applicable to the Corps of Engineers when undertaking operation and maintenance activities at Corps Civil Works projects.

§ 335.4 Policy.

The Corps of Engineers undertakes operations and maintenance activities where appropriate and environmentally acceptable. All practicable alternatives are fully considered on an equal basis. This includes the discharge of dredged or fill material into waters of the U.S. or ocean waters in the least costly manner, at the least costly and most practicable location, and consistent with engineering and environmental constraints.

§ 335.5 Applicable laws.

(a) The Clean Water Act (33 U.S.C. 1251 et seq.) (also known as the Federal Water Pollution Control Act Amendments of 1972 and 1977).

(b) The Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.) (commonly referred to as the Ocean Dumping Act).

§ 335.6 Related laws and Executive Orders.

(a) The National Historic Preservation Act of 1966 (16 U.S.C. 470a et seq.), as amended.

(b) The Reservor Salvage Act of 1960 (16 U.S.C. 469), as amended.

(c) The Endangered Species Act (16 U.S.C. 1531 et seq.) as amended.

(d) The Estuary Protection Act (16 U.S.C. 1221).

(e) The Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), as amended.

(f) The National Environmental Policy Act (42 U.S.C. 4341 et seq.), as amended.

(g) The Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.), as amended.

(h) Section 307(c) of the Coastal Zone Management Act of 1976 (16 U.S.C. 1456(c)), as amended.

(i) The Water Resources Development Act of 1976 (Pub. L. 94–587).

(j) Executive Order 11593, *Protection and Enhancement of the Cultural Environment,* May 13, 1971 (36 FR 8921, May 15, 1971).

(k) Executive Order 11988, *Floodplain Management,* May 24, 1977 (42 FR 26951, May 25, 1977).

(l) Executive Order 11990, *Protection of Wetlands,* May 24, 1977 (42 FR 26961, May 25, 1977).

(m) Executive Order 12372, *Intergovernmental Review of Federal Programs,* July 14, 1982 (47 FR 3959, July 16, 1982).

(n) Executive Order 12114, *Environmental Effects Abroad of Major Federal Actions,* January 4, 1979.

§ 335.7 Definitions.

The definitions of 33 CFR Parts 323, 324, 327, and 329 are hereby incorporated into 33 CFR Parts 335, 336, 337, and 338. The following terms are defined or interpreted from the Parts 320 through 330 regulations for purposes of 33 CFR Parts 335 through 338.

"Beach nourishment" means the discharge of dredged or fill material for the purpose or replenishing an eroded beach or placing sediments in the littoral transport process.

"Emergency" means a situation which would result in an unacceptable hazard to life or navigation, a significant loss of property, or an immediate and unforeseen significant economic hardship if corrective action is not taken within a time period less than the normal time needed under standard procedures.

"Federal standard" means the dredged material disposal alternative or alternatives identified by the Corps which represent the least costly alternatives consistent with sound

engineering practices and environmental requirements. The alternative or alternatives are selected through the 404(b)(1) evaluation process or ocean dumping criteria, environmental assessment or environmental impact statement, and public notice coordination process.

"Navigable waters of the U.S." means those waters of the U.S. that are subject to the ebb and flow of the tide shoreward to the mean high water mark, and/or are presently used, or have been used in the past, or may be susceptible to use with or without reasonable improvement to transport interstate or foreign commerce. A more complete definition is provided in 33 CFR Part 329. For the purpose of this regulation, the term also includes the confines of Federal navigation approach channels extending into ocean waters beyond the territorial sea which are used for interstate or foreign commerce.

"Practicable" means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

"Statement of Findings" (SOF) means a comprehensive summary compliance document.

"Territorial sea" means the belt of the seas measured from the line of ordinary low water a long that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, extending seaward a distance of three miles.

PART 336—FACTORS TO BE CONSIDERED IN THE EVALUATION OF CORPS NAVIGATION DREDGING PROJECTS INVOLVING THE DISCHARGE OF DREDGED MATERIAL INTO WATERS OF THE U.S. AND OCEAN WATERS

Sec.

Authority: 33 U.S.C. 1344; 33 U.S.C. 1413.

§ 336.0 General.

Since the jurisdiction of the CWA extends to all waters of the U.S., including the territorial sea, and the jurisdiction of the ODA extends over ocean waters including the territorial sea, the following rules are established to assure appropriate regulation of discharges of dredged material into waters of the U.S. and ocean waters.

(a) The disposal into ocean waters, including the territorial sea, of dredged material excavated or dredged from navigable waters of the U.S. will be evaluated by the Corps of Engineers in accordance with the ODA.

(b) In those cases where the District Engineer determines that the discharge of dredged material into the territorial sea would be for the primary purpose of fill, such as the use of dredged material for beach nourishment, island creation, or construction of underwater berms, the discharge will be evaluated under section 404 of the CWA.

(c) For those cases where the District Engineer determines that the materials proposed for discharge would not be adequately evaluated under the section 404(b)(1) guidelines of the CWA, he may evaluate that material under the ODA.

§ 336.1 Discharges of dredged or fill material into waters of the U.S.

(a) *Applicable laws.* Section 404 of the CWA requires that a public notice, giving opportunity for public hearing, be issued and that discharge sites be specified through application of the section 404(b)(1) guidelines.

(1) The CWA requires the Corps to seek state 401 water quality certification for discharges of dredged material into waters of the U.S.

(2) Section 401 requires that the state establish procedures for public notice of all requests for water quality certification and that water quality certification requests must be processed to a conclusion by the state within a reasonable period of time, not to exceed one year, otherwise the certification requirements of section 401 are deemed waived.

(3) Section 307 of the Coastal Zone Management Act (CZMA) requires that any activity that a Federal agency conducts or supports within a state's coastal zone or in a Federal enclave within the geographic area of a state's coastal zone be consistent with the Federally approved state management program to the maximum extent practicable. The state is provided a reasonable period of time to take final action on Corps consistency determinations; otherwise state concurrence can be presumed.

(b) *Procedures.* If changes in the disposal plan for an existing Corps navigation project warrant re-evaluation under the CWA, the following procedures will be followed by district engineers prior to discharging dredged material into waters of the U.S. except where emergency action as described in 33 CFR Part 337 is required.

(1) A public notice providing opportunity for public hearing should be issued at the earliest practicable time. The public notification procedures of 33 CFR 337.1 should be followed.

(2) The public hearing procedures of 33 CFR Part 327 should be followed.

(3) As soon as practicable, the district engineer will request from the state a 401 water quality certification and, if applicable, provide a coastal zone consistency determination for the Corps activity. Submission of the public notice to the state will constitute a request for water quality certification for purposes of section 401 of the CWA and shall constitute a consistency determination for purposes of section 307 of the CZMA. The Corps and the state may mutually agree on alternative requirements, if appropriate, regarding the state water quality certification or coastal zone consistency process.

(4) Discharges of dredged material will be evaluated using EPA's guidelines authorized under section 404(b)(1) of the CWA, or using the ODA regulations, where appropriate. If the EPA guidelines alone would prohibit the designation of a proposed discharge site, the economic impact on navigation and anchorage of the failure to use the proposed discharge site will also be considered in evaluating whether the proposed discharge is to be authorized under CWA 404(b)(2).

(5) The EPA Administrator can prohibit or restrict the use of any defined area as a discharge site under 404(c) whenever he determines, after notice and opportunity for public hearing and after consultation with the District Engineer, that the discharge of such materials into such areas will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas, wildlife, or recreational areas. Upon notification of the prohibition of a discharge site by the Administrator and in the absence of a resolution of the Administrator's concerns as expressed in the prohibition, the District Engineer should complete the administrative processing of the proposed project up to the point of authenticating the Statement of Findings (SOF) or Record of Decision (ROD). The unsigned SOF or ROD along with a report described in 33 CFR 337.8 will be forwarded through WRSC–D, Fort Belvoir, VA 22060–5586 to the Chief of Engineers.

(6) In accordance with the National Environmental Policy Act (NEPA), an Environmental Impact Statement (EIS) or Environmental Assessment (EA) should be prepared for all Corps of Engineers projects involving the discharge of dredged or fill material, unless such projects are included within a categorical exclusion found at 33 CFR

Part 230. If a proposed maintenance activity will result in a minor deviation in the operation and maintenance plan described in the EA or EIS, the District Engineer should determine the need to prepare a new EA, EIS, or supplement. If a new EA, EIS, or supplement is required, the procedures of 33 CFR Part 230 will be followed.

(7) If it can be anticipated that related activities by other Federal or non-Federal interests will occur in the same area as Corps projects, the District Engineer should inlcude, to the extent practicable, related work in the planning, processing, and review of Corps projects. Related work normally includes, but is not necessarily limited to, maintenance dredging of approach channels and berthing areas connected to Federal navigation channels. To the maximum extent practicable, the district engineer should coordinate the related projects with interested Federal, state, regional, and local agencies and the general public at the same time he does so for the Corps project. The District Engineer should ensure that related projects meet all substantive requirements of 33 CFR Parts 320 through 330 or are authorized by nationwide or other general permit. Documents covering maintenance activities normally should include sufficient discussion of ancillary activities in need of maintenance. To the extent practicable, district engineers should assist local interests to obtain any necessary section 401 water quality certification and, if required, the section 307 coastal zone consistency concurrence from the state in the same action as the Federal maintenance work. The absence of such certification or concurrence by the state for the related project shall not be cause for delay of the Federal project. Local sponsors will be responsible for funding all work necessary in support of the related activity. If permitting of the related project is found to comply with all legal requirements and to be not contrary to the public interest, sections 10, 404, and 103 permits normally should be issued by the district engineer in separate SOF or ROD.

(c) *Evaluation factors.* The following factors should be used, as appropriate, to evaluate the discharge of dredged material into waters of the U.S. Other relevant factors may also be evaluated, as needed

(1) *Navigation and Federal standard.* The maintenance of a reliable Federal navigation system is essential to the economic well-being and national defense of the country. The district engineer should give full consideration to the impact of the failure to maintain navigation channels on the local, regional, and national economy. It is the Corps' policy to regulate the discharge of dredged material from its projects to assure that dredged material disposal occurs in the least costly, environmentally acceptable manner, consistent with engineering constraints established for the project. The environmental assessment or environmental impact statement in conjunction with the section 404(b)(1) guidelines and public notice coordination process should be used as a guide in formulating environmentally acceptable alternatives. The least costly alternative, consistent with sound engineering practices and environmental requirements and selected through this formulation process, will be designated the Federal standard for the proposed project.

(2) *Water quality.* Through the Section 404(b)(1) evaluation process, the district engineer should evaluate the water quality impacts of the proposed project. The evaluation should include consideration of state water quality standards. The district engineer should request state water quality certification using the procedures of 33 CFR 336.1(b) and § 337.2 of this Part. If the state does not take final action on a request for water quality certification within two months from the date of the initial request, the district engineer should notify the state of his intention to presume a waiver as provided by Section 401 of the CWA. If the state agency, within the two-month period, requests an extension of time, the district engineer should approve one 30-day extension unless, in his opinion, the magnitude and complexity of the information contained in the request warrants a longer or additional extension period. The total period of time in which the state must act shall not exceed six months from the date of the initial request. Waiver of water quality certification can be conclusively presumed after six months from the date of the initial request.

(3) *Coastal zone consistency.* As appropriate, the district engineer should determine whether the proposed project is consistent with the state coastal zone management program to the maximum extent practicable. The district engineer should, in accordance with the procedures of paragraph (b) of this section and § 337.2 provide a certification determination to the coastal zone management agency. If the state fails to provide a response within 45 days from receipt of the initial certification statement, the district engineer will presume state agency concurrence. If the state agency, within the 45-day period, requests an extension of time, the district engineer should approve one 15-day extension unless, in his opinion, the magnitude and complexity of the information contained in the consistency determination warrants a longer or additional extension period. The longer or additional extension period shall not exceed 6 months from the date of the initial consistency determination.

(4) *Wetlands.* Some wetland areas constitute a productive and valuable public resource, the unnecessary alteration or destruction of which should be discouraged as contrary to the public interest. The district engineer should, therefore, follow the guidance in 33 CFR 320.4(b) and Executive Order 11990, dated May 24, 1977, when evaluating Corps operations and maintenance activities in wetlands; also see paragraph (b)(4) of this section.

(5) *Endangered species.* All Corps operations and maintenance activities should be reviewed for the potential impact on threatened or endangered species, pursuant to the Endangered Species Act of 1973. If the district engineer determines that the proposed activity will not affect listed species or their critical habitat, a statement to this effect should be included in the public notice. If the proposed activity may affect listed species or their critical habitat, formal consultation procedures should be initiated with the U.S. Fish and Wildlife Service or National Marine Fisheries Service and a statement to this effect should be included in the public notice. See 50 CFR Part 402.

(6) *Cultural resources.* Archeological, historical, or architectural resource surveys may be required to locate and identify previously unrecorded cultural resources in navigation channels and at dredged or fill material disposal sites. If resources are known to exist within the navigation channel or proposed disposal area, further intensive testing may be necessary in order to evaluate the resources against the criteria of the National Register of Historic Places. Cultural resources are not normally found in previously constructed navigation channels or previously used disposal areas. Therefore, cultural resource investigations should not be conducted for maintenance dredging and disposal activities proposed within the boundaries of a previously constructed navigation channel or previously used disposal area unless it is established that a cultural resource exists.

(i) The district engineer should request a determination of eligibility for the National Register of Historic Places for all resources located within the disposal area which, after evaluation under the National Register criteria, the district engineer considers to be eligible for the Register.

(ii) In accordance with section 106 of the National Historic Preservation Act of 1966, as amended, the district engineer will request the comments of the Advisory Council on Historic Preservation for any proposed actions which will have an effect upon a resource listed on, or determined eligible for, the National Register of Historic Places.

(7) *Scenic and recreational values.* Maintenance dredging and disposal activities may involve areas which possess recognized scenic, recreational, or similar values. Full evaluation requires that due consideration be given to the effect which dredging and disposal of the dredged or fill material may have on the enhancement, preservation, or development of such values. Recognition of these values is often reflected by state, regional, or local land use classification or by similar Federal controls or policies. Operations and maintenance activities should, insofar as possible, be consistent with and avoid adverse effects on the values or purposes for which such resources have been recognized or set aside, and for which those classifications, controls, or policies were established. Special consideration must be given to rivers named in section 3 of the Wild and Scenic Rivers Act and those proposed for inclusion as provided by section 4 and 5 of the Act, or by later legislation. Any other areas named in Acts of Congress or Presidential Proclamations such as National Rivers, National Wilderness Areas, National Seashores, National Parks, National Monuments, and other such areas as may be established under Federal law for similar and related purposes must be given full consideration when evaluating Civil Works operations and maintenance activities.

(8) *Fish and Wildlife.* (i) In accordance with the Fish and Wildlife Coordination Act FWCA, district engineers will consult, through the public notification process, with the Regional Directors of the U.S. Fish and Wildlife Service and the National Marine Fisheries Service and the head of the agency responsible for fish and wildlife for the state in which the work is to be performed, with a view to the conservation of fish and wildlife resources by considering ways to prevent their direct and indirect loss and damage due to the proposed operation and maintenance activity. The district engineer will give full consideration to these views on fish and wildlife conservation in evaluating the activity. The proposed operations may be modified in order to lessen the damage to such resources. The district engineer should include such justifiable means and measures for fish and wildlife resources that are found to be appropriate. Corps funding of Fish and Wildlife Service activities is not applicable for Corps operation and maintenance projects.

(ii) District engineers should consider ways of reducing unavoidable adverse environmental impacts of dredging and disposal activities. The determination as to the extent of implementation of such measures will be done after weighing the benefits and detriments of the maintenance work and considering applicable environmental laws, regulations, and other relevant factors. The final decision on fish and wildlife conservation measures rests with the district engineer.

(9) *Marine Sanctuaries.* Operations and maintenance activities involving the discharge of dredged or fill material in a marine sanctuary established by the Secretary of Commerce under authority of Section 302 of the ODA should be evaluated for impact on the marine sanctuary. In such a case, certification should be obtained from the Secretary of Commerce that the proposed project is consistent with the purposes of Title III of the ODA and can be carried out within the regulations promulgated by the Secretary of Commerce to control activities within the marine sanctuary.

(10) *Other state requirements.* District engineers should make every reasonable attempt to comply with state water quality standards and Federally approved coastal zone programs. As a matter of policy, district engineers normally should not seek state permits or licenses not reasonably related to the control or abatement of pollution.

(11) *Additional factors.* In addition to the factors described in paragraphs (c)(1) through (9) of this section, the following factors should also be considered.

(i) The evaluation of Corps operations and maintenance activities involving the discharge of dredged or fill material into waters of the U.S. is a continuing process and, as practicable, should proceed concurrently with the processing of state water quality certification and, if required, the provision of a coastal zone consistency determination to the state. If a local agency having jurisdiction over or concern with the particular activity comments on the project through the public notice coordination, due consideration should be given to those official views as a reflection of local factors.

(ii) Where officially adopted state, regional, or local land use classifications, determinations, or policies are applicable, they normally should be presumed to reflect local factors and will be considered in addition to other national factors.

§ 336.2 Transportation of dredged material for the purpose of disposal into ocean waters.

(a) *Applicable law.* Section 103(a) of the ODA provides that the Corps of Engineers may issue permits, after notice and opportunity for public hearing, for the transportation of dredged material for the purpose of disposal into ocean waters. Proposed ocean disposal activities will be evaluated by the Corps using the appropriate EPA regulations promulgated pursuant to the ODA.

(b) *Procedure.* The following procedures will be followed by district engineers for dredged material disposal into ocean waters except where emergency action as described in 33 CFR 337.7 is required.

(1) In accordance with the provisions of section 103 of the ODA, the district engineer should issue a public notice giving opportunity for public hearing, following the procedures described in 33 CFR 337.1 for Corps operation and maintenance activities involving material dredged from navigable waters and disposed of in ocean waters, as well as dredged material transported through the territorial sea for the purpose of ocean disposal.

(2) The public hearing procedures of 33 CFR 327 should be followed.

(c) *State permits and licenses.* The terms and legislative history of the ODA leave some doubt regarding whether a state has legal authority to exert control over ocean dumping activities of the Department of the Army in the territorial sea covered under the Act (see section 106(d)). Thus, it is unclear whether the Department of the Army must obtain a state water quality certification pursuant to section 401 of the CWA or certify consistency with an approved state coastal zone management plan pursuant to the CZMA, for the ocean disposal of dredged material in the territorial sea. Notwithstanding this legal question, the Department of the Army will voluntarily, as a matter of

comity, apply for state section 401 water quality certification and determine consistency with a Federally approved coastal zone management plan for the Department of the Army's ocean disposal of dredged material within the three-mile extent of the territorial sea. Moreover, the Army will attempt to comply with any reasonable requirement or condition imposed by a state in the course of the 401 certification process or the CZMA consistency certification process. Nevertheless, the Department of the Army reserves its legal rights regarding any case where within the limits of the territorial sea a state unreasonably denies or conditions a 401 water quality certification for proposed Army ocean disposal of dredged material, or asserts that such disposal would not be consistent with an approved state CZMA plan. If such a circumstance arises, the district engineer shall so notify WRSC–D, DAEN–CWZ, and DAEN–CCE for purposes of consultation regarding the Corps of Engineers' appropriate response and course of action.

(d) *Evaluation factors.* (1) In addition to the evaluation factors of § 336.1(c) of this part, activities involving the transportation of dredged material for the purpose of disposal in ocean waters will be evaluated by the Corps of Engineers to determine whether the proposed disposal will unreasonably degrade or endanger human health, welfare, or amenities, the marine environment, or ecological systems. In making this evaluation, the District Engineer, in addition to considering the criteria developed by EPA on the effects of the dumping, will also consider navigation, economic and industrial development, and foreign and domestic commerce, as well as the availability of alternatives in determining the need for ocean disposal of dredged material. Where ocean disposal is determined to be appropriate, the District Engineer should, to the extent feasible, select disposal sites which have been recommended by the Administrator pursuant to section 102(c) of the ODA.

(2) As provided by the EPA regulations for implementing the procedures of section 102 of the ODA, the Regional Administrator of EPA may make an independent evaluation of dredged material disposal activities regulated under section 103 of the ODA related to the effects of dumping. The EPA regulations provide that the Regional Administrator make said evaluation within 15 days after receipt of all requested information. The Regional Administrator may request from the district engineer an extension of this 15-day period to 30 days. The EPA regulations provide that the Regional Administrator notify the District Engineer of non-compliance with the environmental impact criteria or with any restriction relating to critical areas on the use of an EPA recommended disposal site established pursuant to section 102(c) of the ODA. In cases where the Regional Administrator has notified the district engineer in writing that the proposed disposal will not comply with the criteria related to the effects of dumping or as critical area restrictions, no dredged material disposal may occur unless and until the provisions of 40 CFR 225.3 are followed and the Administrator grants a waiver of the criteria pursuant to section 103(d) of the ODA.

(3) If the Regional Administrator advises the district engineer that the proposed disposal will comply with the criteria, the district engineer will complete the administrative record and sign the SOF.

(4) In situations where an EPA designated site is not feasible for use or where no site has been designated by the EPA, the district engineer, in accordance with the ODA and in consultation with EPA, may select a site pursuant to section 103. Appropriate NEPA documentation, to include appropriate environmental factors of section 102(a) of the ODA, should be used to support site selections.

(5) If the Regional Administrator advises the district engineer that a proposed ocean disposal site or activity will not comply with the criteria, the district engineer should proceed as follows.

(i) The district engineer should determine whether there is an economically feasible alternative method or site available other than the purposed ocean disposal site. If there are other feasible alternative methods or sites available, the district engineer will evaluate the engineering and economic feasibility of the alternative sites.

(ii) If the district engineer makes a determination that there is no economically feasible alternative method or site available, he will so advise the Regional Administrator of his intent to proceed with the proposed action setting forth his reasons for such determination.

(iii) If the Regional Administrator advises, within 15 days of the notice of the intent to issue, that he will commence procedures specified by section 103(c) of the ODA to prohibit use of a proposed disposal site, the case will be forwarded through WRSC–D, Fort Belvoir, VA 22060–5586 to the Secretary of the Army or his designee for further coordination with the Administrator of EPA and final resolution. The report forwarding the case will be in the format described in 33 CFR 337.8.

(iv) The Secretary of the Army or his designee will evaluate the proposed project and make a final determination on the proposed disposal. If the decision of the Secretary of the Army or his designee is that ocean disposal at the proposed site is required because of the unavailability of economically feasible alternatives, he will seek a waiver from the Administrator, EPA, of the criteria or of the critical site designation in accordance with section 103(d) of the ODA.

PART 337—PRACTICES AND PROCEDURES

Sec.

Authority: 33 U.S.C. 1344; 33 U.S.C. 1413

§ 337.0 Purpose.

The practices and procedures part of this regulation apply to all Corps operations and maintenance activities involving the discharge of dredged or fill material in waters of the U.S. and ocean waters and related activities of local interests accomplished to ensure continued functions of constructed Corps projects.

§ 337.1 Public notice.

Presently, public notification of proposed discharges of dredged or fill material is required by the provisions of section 103 of the ODA, sections 401 and 404 of the CWA, and section 307 of the CZMA. District engineers are encouraged to develop procedures to avoid unnecessary duplication of state agency procedures. Joint public notification procedures should be a primary factor in the development of Memoranda of Agreement with the states as described in § 337.4 of this Part.

(a) With the possible exception of emergency actions as discussed in § 337.7 of this Part, the district engineer should issue a public notice for projects involving the discharge of dredged or fill

material into waters of the U.S. or ocean waters unless the project is authorized by a general permit. Public notices for Corps operation and maintenance activities are normally issued for an indefinite period of time and are not reissued unless changes in the disposal plan warrant re-evaluation under section 404 of the CWA or section 103 of the ODA. The public notice is the primary method of advising all interested parties of Federal projects and of soliciting comments and information necessary to evaluate the probable impact of the discharge of dredged or fill material into waters of the U.S. or ocean waters. The notice should, therefore, include sufficient information to provide a clear understanding of the nature of the activity and related activities of local interests in order to generate meaningful comments. The notice normally should include the following items:

(1) The name and location of the project and proposed disposal site.

(2) A general description of the project and a description of the estimated type, composition, and quantity of materials to be discharged, the proposed time schedule for the dredging activity, and the types of equipment and methods of dredging and conveyance proposed to be used.

(3) A sketch showing the location of the project, including depth of water in the area and all proposed discharge sites.

(4) The nature, estimated amount, and frequency of known and anticipated related dredging and discharge to be conducted by others.

(5) A list of Federal, state, and local environmental agencies with whom the activity is being coordinated.

(6) A statement concerning a preliminary determination of the need for and/or availability of an environmental impact statement.

(7) Any other available information which may assist interested parties in evaluating the likely impact of the proposed activity, if any.

(8) A reasonable period of time, normally thirty days but not less than fifteen days from date of mailing except in emergency situations where the procedures of § 37.7 of this Part will be followed, within which interested parties may express their views concerning the proposed project.

(9) If the proposed Federal project would occur in the territorial seas or ocean waters, a description of the project's relationship to the baseline from which the territorial sea is measured.

(10) A statement on the status of state water quality certification under section 401 of the CWA.

(11) As necessary, a statement on the status of coastal zone consistency determinations under section 307 of the CZMA.

(12) A statement on cultural resources, state of present knowledge, likelihood of damage or other adverse effect on such resources, etc.

(13) A statement on endangered species.

(14) A statement on evaluation factors to be considered, adapted from that presented at 33 CFR 325.3(b).

(15) The name, address, and telephone number of the Corps employee from whom additional information concerning the project may be obtained.

(16) The signature of the district engineer or his designee on all maintenance dredged material disposal public notices.

(17) For activities regulated under section 103 of the ODA, the following additional information should be integrated into the public notice:

(i) A statement on the designation status of the disposal site.

(ii) If the proposed disposal site is not a designated site, a description of the characteristics of the proposed disposal site and an explanation as to why no previously designated disposal site is feasible.

(iii) A brief description of known dredged material discharges at the proposed disposal site.

(iv) Existence and documented effects of other authorized disposals that have been made at the disposal area.

(v) An estimated length of time during which disposal would continue at the proposed site.

(vi) Information on the characteristics and composition of the dredged material, and the following paragraph:

"The proposed transportation of this dredged material for the purpose of disposing of it in ocean waters is being evaluated to determine that the proposed disposal will not unreasonably degrade or endanger human health, welfare, or amenities or the marine environment, ecological systems, or economic potentialities. In making this determination, the criteria established by the Administrator, EPA pursuant to section 102(a) of the ODA will be applied. In addition, based upon an evaluation of the potential effect which the failure to utilize this ocean disposal site will have on navigation, economic and industrial development, and foreign and domestic commerce of the United States, an independent determination will be made of the need to dispose of the dredged material in ocean waters, other possible methods of disposal, and other appropriate locations."

(b) The following statement should be included in the public notice:

"Any person who has an interest which may be affected by the disposal of this dredged material may request a public hearing. The request must be submitted in writing to the district engineer within the comment period of this notice and must clearly set forth the interest which may be affected and the manner in which the interest may be affected by this activity."

(c) Public notices should be distributed as described in 33 CFR 325.3(c). In addition, public notices should be sent to CDR USACE (DAEN–CWO–M), Washington, DC 20314, and the Water Resources Support Center, Dredging Division, Ft. Belvoir, VA 22060–5586, if the project involves the discharge of dredged material in waters of the U.S. or ocean waters. District engineers should also develop, as appropriate, regional mailing lists for Corps maintenance dredging and disposal activities to the extent practicable that property owners adjacent to the navigation channel and disposal area are notified of the proposed activity. In order to effect compliance with Executive Order 12372, district engineers should provide copies of public notices to concerned state and local elected officials.

(d) The district engineer should consider all comments received in response to the public notice in his subsequent actions. All comments expressing objections to or raising questions about the project should be acknowledged. Comments received as form letters or petitions, however, may be acknowledged as a group to the person or organization responsible for the form letter or petition. If comments are received which relate to matters within the special expertise of another agency, the district engineer may seek the advice of that agency. The receipt of comments as a result of the public notice should normally not extend beyond the stated comment period; however, at his discretion, the district engineer may provide an extension.

(e) Notices sent to several agencies within the same state may result in conflicting comments from those agencies. Many states have designated a state agency or individual to provide a single and coordinated state position regarding Federal activities. Where a state has not so designated a single source, the district engineer, as appropriate, may elicit from the Governor an expression of his views and desires concerning the proposed and subsequent similar projects.

(f) All appropriate comments received from the public notice coordination should be considered in the public interest review process. Comments received from Federal or state agencies which are within the area of expertise of another agency should be communicated with that other agency if the district engineer needs the information to make a final determination on the proposed project. Such comments should be treated as comments from interested parties.

§ 337.2 State requirements.

The procedures of this section should be followed in implementing state requirements.

(a) District engineers will cooperate to the maximum extent practicable with state agencies to prevent violation of state water quality standards and to achieve consistency to the maximum degree practicable with a Federally approved coastal zone management program. The district engineer should request water quality certification and certify consistency to the maximum extent practicable with an approved coastal zone program. Furthermore, the district engineer should request such certification and consistency to coincide with the maintenance dredging schedule for the project (normally ten years or longer). Requests should be as specific as possible while allowing enough flexibility to accommodate future minor deviations in the dredging or disposal plan due to changes in disposal technology, unexpected events such as shoaling from storms or highwaters, or changes in dredging schedules, etc., without necessitating additional formal coordination with the state agencies.

(b) If a state agency imposes beneficial dredged material uses as special conditions (e.g., to water quality certification), any additional expense associated with such provisions should not be a Corps responsibility unless specifically authorized by Congress. If the state agency imposes conditions or requirements which exceed those needed to meet the Federal standard, the district engineer should determine the state's rationale and provide to the state information addressing why the alternative which represents the Federal standard is environmentally acceptable. The district engineer should accommodate the state's concerns to the extent practicable. However, if a state agency attempts to impose conditions or controls which, in the district engineers opinion cannot reasonably be accommodated, the following procedures should be followed.

(1) In situations where an agency requires monitoring or testing, the district engineer should strive to reach an agreement with the agency on a data acquisition program. If the agency insists on requirements which, in the opinion of the district engineer, exceed those required in establishment of the Federal standard, the agency should be asked to fund the difference in cost. If the agency agrees to fund the difference in cost, the district engineer should comply with the request. If the agency does not fund the additional cost, the district engineer should follow the guidance in paragraph (b)(3) of this section.

(2) When an agency requires special conditions or alternatives and the Federal standard does not, district engineers should proceed as follows: In those cases where the project authorization requires a local sponsor to provide suitable disposal areas, the local sponsor should be advised of the need for disposal areas. Disposal areas should be made available by a sponsor before dredging proceeds. In other cases where there are no local sponsor requirements to provide disposal areas, the state or the prospective local sponsor will be advised that, unless the state or the sponsor provides suitable disposal areas, the added Federal cost of providing these disposal areas will affect the priority of performing dredging on that project. In either case, states will be made aware that additional costs to meet state standards or the requirements of the coastal zone management program may cause the project to become economically unjustified.

(3) If the state denies or notifies the district engineer of its intent to deny water quality certification or does not concur regarding coastal zone consistency the project dredging may be deferred. A report pursuant to § 337.8 of this Part should be forwarded through WRSC–D, Ft. Belvoir, VA 22060–5586 to the Director of Civil Works for resolution. The report should include justification showing the economic need for dredging, the impact on states outside the project areas if the project is not dredged, a description, an estimated cost of agency requirements which exceed those necessary in establishment of the Federal standard, and the relative urgency of dredging based on threat to national security, life or property. The report should also contain any other facts which will aid in determining whether to further defer the dredging or the need to exercise the authority of the Secretary of the Army to maintain navigation as provided by section 511(a) of the CWA if the disagreement concerns water quality certification. If the disagreement concerns coastal zone consistency, the district engineer should follow the reporting requirement of this section and 33 CFR 336.1.

§ 337.3 Transfer of the Section 404 program to the states.

Section 404(g–1) of the CWA allows the Administrator of the EPA to transfer to qualified states administration of the section 404 permit program for discharges into certain waters of the U.S. Once a state's 404 program is approved, the district engineer should follow state procedures developed in accordance with section 404(g–1) of the CWA for all ongoing Corps projects involving the discharge of fill material in transferred waters to the state agency responsible for administering the program. Corps projects involving the discharge of dredged or fill material in waters not transferred to the state should be processed in accordance with this regulation.

§ 337.4 Memoranda of agreement (MOA).

The establishment of joint notification procedures for Corps projects involving disposal of dredged or fill materal should be actively pursued through the development of MOAs with the state. The MOAs may be used to define responsibilities between the state and the Corps district involved. The primary purpose of MOAs should be to avoid or eliminate administrative duplication, when such duplication does not contribute to the overall decision-making process. MOAs for purposes of this regulation should not be used to implement provisions not related to the maintenance or enforcement of water quality standards (state or Federal) coastal zone management. District engineers are authorized and encouraged to develop MOAs with states and other Federal agencies for Corps projects involving the discharge of dredged or fill material. Copies of all MOAs should be forwarded to WRSC–D, Ft. Belvoir, VA 22060–5586.

§ 337.5 General authorizations.

Under the provisions of sections 404(e) of the CWA and 104(c) of the ODA, certain categories of activities may be authorized on a regional, statewide, or nationwide basis. General authorizations can be a useful mechanism for implementation of the procedural provisions of the CWA and ODA while avoiding unnecessary duplication and paperwork. Through the general authorization process, compliance with all environmental laws and regulations including coastal zone consistency, if applicable, and water quality certification can be

accomplished in a single process for a category of activities. Since the emphasis of particular environmental issues for most Corps projects is more regional than nationwide, district engineers are encouraged to develop general authorizations for routine Civil Works activities involving the discharge of dredged or fill material to address the specific requirements of a particular geographic region. When evaluating general categories of activities, the district engineer should follow the same procedure as outlined for individual Federal activities including the water quality certification and/or coastal zone consistency requirements of 33 CFR Part 336. General authorizations should include, as practicable, related activities of local interests. Additionally, district engineers should, to the maximum extent practicable, utilize existing general permits authorized on a statewide or regional basis and the nationwide permits at 33 CFR Part 330 for Federal projects involving the disposal of dredged material. The development of new statewide or regional general authorizations for Federal activities will be in accordance with the requirements of 33 CFR 336.1 and 336.2. General permits for related activities of local interests will be developed using the procedures of 33 CFR Parts 320 through 330.

§ 337.6 Statement of findings (SOF).

Upon completion of required coordination, receipt or waiver of required state certifications, and completion of the appropriate environmental documents, an SOF should be prepared. In cases involving an EIS, an ROD should be prepared in accordance with 33 CFR Part 230 and should be used in lieu of the SOF, providing the substantive parts of this section are included in the ROD. The SOF need not duplicate information contained in supporting environmental documents but rather may incorporate it by reference. The SOF should include a comprehensive summary and record of compliance and should be prepared in the following format except that the procedures of 33 CFR 325.2 should be followed for related activities of local interests.

(a) The SOF should identify the name of the preparer, date (which may not necessarily correspond to the date signed), and name of waterway.

(b) The proposed action for which the findings are made should be described.

(c) A coordination section should be provided. The coordination section will reference the public notice number and date. The letters of comment and appropriate responses will be summarized. Any coordination undertaken by local or state agencies should also be discussed.

(d) An environmental effects and impacts section should be used to document compliance with the applicable environmental laws. This section will include the views and/or conditions of the state concerning water quality certification and, if required, coastal zone consistency.

(e) A determinations section should reference the results of the EA and/or EIS and any necessary conditions or modifications as well as any special conditions necessary to meet the state's water quality standards or coastal zone management program. Appropriate conditions or modifications should be included in the project specifications. This section should also contain a section on consideration of alternatives and cumulative impacts.

(f) A section on the district engineer's findings and conclusions concerning the proposed project should be included.

(g) The SOF should be dated and signed by the district engineer, except in those cases requiring referral to higher authority.

(h) In accordance with the provisions of the ODA, the district engineer will forward a copy of the SOF to the District Commander, U.S. Coast Guard, if the activity involves the ocean disposal of dredged material. A copy of the SOF should also be placed in a conspicuous place on the vessel used for transportation or dumping of dredged material.

(i) The Findings of No Significant Impact required by 33 CFR Part 230 may be incorporated into the SOF, as appropriate.

§ 337.7 Emergency actions.

(a) After obtaining approval from the division engineer, the district engineer should respond to emergency situations on an expedited basis, complying with the procedures of this regulation to the maximum extent practicable. The district engineer should issue a public notice describing the emergency in accordance with § 337.1 of this Part, if such a notice is practicable in view of the emergency situation. To the extent practicable, the public notice should be forwarded to all appropriate Federal and state agencies. To the maximum extent practicable, the district engineer should coordinate with the EPA for consistency with the provisions of the CWA and ODA. To the extent practicable, the district engineer should prepare a section 404(b)(1) evaluation report and, as necessary, an environmental assessment. If comments are received from the public notice which, in the judgment of the district engineer, reveal the necessity of modifying the emergency operation, the district engineer should take appropriate measures to modify the emergency operation to reduce, avoid, or minimize adverse environmental impacts. If the district engineer, after receiving comments from the public notice, determines that the emergency action would constitute a major Federal action significantly affecting the quality of the human environment, he should, after consultation with the division engineer, to the maximum degree practicable, coordinate with the Council on Environmental Quality about alternative arrangements for compliance with the NEPA in accordance with 40 CFR 1506.11. To the maximum extent practicable, district engineers should consult with the appropriate state official to obtain water quality certification or waiver of certification and should certify that the Federal action is consistent to the maximum extent practicable with an approved coastal zone management plan for emergency activities.

§ 337.8 Reports to higher echelons.

(a) Certain activities involving the discharge of dredged or fill material require action by the division engineer or Chief of Engineers. Such reports will be prepared in the format described in paragraph (b) of this section. Reports may be necessary in the following situations:

(1) When there is substantial doubt as to authority, law, regulations, or policies applicable to the Federal project;

(2) When higher authority requests the case be forwarded for decision;

(3) When the state does not concur in a coastal zone consistency determination or concurs with conditions or controls not related to the coastal zone management program or significantly exceeding the Federal standard;

(4) When the state denies a water quality certification or issues the certification with conditions or controls not related to maintenance or enforcement of state water quality standards or significantly exceeding the Federal standard;

(5) When the Regional Administrator has advised the district engineer, pursuant to section 404(c) of the CWA, of his intent to prohibit or restrict the use of a specified discharge site or that the discharge of dredged material in ocean waters or territorial seas will not comply with the criteria and restrictions on the use of the site established under the ODA;

(6) When the state fails to grant water quality certification or a waiver of certification or concurrence or waiver of coastal zone consistency for emergency actions.

(b) *Reports.* The report of the district engineer on a project requiring action by the division engineer or by the Chief of Engineers should be in a letter form as prescribed by the Office of the Chief of Engineers.

§ 337.9 Identification and use of disposal areas.

(a) As practicable, district engineers should identify and develop dredged material disposal management strategies that satisfy the long-term (greater than 10 years) needs for Corps projects. Full consideration should be given to all practicable alternatives including upland, open water, beach nourishment, within banks disposal, ocean disposal, etc. Within existing policy, district engineers should also explore beneficial uses of dredged material, such as marsh establishment and dewatering techniques, in order to extend the useful life of existing disposal areas. Requests for water quality certification and/or coastal zone consistency concurrence for projects with identified long-term disposal sites should include the length of time for which the certification and/or consistency concurrence is sought. The section 404(b)(1) evaluation and environmental assessment or environmental impact statement should also address long-term maintenance dredging and disposal. The Corps of Engineers will be responsible for accomplishing the environmental compliance requirements for all Corps disposal areas.

(b) The identification of disposal sites should include, as practicable, consideration of dredged material disposal needs by local interests, with first priority being given to the Federal project. District engineers are encouraged to require local interests, where the project has a local sponsor, to designate long-term disposal areas.

§ 337.10 Supervision of Federal projects.

District engineers should assure that dredged or fill material disposal activities are conducted in conformance with current plans and description of the project as expressed in the SOF or ROD. Conditions and/or limitations required by a state (e.g., water quality certification), as identified through the coordination process, should be included in the project specifications. To the maximum extent practicable, contracting officers should assure that contractors are aware of their responsibilities for compliance with the terms and conditions of state certifications and other conditions expressed in the SOF or ROD.

PART 338—OTHER CORPS ACTIVITIES INVOLVING THE DISCHARGE OF DREDGED OR FILL INTO WATERS OF THE UNITED STATES

Sec.

338.1 Purpose.

338.2 Activities involving the discharge of dredged or fill material into waters of the U.S.

Authority: 33 U.S.C. 1344.

§ 338.1 Purpose.

(a) The procedures of this part, in addition to the provisions of 33 CFR Parts 335 through 337, will be followed when undertaking Corps operations and maintenance activities involving the discharge of fill material into waters of the United States, except that the procedures of 33 CFR Part 336 will be used in those cases where the discharge of fill material is also the discharge of dredged material, i.e., beach nourishment, within banks disposal for erosion control, etc.

(b) After construction of Corps Civil Works water resource projects, certain operations and maintenance activities involving the discharge of fill material require evaluation under the CWA. These activities generally include lakeshore management, installation of boat ramps, erosion protection along the banks of navigation channels, jetty maintenance, remedial erosion control, etc. While these activities are normally addressed in the existing environmental impact statement for the project, new technology or unexpected events such as storms or high waters may require maintenance or remedial work not fully addressed in existing environmental documents or state permits. The CWA exemptions at 404(f) and NEPA categorical exclusions should be used to the maximum extent practicable. If the district engineer decides that the changes have not been adequately addressed in existing environmental documentation, the procedures of this part will be followed.

§ 338.2 Activities involving the discharge of dredged or fill material into waters of the U.S.

(a) Generally, fill activities conducted by the Corps for operations and maintenance of existing Civil Works water resource and navigation projects are routine and have little, if any, potential for significant degradation of the environment. District engineers are encouraged to develop general authorizations in accordance with the procedures of 33 CFR 337.5 for categories of such routine activities. The general authorization should satisfy all compliance requirements including water quality certifications and, if applicable, coastal zone consistency determinations. For activities which are not conducive to the development of general authorizations or are more appropriately evaluated on an individual basis, the following procedures should be followed.

(b) A public notice should be issued using the procedures of 33 CFR 337.1.

(c) Water quality certifications should be requested and, if applicable, coastal zone consistency determinations should be provided using the procedures of 33 CFR Part 336.

(d) The discharge site should be specified through the application of the section 404(b)(1) guidelines.

(e) The procedures of 40 CFR Part 230 should be used to determine the NEPA compliance requirements.

(f) The factors of 33 CFR 336.1(c) should be followed when evaluating fill activities.

(g) Upon completion of all required coordination and after receipt of the necessary state certifications, the district engineer should prepare an SOF in accordance with 33 CFR 337.6.

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Part V

Department of Defense

Department of the Army

32 CFR Part 553

Military Reservations and National Cemeteries; Arlington National Cemetery; Final Rule

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 553

Military Reservations and National Cemeteries; Arlington National Cemetery

AGENCY: Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: The change clarifies the current rule the only certain individuals and organizations are allowed to donate items to be placed in Arlington National Cemetery. The Department of the Army is revising the rules concerning tributes in Arlington National Cemetery to commemorate events, units, groups and/or organizations.

EFFECTIVE DATE: May 30, 1986.

FOR FURTHER INFORMATION CONTACT: Harriet Antiporowich, Arlington National Cemetery, Arlington, VA 22211-5003 (202) 695-3191.

SUPPLEMENTARY INFORMATION: Proposed rulemaking was published on pages 50315-50316 of the **Federal Register** of December 10, 1985. Interested parties were given the opportunity to comment. No comments have been received.

Responsibility for the administration of Arlington National Cemetery was recently transferred from the Director of Casualty and Memorial Affairs Operations Center, United States Army Military Personnel Center to the Commander, United States Army Military District of Washington. Accordingly tributes to be placed in Arlington National Cemetery will be approved by the Superintendent, Arlington National Cemetery rather than the Director of Casualty and Memorial Affairs Operations.

Regulatory Flexibility Act

This rule does not have "significant" economic impact on a substantial number of small "entities" as defined by the Regulatory Flexibility Act, 5 U.S.C. 601 et. seq.

Paperwork Reduction Act

There are no collection of information requirements contained in this rule that require approval by the Office of Management and Budget under 44 U.S.C. 3501 et. seq.

List of Subjects in 32 CFR Part 553

Army Department, Cemeteries, District of Columbia, Government property, Veterans.

Accordingly, 32 CFR Part 553 is amended as follows:

PART 553—[AMENDED]

1. The authority citation for Part 553 continues to read as follows:

Authority: 24 U.S.C. Chapter 7.

2. Section 553.22 is amended by adding new paragraphs (j), (k), (l) and Appendix A to read as follows.

§ 553.22 Visitor's Rules for the Arlington National Cemetery.

* * * * *

(j) *Tributes in Arlington National Cemetery to commemorate individuals, events, units, groups and/or organizations.*

(1) *General.* Tributes, which include plaques, medals, and statues, will be accepted only from those veterans organizations listed in the Directory of Veterans Organizations and State Department of Veterans Organizations published annually by the Veterans Administration or those substantially similar in nature.

(2) *Plaques at trees and other donated items.* Plaques may be accepted and placed at trees or other donated items to honor the memory of a person or persons interred in Arlington National Cemetery or those dying in the military service of the United States or its allies.

Plaques placed at trees or other donated items must conform to the specifications described in Appendix A, Specifications for Tributes in Arlington National Cemetery. A rendering of the proposed plaque shall be sent to the Superintendent, Arlington National Cemetery, Arlington, Virginia 22211-5003 for approval.

(k) *Tributes to the Unknowns (Unknown Soldier).*

(1) *General.* Tributes, normally plaques, to the Unknowns by those organizations described in 553.22(j) above must conform to specifications and guidelines contained in Appendix A, Specifications for Tributes in Arlington National Cemetery. Descriptions of the character, dimensions, inscription, material and workmanship of the tribute must be submitted in writing to Superintendent, Arlington National Cemetery, Arlington, Virginia 22211-5003 for approval.

(2) *Tributes to the Unknowns (Unknown Soldier) Presented by Foreign Dignitaries.* Presentation of tributes by Foreign Dignitaries is allowed as part of an official ceremony as defined herein.

(l) *Monuments.* Monuments (other than private monuments or markers) to commemorate an individual, group or event may be erected following joint or concurrent resolution of the Congress.

Appendix A.—Specifications for Tributes in Arlington National Cemetery

1. *Purpose.* The Appendix provides specifications and guidelines for obtaining approval for the donation of tributes at Arlington National Cemetery.

2. *Approval.* The Superintendent, Arlington National Cemetery, Arlington, Virginia 22211-5003 exercises general supervision over Arlington National Cemetery; and his approval of proposed tributes to be placed in Arlington National Cemetery is required.

3. *Who May Offer Tributes.* a. Tributes will be accepted only from those veterans' organizations listed in the Directory of Veterans Organizations and State Department of Veterans Organizations published annually by the Veterans Administration or those substantially similar in nature. Tributes will not be accepted from individuals or from subdivisions of parent organizations.

b. Only one tribute will be accepted from an organization. However, with prior approval, the inscription of a tribute already presented in Memory of the Unknown Soldier (World War I) may be reworded by the donating organization to commemorate one additional or all the Unknowns, or a new tribute may be substituted for the old one.

4. *Design.*—a. *Character.* The design of the tribute shall be artistically proportioned and shall be consistent with the sacred purpose of the shrine, which is to honor heroic military service as distinguished from civilian service however notable or patriotic.

b. *Dimensions.* The surface area of the tribute, including the mounting, shall not exceed 36 square inches; and the thickness or height shall not exceed two (2) inches when mounted.

c. *Inscriptions.*—(1). *Tributes to the Unknowns.* Tributes are accepted only for the purpose of commemorating and paying homage and respect to one or more of the Unknowns. Thus all tributes must include, either in the basic design or on a small plate affixed thereto, a clear indication of such commemoration.

Suggestions follow:

—In Memory Of The American Heroes Known But to God
—The American Unknowns
—The Unknown American Heroes
—The Unknown Soldier
—The Unknown of World War II
—The Unknown of the Korean War
—The Unknown American of World War II
—The Unknown American of the Korean War

The identity of the donor/Date of Presentation.

2. *Other Tributes including plaques at trees and other donated Items.* Inscriptions on

tributes will be in keeping with the dignity of Arlington National Cemetery.

d. *Material and Workmanship.* The material and workmanship of the tribute, including the mounting, shall be of the highest quality, free of flaws and imperfections.

5. *Applications.* Requests for authority to present tributes shall be submitted in writing to the Superintendent, Arlington National Cemetery, Arlington, Virginia 22211–5003.

a. A scale drawing or model, showing the exact inscription and other details of the proposed tribute.

b. A copy of the constitution and bylaws of the organization desiring to make the presentation.

6. *Final Approval.* Upon fabrication, the completed tribute will be forwarded to the Superintendent, Arlington National Cemetery, Arlington, Virginia 22211–5003 for visual inspection prior to its presentation.

7. *Presentation of Tributes.* After authorized acceptance of the tribute the sponsoring organization may arrange appropriate presentation ceremonies with the Superintendent, Arlington National Cemetery, Arlington, Virginia 22211–5003. If presentation ceremonies are not desired, the Superintendent will acknowledge receipt of the tribute and inform the sponsoring organization of the number of the case in which it reposes in the Memorial Display Room at the Amphitheater at Arlington National Cemetery.

Dated: May 16, 1986.

Robert K. Dawson,

Assistant Secretary of Army (Civil Works).

[FR Doc. 86–11997 Filed 5–29–86; 8:45 am]

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federal register

Friday
May 30, 1986

Part VI

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Part 8 et al.
Federal Acquisition Regulation; Final Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 8, 12, 13, 15, 19, 32, 36, 38, 45, and 52

[Federal Acquisition Circular 84-16]

Federal Acquisition Regulation

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: Federal Acquisition Circular (FAC) 84-16 amends the Federal Acquisition Regulation (FAR) with respect to the following: International Federal Supply Schedule; Reporting Purchases of Identical Items at Less than Multiple-Award Schedule Prices; Subpart 8.7—Miscellaneous changes; Leasing of Motor Vehicles; Priorities and Allocations; Imprest Fund (Increase in Dollar Limitation); Evaluation of Bids for Multiple Awards; Written Confirmation of Oral Request for Best and Final Offers; Small Business Administration Procurement Center Representatives; Regulatory Guidance on sec. 211 of Pub. L. 95-507; Withholding of Funds from Construction Contracts Progress Payments; Presolicitation Notice for Construction; Definition of Government Property; Contractor Use and Rental of Government Property; Clarification of Small Business Concern Representation; and FAR 52.249-6, Termination (Cost-Reimbursement).

EFFECTIVE DATE: May 30, 1986.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Telephone (202) 523-4755, Room 4041, GS Bldg., Washington, DC 20405.

SUPPLEMENTARY INFORMATION:

A. Public Comments

FAC 84-16, Items I through XVI (except Item XI). Public comments have not been solicited since these revisions either: (a) Do not alter the substantive meaning of any coverage in the FAR having a significant impact on contractors or offerors, or (b) do not have a significant effect beyond agency internal operating procedures.

FAC 84-16, Item XI, Withholding of Funds from Construction Contracts Progress Payments. On February 21, 1985, a notice of proposed rule was published in the **Federal Register** (50 FR 7200), requesting Government agencies, private firms, associations, and the general public to submit comments to be considered in the formulation of the final rule. As a result of the notice, comments were received and considered.

B. Regulatory Flexibility Act

FAC 84-16, Items I through XVI (except Item XI). Since solicitation of public comments is not required, the Regulatory Flexibility Act (Pub. L. 96-354) does not apply.

FAC 84-16, Item XI, Withholding of Funds from Construction Contracts Progress Payments. The addition of FAR 32.103 and the revision at 52.232-5 will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, et seq.) because the revision does not alter the substantive meaning of any coverage in the FAR having a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of the issuing agencies.

C. Paperwork Reduction Act

FAC 84-16, Items I through XVI. The Paperwork Reduction Act does not apply because this final rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Parts 8, 12, 13, 15, 19, 32, 36, 38, 45, and 52.

Government procurement.

Dated: May 23, 1986.

Lawrence J. Rizzi,

Director, Office of Federal Acquisition and Regulatory Policy.

Federal Acquisition Circular

[Number 84-16]

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 84-16 is effective May 30, 1986.

Eleanor R. Spector,

Deputy Assistant Secretary of Defense for Procurement.

Terence C. Golden,

Administrator, GSA.

May 15, 1986.

S.J. Evans,

Assistant Administrator for Procurement, NASA.

Federal Acquisition Circular (FAC) 84-16 amends the Federal Acquisition Regulation (FAR) as summarized below:

Item I—International Federal Supply Schedule

FAR 8.403 and 38.102 are revised to include coverage concerning the International Federal Supply Schedule program which was developed by the General Services Administration to provide sources of supply to U.S. Government activities located overseas.

Item II—Reporting Purchases of Identical Items at Less Than Multiple-Award Schedule Prices

FAR 8.404-1, Mandatory use, is revised to provide current instructions concerning the purchase of identical items from commercial sources at prices lower than their Multiple-Award Schedule counterparts.

Item III—Subpart 8.7—Miscellaneous Changes

FAR 8.703, 8.704, 8.708, 8.712, are revised and FAR 8.715 is added to incorporate changes made to the Committee for Purchase from the Blind and Other Severely Handicapped regulation at 41 CFR 51-5.11 and 51-5.12 regarding specifications for commodities and services on the Procurement List and the time for their delivery.

Item IV—Leasing of Motor Vehicles

FAR Subpart 8.11 is revised to prescribe a new contract clause entitled "Tagging of Leased Vehicles," and FAR Subpart 52.2 is revised to include the new clause.

Item V—Priorities and Allocations

FAR Subpart 12.3, Priorities, Allocations and Allotments, is retitled Priorities and Allocations, and is revised to change coverage in the FAR which was superseded by a Department of Commerce regulation effective August 29, 1984 (49 FR 147). The provision at 52.212-7 and the clause at 52.212-8 are retitled, and the prescriptions at FAR 12.304 are changed to reflect the new titles.

Item VI—Imprest Fund (Increase in Dollar Limitation)

FAR 13.404 is revised to incorporate the Treasury Department's increase in the spending limitation for imprest fund transactions from $150 to $500.

Item VII—Evaluation of Bids for Multiple Awards

FAR Part 15, Contracting By Negotiation, is revised to prescribe a new solicitation provision, Evaluation of Offers for Multiple Awards, and FAR Part 52, Solicitation Provisions and Contract Clauses, is revised accordingly.

Item VIII—Written Confirmation of Oral Request for Best and Final Offers

FAR 15.611(a) is revised to add a requirement that oral requests for best and final offers be confirmed in writing. This revision is based on the advice of the Comptroller General.

Item IX—Small Business Administration Procurement Center Representatives

FAR Subpart 19.4 is revised to specify the activities of procurement center representatives and the requirement for contracting personnel to interface with the representatives and their advisors. Pub. L. 98–577 provides for the appointment of breakout procurement center representatives and specifies their duties and responsibilities.

Item X—Regulatory Guidance on Sec. 211 of Pub. L. 95–507

FAR 19.705–2 is revised to delete, as a factor in determining whether subcontracting possibilities exist, a potential contractor's longstanding contractual relationship with its suppliers. This factor is relocated to 19.705–4(d)(3) as a consideration in evaluating subcontracting potential for a particular acquisition.

Item XI—Withholding of Funds From Construction Contracts Progress Payments

FAR 32.103 is added and FAR 52.232–5 is revised to reflect policy set forth in OFPP Policy Letter 83–1.

Item XII—Presolicitation Notice for Construction

FAR 36.302(b) is revised to add a reference to FAR 36.204 which sets forth estimated price ranges for work to be performed.

Item XIII—Definition of Government Property

FAR 45.101(a) is revised to include the term "Contractor-acquired property" in the FAR definition of "Government property."

Item XIV—Contractor Use and Rental of Government Property

FAR 45.401 is revised to add additional coverage on the use and rental of Government property.

Item XV—Clarification of Small Business Concern Representation

FAR 52.219–1 is revised to clarify that the portion of the representation regarding the source of manufactured supplies refers to the end items being acquired rather than the materials and supplies that went into the end item.

Item XVI—FAR 52.249–6, Termination (Cost-Reimbursement)

FAR 52.249–6(g)(1) has been revised to allow a contractor whose contract has been terminated to recover those costs that may continue for a reasonable time with the approval of or as directed by the contracting officer.

Therefore, 48 CFR Parts 8, 12, 13, 15, 19, 32, 36, 38, 45, and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 8, 12, 13, 15, 19, 32, 36, 38, 45, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2453(c).

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

2. Section 8.403–4 is added to read as follows:

8.403–4 International Federal Supply Schedule.

(a) The International Federal Supply Schedule (IFSS) provides sources of supply (supplies and services) at reasonable prices to U.S. Government activities located overseas. The use of the schedule is mandatory only on GSA.

(b) The schedule is divided into two sections. Section A includes those items which were awarded under sealed bid procedures, while Section B covers items that were awarded under negotiated procedures.

(c) Ordering offices need to review the information in the schedule and any applicable contractor's catalogs/price lists to ensure the proper placement of orders. Orders are placed directly with the contractors.

(d) Ordering offices shall forward copies of any orders (at the time the orders are issued) to the contracting office designated in the IFSS.

3. Section 8.404–1 is amended by revising paragraph (e)(3), by redesignating paragraph (f) as paragraph (g), by adding new paragraph (f), and by revising new paragraph (g) to read as follows:

8.404–1 Mandatory use.

* * * * *

(e) * * *

(3) When products are purchased from commercial sources on the open market (i.e., not under an existing Government contract) at delivered prices that are lower than the prices provided by multiple-award schedule contracts, ordering offices shall forward the following information, at the time the orders are issued, to the contracting office designated in the multiple-award schedule that was not used:

(i) Copy of the order.

(ii) Identification of the Federal Supply Schedule.

(iii) Name of the schedule contractor.

(iv) Applicable schedule contract number.

(v) Schedule contract price.

(vi) Schedule special item number (SIN).

(vii) Manufacturer's model and /or part number.

(f) *Report documentation.* Documentation of subdivisions (e)(3)(ii) through (e)(3)(vii) of this section may be provided as attachment(s) to the order, annotated directly on the order, or a combination of both. Interagency Report Control Number 0262–GSA–AR has been assigned to this report.

(g) *Absence of follow-on award.* Ordering offices, after any consultation required by the schedule, are not required to forgo or postpone their legitimate needs pending the award or renewal of any schedule contract.

4. Section 8.703 is amended by revising paragraph (b) to read as follows:

8.703 Procurement List.

* * * * *

(b) The Procurement List identifies—

(1) Workshop supplies available from the General Services Administration (GSA) stocks at supply distribution facilities and the Defense Logistics Agency (DLA) system; and

(2) Supplies that are also available from Federal Prison Industries, Inc.

5. Section 8.704 is amended by revising in paragraph (a) the first sentence to read as follows:

8.704 Purchase priorities.

(a) The Act requires the Government to purchase supplies or services on the Procurement List, at prices established by the Committee, from qualified workshops if they are available within the period required. * * *

* * * * *

8.708 [Amended]

6. Section 8.708 is amended by removing in the second sentence of paragraph (c) the words "(see Subpart 49.4, Termination for Default)." and inserting a period following the word "delivery".

* * * * *

7. Section 8.712 is amended by revising paragraphs (a), (b), and (b)(1), and by adding paragraphs (c) and (d) to read as follows:

8.712 Specification changes.

(a) The contracting activity shall notify the workshop and appropriate central nonprofit agency of any change in specifications or descriptions. In the absence of such written notification, the workshop shall produce the supplies or provide the services under the specification or description cited in the order.

(b) The contracting activity shall provide 90-days advance notification to the Committee and the central nonprofit agency on actions that affect supplies on the Procurement List and shall permit them to comment before action is taken, particularly when it involves—

(1) Changes that require new national stock numbers or item designations;

* * * * *

(c) For services, the contracting activity shall notify the workshop and central nonprofit agency concerned at least 90 days prior to the date that any changes in the scope of work or other conditions will be required.

(d) When, in order to meet its emergency needs, a contracting activity is unable to give the 90-day notification required in paragraphs (b) and (c) of this section, the contracting activity shall, at the time it places the order or change notice, inform the workshop and the central nonprofit agency in writing of the reasons that it cannot meet the 90-day notification requirement.

8. Section 8.715 is added to read as follows:

8.715 Replacement commodities.

When a commodity on the Procurement List is replaced by another commodity which has not been previously acquired, and a qualified workshop can produce the replacement commodity in accordance with the Government's quality standards and delivery schedules and at a fair market price, the replacement commodity is automatically on the Procurement List and shall be acquired from the workshop designated by the Committee. The commodity being replaced shall continue to be included on the Procurement List until there is no longer a requirement for that commodity.

9. Section 8.1104 is amended by redesignating paragraph (d) as paragraph (e), and by adding a new paragraph (d) to read as follows:

8.1104 Contract clauses.

* * * * *

(d) A clause substantially the same as the clause at 52.208–7, Tagging of Leased Vehicles, for vehicles leased over 60 days (see 41 CFR 101–38.6).

* * * * *

PART 12—CONTRACT DELIVERY OR PERFORMANCE

10. Subpart 12.3, consisting of §§ 12.300, 12.301, 12.302, 12.303, and 12.304, is revised to read as follows:

Subpart 12.3—Priorities and Allocations

Sec.

Subpart 12.3—Priorities and Allocations

12.300 Scope of subpart.

This subpart implements the Defense Priorities and Allocations System (DPAS), a Department of Commerce (DOC) regulation in support of authorized national defense programs (see 15 CFR Part 350).

12.301 Definitions.

"Authorized program," as used in this subpart, means a program approved by the Federal Emergency Management Agency (FEMA) for priorities and allocations support under the Defense Production Act of 1950, as amended (50 U.S.C. app. 2061, et seq.), to promote the national defense. Schedule I of the DPAS lists currently authorized programs.

"Controlled materials," as used in this subpart, means the various shapes and forms of steel, copper, aluminum, and nickel alloys specified in Schedule II, and defined in Schedule III, of the DPAS.

"Delegate Agency," as used in this subpart, means an agency of the U.S. Government authorized by delegation from DOC to place priority ratings on contracts that support authorized programs. Schedule I of the DPAS lists the Delegate Agencies.

"Rated order" means a prime contract for any product, service, or material (including controlled materials) placed by a Delegate Agency under the provisions of the DPAS in support of an authorized program and which requires preferential treatment, and includes subcontracts and purchase orders resulting under such contracts.

12.302 General.

(a) Under Title I of the Defense Production Act of 1950, as amended (50 U.S.C. app. 2061, et seq.), the President is authorized (1) to require that contracts in support of the national defense be accepted and performed on a preferential or priority basis over all other contracts, and (2) to allocate materials and facilities in such a manner as to promote the national defense.

(b) The Office of Industrial Resource Administration (OIRA), DOC, is responsible for administering and enforcing a system of priorities and allocations to carry out Title I of the Defense Production Act for industrial items. The DPAS has been established to promote the timely availability of the necessary industrial resources to meet current national defense requirements and to provide a framework to facilitate rapid industrial mobilization in case of national emergency.

(c) The Delegate Agencies (see Schedule I of the DPAS have been given authority by DOC to place rated orders in support of authorized programs. Other government agencies, Canada, and other friendly foreign nations may apply for special rating authority in support of authorized programs (see 15 CFR 350.55).

(d) Rated orders shall be placed in accordance with the procedures in the DPAS. Contracting officers responsible for acquisitions in support of authorized programs shall be familiar with the DPAS and should provide guidance on the DPAS to contractors and suppliers receiving rated orders. Agency heads shall ensure compliance with the DPAS by contracting activities within their agencies.

(e) Under the Defense Production Act, any willful violation of the Act, the DPAS, or any official action taken by DOC under the DPAS, is a crime punishable by a maximum fine of $10,000, one year in prison, or both (see 15 CFR 350.70 and 15 CFR 350.74).

12.303 Procedures.

(a) There are two levels of priority for rated orders established by the DPAS, identified by the rating symbols "DO" and "DX." All DO rated orders have equal priority with each other and take preference over unrated orders. All DX rated orders have equal priority with each other and take preference over DO rated and unrated orders. DX ratings are used for special defense programs designated by the President to be of the highest national priority.

(b) DOC may issue a Directive to compel a contractor or supplier to accept a rated order, to rearrange production or delivery schedules, or to improve shipments against particular rated orders. Directives issued by DOC take precedence over all rated and unrated orders as stated in the Directive.

(c) In addition to any other contractual requirements, a valid rated

order must contain (see 15 CFR 350.12) the following:

(1) A priority rating consisting of the appropriate DO or DX rating symbol and a program of identification symbol to indicate the authorized program (see Schedule I of the DPAS).

(2) A required delivery date or delivery dates.

(3) The signature of an individual authorized by the agency to sign rated orders.

(d) The DPAS has the following three basic elements which are essential to the operation of the system:

(1) *Mandatory acceptance of rated orders.* A rated order shall be accepted by a contractor or supplier unless rejected for the reasons provided for mandatory rejection in 15 CFR 350.13(b), or for optional rejection in 15 CFR 350.13(c).

(2) *Mandatory extension of priority ratings throughout the acquisition chain.* Contractors and suppliers receiving rated orders shall extend priority ratings to subcontractors or vendors when acquiring items to fill the rated orders (see 15 CFR 350.15).

(3) *Priority scheduling of production and delivery.* Contractors and suppliers receiving rated orders shall give the rated orders priority over other contracts as needed to meet delivery requirements (see 15 CFR 350.14).

(e) Agencies shall provide contracting activities with specific guidance on the issuance of rated orders in support of agency programs.

(f) Contracting officers shall follow agency procedural instructions concerning the use of rated orders in support of agency programs.

(g) Contracting officers, contractors, or subcontractors at any tier, that experience difficulty placing rated orders, obtaining timely delivery under rated orders, locating a contractor or supplier to fill a rated order, ensuring that rated orders receive preferential treatment by contractors or suppliers, or require rating authority for items not automatically ratable under the DPAS, should promptly seek special priorities assistance in accordance with agency procedures (see 15 CFR 350.50–350.55).

(h) Contracting officers shall report promptly any violations of the DPAS to DOC in accordance with agency procedures.

12.304 Solicitation provision and contract clause.

(a) Contracting officers shall insert the provision at 52.212–7, Notice of Priority Rating for National Defense Use, in solicitations when the contract to be awarded will be a rated order.

(b) Contracting officers shall insert the clause at 52.212–8, Defense Priority and Allocation Requirements, in contracts that are rated orders.

PART 13—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

11. Section 13.404 is amended by revising paragraph (a) to read as follows:

13.404 Conditions for use.

* * * * *

(a) The transaction does not exceed $500 or such other limits as have been approved by the agency head;

* * * * *

PART 15—CONTRACTING BY NEGOTIATION

12. Section 15.406–5 is amended by revising paragraph (c) to read as follows:

15.406–5 Part IV—Representations and instructions.

* * * * *

(c) *Section M, Evaluation factors for award.* Identify all factors, including price or cost, and any significant subfactors that will be considered in awarding the contract (see 15.605(e) and (f) and the multiple award provision at 52.215–34) and state the relative importance the Government places on those evaluation factors and subfactors.

13. Section 15.407 is amended by adding paragraph (h) to read as follows:

15.407 Solicitation provisions.

* * * * *

(h) The contracting officer shall insert the provision at 52.215–34, Evaluation of Offers for Multiple Awards, in requests for proposals if the contracting officer determines that multiple awards might be made if doing so is economically advantageous to the Government.

14. Section 15.605 is amended by adding paragraph (f) to read as follows:

15.605 Evaluation factors.

* * * * *

(f) In addition to other factors, offers will be evaluated on the basis of advantages and disadvantages to the Government that might result from making more than one award (see 15.407(h)). The contracting officer shall assume for the purpose of making multiple awards that $250 would be the administrative cost to the Government for issuing and administering each contract awarded under a solicitation. Individual awards shall be for the items or combination of items that result in the lowest aggregate cost to the Government, including the assumed administrative costs.

15. Section 15.611 is amended by adding in paragraph (a) a second sentence to read as follows:

15.611 Best and final offers.

(a) * * * Oral requests for best and final offers shall be confirmed in writing.

PART 19—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

16. Section 19.402 is amended by revising paragraph (a) to read as follows:

19.402 Small Business Administration procurement center representatives.

(a) The SBA may assign one or more procurement center representatives to any contracting activity or contract administration office to carry out SBA policies and programs. Assigned SBA procurement center representatives are required to comply with the contracting agency's directives governing the conduct of contracting personnel and the release of contract information. The SBA must obtain for its procurement center representatives security clearances required by the contracting agency.

* * * * *

17. Section 19.403 is added to read as follows:

19.403 Small Business Administration breakout procurement center representatives.

(a) The SBA is required by sec. 403 of Pub. L. 98–577 to assign a breakout procurement center representative to each major procurement center. A major procurement center means a procurement center of the Department of Defense that awarded contracts for items other than commercial items totaling at least $150,000,000 in the preceding fiscal year, and other procurement centers as designated by the Administrator, SBA. The SBA breakout procurement center representative is an advocate for (1) the appropriate use of full and open competition, and (2) the breakout of items, when appropriate and while maintaining the integrity of the system in which such items are used. The SBA breakout procurement center representative is in addition to the SBA procurement center representative (see 19.402). When an SBA breakout procurement center representative is assigned, the SBA is required to assign at least two collocated small business technical advisors. Assigned SBA breakout procurement center

representatives and technical advisors are required to comply with the contracting agency's directives governing the conduct of contracting personnel and the release of contract information. The SBA must obtain for its breakout procurement center representatives and technical advisors security clearances required by the contracting agency.

(b) Contracting officers shall comply with 19.402(b) in their relationships with SBA breakout procurement center representatives and SBA small business technical advisors.

(c) The SBA breakout procurement center representative is authorized to—

(1) Attend any provisioning conference or similar evaluation session during which determinations are made as to whether requirements are to be acquired using other than full and open competition and make recommendations with respect to such requirements to the members of such conference or session;

(2) Review, at any time, restrictions on competition previously imposed on items through acquisition method coding or similar procedures and recommend to personnel of the appropriate activity the prompt reevaluation of such limitations;

(3) Review restrictions on competition arising out of restrictions on the rights of the United States in technical data and, when appropriate, recommend that personnel of the appropriate activity initiate a review of the validity of such an asserted restriction;

(4) Obtain from any governmental source, and make available to personnel of the appropriate center, unlimited-rights technical data necessary for the preparation of a competitive solicitation package for any item of supply or service previously acquired noncompetitively due to the unavailability of such technical data;

(5) Have access to the unclassified procurement records and other data of the procurement center;

(6) Receive unsolicited engineering proposals and, when appropriate—

(i) Conduct a value analysis of such proposal to determine whether it, if adopted, will result in lower costs to the United States without substantially impeding legitimate acquisition objectives and forward to personnel of the appropriate center recommendations with respect to such proposal; or

(ii) Forward such proposals without analysis to personnel of the center responsible for reviewing them who shall furnish the breakout procurement center representative with information regarding the proposal's disposition;

(7) Review the systems that account for the acquisition and management of technical data within the procurement center to ensure that such systems provide the maximum availability and access to data needed for the preparation of offers to sell to the United States those supplies to which such data pertain which potential offerors are entitled to receive; and

(8) Appeal a failure by the procurement center to act favorably on any recommendation made pursuant to subparagraphs (c) (1) through (7) of this section. Such appeal must be in writing and specifically recite both the circumstances of the appeal and the basis of the recommendation. The appeal shall be decided by a person within the employ of the procurement center who is at least one supervisory level above the persor who initially failed to act favorably on the recommendation. Such appeal shall be decided within 30 calendar days of its receipt by the procurement center. All such decisions shall be final.

(d) The duties of the SBA small business technical advisors are to assist the SBA breakout procurement center representative in carrying out the activities described in (c) (1) through (7) above to assist the SBA procurement center representatives (see FAR 19.402).

19.705-2 [Amended]

18. Section 19.705-2 is amended by removing paragraph (b)(3).

19. Section 19.705-4 is amended by revising paragraph (d)(3) to read as follows:

19.705-4 Reviewing the subcontracting plan.

* * * * *

(d) * * *

(3) Evaluate subcontracting potential, considering the offeror's make-or-buy policies or programs, the nature of the products or services to be subcontracted, the known availability of small and small disadvantaged business concerns in the geographical area where the work will be performed, and the potential contractor's longstanding contractual relationship with its suppliers.

* * * * *

PART 32—CONTRACT FINANCING

20. Section 32.103 is added to read as follows:

32.103 Progress Payment Construction Contracts.

When satisfactory progress has not been achieved by a contractor during any period for which a progress payment is to be made, a percentage of the progress payment may be retained. Retainage should not be used as a substitute for good contract management, and the contracting officer should not withhold funds without cause. Determinations to retain and the specific amount to be withheld shall be made by the contracting officer on a case-by-case basis. Such decisions will be based on the contracting officer's assessment of past performance and the likelihood that such performance will continue. The amount of retainage withheld shall not exceed 10 percent of the approved estimated amount in accordance with the terms of the contract and may be adjusted as the contract approaches completion to recognize better than expected performance, the ability to rely on alternative safeguards, and other factors. Upon completion of all contract requirements, retained amounts shall be paid promptly.

PART 36—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

36.302 [Amended]

21. Section 36.302 is amended by adding in paragraph (b)(1), following the word "range)" the reference "(see 36.204);".

PART 38—FEDERAL SUPPLY SCHEDULE CONTRACTING

22. Section 38.102-4 is added to read as follows:

38.102-4 International Federal Supply Schedule.

(a) The International Federal Supply Schedule (IFSS) has been established to provide sources of supply (supplies and services) at reasonable prices to U.S. Government activities located overseas. The use of the schedule is mandatory only on GSA.

(b) The IFSS is divided into two sections. The items included in Section A are awarded under a solicitation using sealed bid procedures, as covered in Part 14, while the items listed in Section B are awarded under a solicitation using negotiated procedures, as described in Part 15.

PART 45—GOVERNMENT PROPERTY

45.101 [Amended]

23. Section 45.101 is amended by revising in paragraph (a) the definition of "Government property" to read as follows:

* * * * *

"Government property" means all property owned by or leased to the Government under the terms of the contract. It includes both Government-furnished property and contractor-

acquired property as defined in this section.

* * * * *

24. Section 45.401 is revised to read as follows:

45.401 Policy.

In performing Government contracts or subcontracts, Government production and research property in the possession of contractors or subcontractors shall be used to the greatest possible extent, provided that a competitive advantage is not conferred on the contractor or its subcontractors (see Subpart 45.2). Prior approval of the contracting officer having cognizance of Government production and research property is required for any use, whether Government or non-Government, to ensure that the Government receives adequate consideration. Government use is defined as use in support of U.S. Government contacts and non-Government use is all other use (including direct commercial sales to domestic and foreign customers). As a general rule, Government use is on a rent-free basis. Non-Government use is on a rental basis. When Government production and research property is no longer required for the performance of Government contracts or subcontracts, it shall not continue to be made available to a contractor for non-Government use.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

25. Section 52.208–7 is added to read as follows:

52.208–7 Tagging of Leased Vehicles.

As prescribed in 8.1104(d), insert a clause substantially as follows:

Tagging of Leased Vehicles (May 1986)

While it is the intent that vehicles leased under this contract will operate on Federal tags, the Government reserves the right to utilize State tags if necessary to accomplish its mission. Should State tags be required, the Contractor shall furnish the Government documentation necessary to allow acquisition of such tags. Federal tags are the responsibility of the Government.

(End of clause)

26. Section 52.212–7 is revised to read as follows:

52.212–7 Notice of Priority Rating for National Defense Use.

As prescribed in 12.304(a), insert the following provision:

Notice of Priority Rating for National Defense Use (May 1986)

Any contract awarded as a result of this solicitation will be a [ ] DX rated order; [ ] DO rated order certified for national defens e use under the Defense Priorities and Allocations System (DPAS) (15 CFR Part 350), and the Contractor will be required to follow all of the requirements of this regulation. [Contracting Officer check appropriate box.]

(End of provision)

27. Section 52.212–8 is revised to read as follows:

52.212–8 Defense Priority and Allocation Requirements.

As prescribed in 12.304(b), insert the following clause:

Defense Priority and Allocation Requirements (May 1986)

This is a rated order certified for national defense use, and the Contractor shall follow all the requirements of the Defense Priorities and Allocations System regulation (15 CFR Part 350).

(End of clause)

28. Section 52.215–34 is added to read as follows:

52.215–34 Evaluation of Offers for Multiple Awards.

As prescribed in 15.407(h), insert the following provision:

Evaluation of Offers for Multiple Awards (May 1986)

In addition to other factors, offers will be evaluated on the basis of advantages and disadvantages to the Government that might result from making more than one award (multiple awards). It is assumed, for the purpose of evaluating proposals, that $250 would be the administrative cost to the Government for issuing and administering each contract awarded under this solicitation and individual awards shall be for the items or combinations of items that result in the lowest aggregate cost to the Government, including the assumed administrative costs.

(End of provision)

29. Section 52.219–1 is revised to read as follows:

52.219–1 Small Business Concern Representation.

As prescribed in 19.304(a), insert the following provision:

Small Business Concern Representation (May 1986)

The offeror represents and certifies as part of its offer that it ☐ is, ☐ is not a small business concern and that ☐ all, ☐ not all end items to be furnished will be manufactured or produced by a small business concern in the United States, its territories or possessions, Puerto Rico, or the Trust Territory of the Pacific Islands. "Small business concern," as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the size standards in this solicitation.

(End of provision)

30. Section 52.232–5 is amended by removing in the title of the clause the date "JAN" and inserting in its place the date "MAY" and by revising paragraphs (c) and (e) of the clause to read as follows:

52.232–5 Payments under Fixed Price Construction Contracts.

* * * * *

(c) If the Contracting Officer finds that satisfactory progress was achieved during any period for which a progress payment is to be made, the Contracting Officer shall authorize payment to be made in full. However, if satisfactory progress has not been made, the Contracting Officer may retain a maximum of 10 percent of the amount of the payment until satisfactory progress is achieved. When the work is substantially complete, the Contracting Officer may retain from previously withheld funds and future progress payments that amount the Contracting Officer considers adequate for protection of the Government and shall release to the Contractor all the remaining withheld funds. Also, on completion and acceptance of each separate building, public work, or other division of the contract, for which the price is stated separately in the contract, payment shall be made for the completed work without retention of a percentage.

* * * * *

(e) In making these progress payments, the Government shall, upon request, reimburse the Contractor for the amount of premiums paid for performance and payment bonds (including coinsurance and reinsurance agreements, when applicable) after the Contractor has furnished evidence of full payment to the surety. The retainage provisions in paragraph (c) above shall not apply to that portion of progress payments attributable to bond premiums.

* * * * *

31. Section 52.249–6 is amended by inserting a colon following the word "clause" in the introductory text and deleting the remainder of the paragraph; by removing in the title of the clause the date "(APR 1984)" and inserting in its place the date "(MAY 1986)"; by revising paragraph (g)(1) of the clause; and by removing both derivation lines following "(End of clause)" to read as follows:

52.249–6 Termination (Cost-Reimbursement).

* * * * *

(g) * * *

(1) All costs reimbursable under this contract, not previously paid, for the performance of this contract before the effective date of the termination, and those costs that may continue for a reasonable time with the approval of or as directed by the Contracting Officer; however, the Contractor shall discontinue these costs as rapidly as practicable.

* * * * *

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Friday
May 30, 1986

Part VII

Department of Transportation

Coast Guard

46 CFR Parts 31, 61, 71, 91, 167, 169, and 189

Intervals for Drydocking and Tailshaft Examination on Inspected Vessels; Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 31, 61, 71, 91, 167, 169, and 189

[CGD 84-024]

Intervals for Drydocking and Tailshaft Examination on Inspected Vessels

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to amend the intervals between drydock and tailshaft examinations, by generally extending them, for certain classes of inspected vessels. These changes are being proposed to decrease the cost incurred by the marine industry in meeting these examination requirements and to harmonize with the intervals specified by the various classification societies and the invervals currently under consideration internationally. If the intervals for these examinations can be changed without decreasing overall vessel safety, vessel owners and operators will realize a significant economic savings.

DATES: Comments must be received on or before June 30, 1986.

ADDRESSES: Comments on this proposal or the draft regulatory evaluation should be mailed to Commandant (G-CMC/21), [CGD 84-024], U.S. Coast Guard Headquarters, Washington, DC 20593. The comments may be delivered to and will be available for inspection or copying between 8 a.m. and 4 p.m., Monday through Friday, except holidays, at the Marine Safety Council (G-CMC/21), Room 2110, Coast Guard Headquarters Building, 2100 2nd Street, SW, Washington, DC.

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

SUPPLEMENTARY INFORMATION: On May 4, 1984, the Coast Guard published in the **Federal Register** (49 FR 190541) a notice of its intent to consider extending the intervals between drydock and tailshaft examinations. To ensure a thorough scrutinizing of all issues concerning these examinations, the Coast Guard solicited answers to nineteen specific questions. These questions concerned the safety aspects of extending these intervals along with the economic impacts of these examinations. A total of seventy-six responses were received. A discussion of the comments received is presented below.

Interested persons are invited to comment on the proposed rulemaking or draft regulatory evaluation by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice [CGD 84-024], the specific section of the proposed regulations or supporting documents to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed post card is enclosed. To the extent permitted by law, the proposal may be changed in light of the comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held at a time and place to be set in a later notice in the **Federal Register** if requested by anyone raising a genuine issue.

Drafting Information

The principal persons involved in the drafting of this rule are LCDR Jeffrey G. Lantz, Project Manager, Office of Merchant Marine Safety and Mr. Michael N. Mervin, Project Attorney, Office of Chief Counsel.

Discussion of Comments

A total of seventy-six comments were received in response to the Advance Notice of Proposed Rulemaking published in the Federal Register on May 4, 1984 (49 FR 19051). The ANPRM solicited responses to fourteen specific questions concerning drydock examinations and five specific questions concerning tailshaft examinations. Three of the questions concerned the economic impact of these examinations, two for drydock and one for tailshaft. The summary outlined below does not include responses to these questions. Instead, they were used to determine the overall economic impact of this proposed rulemaking as shown in the draft regulatory evaluation.

The comments were generally favorable towards some extension of the present drydock and tailshaft examination intervals. In the absence of Coast Guard regulations, most vessel owners/operators would follow the classification society requirements for the intervals between these examinations. Ships operators generally desire a thirty month interval extendable to thirty-six months. Barge operators desire an interval ranging from three to five years. The responses indicated that hull coatings have performed well in service and that unscheduled drydockings are performed only to repair damage and constitute only about ten percent of all drydockings. Most commenters were against regulatory requirements for measuring hull thickness and were also against shortening drydock intervals as a vessel ages or because of vessel carries corrosive or environmentally hazardous cargoes.

The following is a breakdown of the comments to the ANPRM. Not all commenters replied to each question posed in the ANPRM.

31	steamship owners/operators
15	tug/tow and barge operators
6	offshore supply and/or crew boat operators
2	classifications societies
2	marine engineering suppliers
3	independent surveyors
2	dredge/drydock companies
3	small passenger vessel operators
3	MODU operators
1	shipyard
8	various associations

The following is a summary of the comments received to each question posed in the ANPRM.

Concerning Drydock Examinations

Question 1a: In the absence of Coast Guard regulations what would vessel owners or operators adopt as appropriate drydocking or hauling-out intervals for various types and sizes of vessels?

Seventy-three commenters responded to this question of which seventy-two were in favor of extending the interval. Forty-two commenters stated that, in the absence of Coast Guard regulations, they would follow the schedule set forth by classification societies, presently thirty months. In general, these commenters suggested that an unnecessary economic burden could be alleviated by making the intervals coincide with those used by the American Bureau of Shipping (ABS), thus avoiding a duplication on inspections. They also desired some flexibility in scheduling the drydock examinations. One operator of ocean passenger vessels recommended that the thirty month interval apply to vessels regulated under Subchapter H. Nine commenters stated that a three year interval would be appropriate, one arguing that this would allow an owner to schedule the drydocking so that the time of year would be advantageous to applying those bottom coatings which are temperature sensitive at application. One commenter stated that the interval should be five years with no more than three years between a drydock or an underwater examination. Eight commenters stated that barges should have a four year interval. Four commenters stated that a 5 year interval should be set for vessels in fresh water

service. Three commenters stated that the decision to drydock a vessel should be based on the vessel condition, taking into account the condition of the anodes placed on the vessel to inhibit corrosion, the condition of the coatings, or electric current readings on vessels having an impressed current cathodic protection system. Two commenters recommended two year intervals for small passenger vessels while two other commenters recommended one year for small passenger vessels. One shipyard owner recommended that the interval between drydock examinations not to be extended for safety reasons and because an extension would have an adverse economic effect on the shipyards.

Question 1b: How often are vessels hauled or drydocked earlier than scheduled because of hull damage or other problems?

Twenty-eight commenters responded to this question. The commenters related their experience with unscheduled drydockings, which, in general, were all different. On the average, the comments indicated that ten percent of drydockings are unscheduled. (Our inspection records indicate that this number is probably low.) Most commenters did not specify the causes of the unscheduled drydockings.

Question 2a: Would vessel schedules, particularly for large seagoing steam vessels, permit major inspections of the boiler and steam piping to be conducted at intervals the frequency of which did not correspond with the vessels drydocking interval?

Twenty-eight steam vessel operators addressed this question. Thirteen stated that their schedules do not permit boiler inspections unless their vessels are undergoing a drydocking examination. The primary concern was the need for a five to six day down period to perform the boiler and steam piping examinations which their vessel schedules afforded only during drydock examinations.

Fifteen operators stated that boiler inspections could be performed at times other than drydock examinations. Six of these commenters stated that it would require additional planning and coordination and was only feasible if the boiler inspections were conducted in a piecemeal fashion over a period of time. One operated a vessel with four boilers which allowed for the boilers to be taken out of service on staggered intervals for examination without disrupting the vessel's schedule. Two operated vessels on the Great Lakes which allowed them to conduct boiler examinations during winter lay up. Two commenters stated that it was more expensive to conduct boiler inspections independent of drydock examinations while one stated that the high cost of shipyard labor made it unattractive to conduct the boiler examination concurrently with the drydock examination. One commenter suggested that the boilers be on an independent schedule (as unfired pressure vessels are) and not necessarily tied to either the inspections for certification or the drydock examination. One commenter recommended giving consideration to extending the interval between DC heater and other unfired pressure vessel examinations to keep them in harmony with the drydock examination interval if it is extended.

Question 2b: Would similar problems exist with diesel powered ships, and if so, to what extent?

Fourteen operators of diesel vessels responded to this question. Ten commenters stated that main propulsion diesels, auxiliary boilers and unfired pressure vessels could be examined at times other than in drydock, however, others maintained that it was more convenient to conduct these inspections during drydock availabilities. Two operators of diesel electric powered MODUs stated that the only restriction was that these examinations had to be performed when the vessel was shut down, which meant that drilling could not be ongoing. Four commenters stated that these inspections should coincide with the drydock examination. The primary reason given was that vessel schedules do not permit the time necessary to conduct these inspections other than during drydock examination and that this equipment is already shut down and available for inspection then. One steamship operator stated that it would be unfair to provide different intervals for diesel machinery inspections.

Question 3: Would a system that, following an examination after an initial period of service, required drydockings to be conducted more frequently as a vessel ages be feasible or desirable, i.e. one that required a large seagoing ship to be examined within 2 years of being placed in service (or at the guarantee drydocking provided for in many shipbuilding contracts), then again after completing 7, 12, 16, 19, 21, 23, 25 etc. years of service?

Forty-seven commenters responded to this question. Thirty-one commenters stated that such a system was neither feasible nor desirable. Several of these commenters stated that there was little evidence to support the contention that vessels required more frequent drydock examinations as they aged. They also pointed out that a system that required more frequent drydockings as a vessel ages would penalize the owners and operators that properly maintained their vessels.

Nine commenters stated that a system requiring more frequent drydock examinations with vessel age is desirable. One of these recommended that, for seagoing barges, the interval between drydock examinations should be five years when the barges are new and should appropriately decrease as the barges age.

Seven commenters stated that this system would only be desirable if the drydock examinations were required to coincide with classification societies' special surveys.

Question 4: Should specific requirements for hull gauging (measurement of hull thickness) be included in the regulations? If so, how long after the vessel is placed in service should the first gauging be conducted and at what intervals should the gauging be repeated?

Fifty commenters responded to this question. Thirty-three commenters stated that a regulatory requirement to include gauging is not needed because Coast Guard inspectors have the authority to require gaugings when necessary and classification society rules for gauging are adequate. Sixteen commenters stated that gauging requirements should be included in the regulations. Nine of these sixteen commenters stated that if gauging requirements were included in the regulations, they should reflect the American Bureau of Shipping rules and provide for gauging when the vessel is ten years of age and every five years thereafter. One commenter stated that gauging should be allowed in lieu of alternate drydock examinations.

Question 5a: Should past experience with a specific vessel be considered in determining when it should next be drydocked?

Forty commenters responded to this question. Fifteen commenters stated that past experience should be considered. One of these commenters stated that this would be difficult to administer as a regulatory requirement. The commenter suggested that the Marine Safety Information System (MSIS) might aid in administering this requirement. Some commenters stated that extensions should be granted to properly maintained vessels that met or exceeded the minimum standards. Two MODU operators indicated that credit should be given for unscheduled drydockings.

Five commenters stated that present vessel condition and not past experience should be the criteria for determining

drydock intervals. They also stated that if conditions indicate the need for a shorter interval, then repairs/renewals should be immediately required and the normal interval restored.

Twenty commenters stated that past experience should not be considered to determine when a vessel should be drydocked. Most indicated that it would be too complex and arbitrary and that a fixed extension to the interval was the only fair approach. Many commenters stated that the Coast Guard already has the authority to grant drydock extensions or require an early drydock examination if vessel conditions warrant.

Question 5b: If so, how could it be considered without being unduly arbitrary.

Seven commenters responded to this question. Three commenters stated that by clearly publishing the policy concerning shortened drydock intervals based on past history and by carefully documenting a vessel's past history, the Coast Guard could negate any claim that a particular judgment was arbitrary. Four commenters stated that shorter intervals may be warranted for a vessel or a class of vessels when a trend of deterioration exists.

Question 6a: Should greater or lesser consideration be given to the hull material (wood, fiberglass, aluminum, steel)?

Twenty-one commenters responded to this question. Fourteen commenters favored considering the differences between hull materials in determining drydock examination intervals. Seven commenters stated that hull material was not as important as other considerations such as coatings, corrosion protection systems, fastenings in wooden hulls, etc.

Question 6b: Should greater or lesser consideration be given to the percentage of service in fresh vs. salt water.

Twenty-seven commenters responded to this question. Twenty-three commenters stated fresh water service justifies longer intervals between drydock examinations because there is less corrosion and fouling. One of these commenters pointed out that while fresh water service benefits steel hull vessels it has the opposite effect on wooden hulls since wood generally rots quicker in fresh water than in salt water. Three commenters noted that keeping track of the percentages of time a vessel operates in fresh water and salt water is difficult and time consuming. They therefore recommended that, since vessels operating inland are primarily in fresh water, the intervals between drydock examinations should be based on the certificated route with an inland route having a longer interval than an oceans route. One commenter stated no consideration should be given for fresh water service.

Question 7a: How well have tank coatings, special hull paints and hull protection systems performed in service?

Forty-four commenters responded to this question. Forty-two commenters stated that coatings have performed well, either superior to or in accordance with manufacturers' claims. Two commenters stated that coatings were not worth the cost, however, both of these commenters operated vessels in ice, which resulted in the coatings being abraded.

Question 7b: Has their performance been consistent between similar vessels?

Forty-one commenters responded stating that performance was consistent provided the coatings were properly applied. Surface preparation and proper curing were two of the critical variables mentioned.

Question 8: Should consideration be given to the vessel's operating area because of the likelihood of ice damage, undetected damage from grounding, scouring, etc?

Forty commenters responded to this question. Thirty-four commenters stated that no consideration should be given to a vessel's operating area. They pointed out that damage reports are currently made to the Coast Guard and the ABS, either of which can call for a drydock examination if it is necessary. They also stated that a system to keep track of operating area would be too complex to administer and that a prudent operator would survey for damage following a suspected grounding or similar incident in order to determine if a drydocking is required. Six commenters stated that operating area should be considered.

Question 9: Because of the different type of hull structural loading involved, should differing intervals be specified for displacement hulls than for nondisplacement hulls?

Fourteen commenters responded to this question. Eight commenters stated that consideration should be given to the type of hull. One small passenger vessel operator pointed out that when a planing hull rises partially out of the water at high speeds, it is subject to more pounding than a displacement hull, which degrades coatings and subjects the hull to more severe stress. Five commenters stated that no consideration should be given. They maintained that hull structure loading was a design problem and that the highly stressed areas would be built stronger.

Question 10: Should more consideration be given to the type of cargoes that the vessel carries because of the corrosive effects of those cargoes?

Thirty-two commenters responded to this question. Twenty-five commenters stated that this consideration is already in place under 46 CFR Subchapter 0 and that no further consideration is required. Six commenters stated that consideration should be given to the nature of the cargo carried. One commenter felt that the corrosiveness of the cargo was only critical on single skin barges.

Question 11: Should more frequent examinations of the hull be required when a vessel carries bulk cargoes that may be particularly harmful to the marine environment if accidentally released?

Thirty-two commenters responded to this question. Twenty-eight commenters stated that no consideration is warranted because most spills resulted from transfer operations, groundings and collisions and that more frequent drydock examinations will not prevent these type of spills. Four commenters favored more frequent drydock examinations for vessel carrying these cargoes.

Questions 12 and 13: These questions requested information concerning the economic impacts of drydocking examinations. Responses to these questions are addressed in the draft regulatory impact analysis.

Question 14: To what extent would shipyards and repair facilities be adversely affected if the Coast Guard were to increase intervals specified for tailshaft examinations or drydocking?

A shipyard owner stated that increasing the interval between drydock examinations would have an adverse economic impact on shipyards as well as decreasing overall vessel safety. All other commenters stated that the impact on shipyards would be minimal but would be an economic boon to vessel owners and operators. Several commenters stated that the impact on shipyards should not be a consideration, but, rather, the impact on the shipping industry and vessel safety should be the criteria used in deciding suitable drydock intervals. Several vessel owners/operators stated that the economic impact to shipyards would be minimal since shipyard income stems from repair work and not "up and down." One commenter stated that it was difficult to find a shipyard to do a bottom survey if there was no projected repair work.

Concerning Tailshaft Examinations

Question 1: In the absence of Coast Guard regulations, what would vessel owners or operators adopt as appropriate intervals and methods for tailshaft examinations? What is the experience with, and what intervals have been adopted on vessels not subject to inspection?

Forty-five commenters responded to this question. Eighteen commenters stated they would follow the ABS requirements for tailshaft examinations. Two commenters went further and suggested that tailshaft examinations should be delegated to the ABS. Three commenters stated a six year interval was appropriate while thirteen commenters suggested five years, one commenter four years, three commenters two and one-half years. Four commenters recommended a ten year interval for oil lubricated bearings provided certain conditions such as oil analysis and bearing weardown readings were regularly performed. Three commenters recommended that for oil lubricated bearings, the tailshaft should be examined at the first drydock examination after delivery and then not be subject to any scheduled examination unless problems develop. The reasoning expressed is that tailshafts with oil lubricated bearings have an excellent safety record and that drawing the tailshaft for examination does not harm than good because the bearing may only be damaged when the shaft is drawn.

Question 2: The present marine engineering regulations require tailshaft examinations only on vessels in ocean and coastwise service, presumably because loss of propulsion is a greater concern when offshore. The potential loss of a vessel's capability to manuever in near-shore or inland waters is of equal or greater concern; if tailshaft examination requirements are to be retained, should they be extended to inspected vessels operating in these waters also?

Fourteen commenters responded to this question. Ten commenters stated the regulations should not be extended to vessels operating on inland waters. Operators of vessels on the Great Lakes stated that they have a proven record of conducting these examinations as conditions warrant and there is no regulatory requirement for drawing the tailshafts of these vessels. Four commenters recommended extending tailshaft examination requirements to vessels operating in inland waters.

Question 3: Since loss of motive power quickly and directly affects the earning capacity of a vessel, is it possible that economic considerations would drive vessel owners and operators to conduct tailshaft examinations, particularly on newer vessels where there is a substantial equity to protect, as frequently as is presently required?

Twenty-seven commenters responded to this question. Thirteen commenters stated that owners/operators continuously monitor the tailshafts of their vessels and consequently perform an examination if problems arise in order to preclude the loss of earnings. Eleven commenters stated that they would simply follow classification society guidelines for performing tailshaft examinations. Three commenters stated there was no economic incentive to perform the examination while one commenter pointed out that bearing weardown measurements are conducted annually on vessels operating on the Great Lakes.

Question 4: Should regulatory consideration be given to alternative means of monitoring bearing wear down?

Twenty-nine commenters responded to this question. Twenty-three commenters stated that consideration should be be given to keeping abreast of proven technological advances such as oil analysis and plug guaging arrangements. Six commenters stated that that no consideration should be given.

Question 5: This question requested information concerning the economic impact of tailshaft examinations. Responses to this question are addressed in the draft regulatory analysis.

In addition to the specific questions posed in the ANPRM the following comments were also received.

Nine commenters recommended that the Coast Guard allow underwater examinations to be substituted, on an alternating basis, for scheduled drydock examinations. Two of these commenters were classification societies, both of which allow alternating underwater surveys and drydocking. Two commenters pointed to the acceptance of underwater surveys by the classification societies as the basis for their recommendation. Three commenters pointed to the current Coast Guard regulations which allow for semi-submersible and jack-up MODU's to be surveyed while afloat as the basis for their recommendation. One commenter noted that underwater surveys have provided cost savings and asserted that, when properly performed, the survey provided the information necessary to determine if hull repairs were required. This comment was submitted by an owner and operator of construction barges which normally have long transit times to a drydock facility. Since the underwater surveys could be performed at more accessible locations, a cost savings was realized due to the decreased time the vessels were out of service.

Ten commenters recommended that the Coast Guard utilize the American Bureau of Shipping for drydock examinations in the same manner as the Coast Guard accepts ABS work products for plan review and vessel inspection on new construction. The agreements the Coast Guard has reached with the ABS concerning new construction have been established through Memoranda of Understanding and consequently, if the Coast Guard were to extend the agreements to cover drydock examinations, it would not be a regulatory change. At this time, the Coast Guard is not considering the use of the ABS for drydock examinations and reinspections of existing vessels.

Discussion of Changes

The scope of the rulemaking has changed. The ANPRM stated that the Coast Guard is considering revising the regulations governing drydock and tailshaft examination intervals for all vessels regulated under Title 46, Code of Federal Regulations. This is still true; however, the intervals for these examinations for Mobile Offshore Drilling Units (MODUs), regulated under 46 CFR Subchapter I–A, and for small passenger vessels, regulated under 46 CFR Subchapter T, will be addressed in separate rulemakings. Both of these subchapters are in the process of undergoing a regulatory rewrite and are docketed as follows: CGD 83–071a for Subchapter I–A, and CGD 85–080 for Subchapter T. Comments that are applicable to these vessels have been copied and placed in the respective dockets.

The Coast Guard is proposing to amend the regulations governing drydock and tailshaft examinations for those vessels regulated under Subchapter D—tank vessels, Subchapter H—passenger vessels, Subchapter I—cargo and miscellaneous vessels, Subchapter R—nautical school ships, and Subchapter U—oceanographic research vessels. In general, these proposals would extend the intervals between these examinations beyond those currently allowed, and accept alternate underwater examinations for certain vessels under specific conditions. These proposals are based on safety considerations, the comments received on the ANPRM, classification

society rules and current Coast Guard policy. While the Coast Guard believes that consistency between the proposed rules and classification society rules is important and responsive to the concerns of shipowners, comments on whether different inspection intervals should be implemented are specifically invited.

The following paragraphs detail the proposed changes.

1. Vessels in saltwater service will be required to undergo a drydock examination two times within a five year cycle with the interval between any two drydock examinations not to exceed three years. The cycle restarts after the second drydocking. Current regulations require these vessels to be drydocked once every two years. In specifying the drydock requirements in this manner, vessels owners will have more flexibility than they currently do in scheduling drydockings. These intervals are consistent with all major classification society rules, which was the overriding concern expressed in the comments received. These intervals will not apply to passenger vessels in international service which, in order to conform to the requirements of the Safety of Life at Sea Convention, as amended, will still be required to undergo annual drydock examinations.

2. Vessels in exclusive or partial fresh water service will be permitted to operate longer between drydockings. Hull deterioration for metal hulled vessels is reduced when operating in fresh water and there is no need to be drydocked as often. This is supported by the comments received; however, there was no consensus on what these extended intervals should be. The regulations allow for extended intervals based on the percentage of time a vessel operates in fresh water and this concept will be continued. The proposed regulations will require vessels operating exclusively in fresh water to be drydocked once every five years. Vessels that operate in fresh water more than six months out of any twelve month period will be required to be drydocked once every four years. Vessels that operate in salt water more than six months in any twelve month period will be required to be drydocked under the same schedule as a vessel that operates in salt water. These intervals are basically the same as currently allowed in the regulations except for tank vessels, which are currently limited to a maximum of three years between drydockings when in exclusive fresh water service, and sailing school vessels, which have no allowance for mixed fresh and salt water service but do have an interval of six years for exclusive fresh water service.

3. Wooden hull vessels will be required to be drydocked twice within a five year cycle with no more than three years between any two drydockings. This drydock schedule would lengthen the interval for most wooden hull vessels operating in salt water since the current drydock interval is two years. It would be a reduction for wooden vessels exclusively operating in fresh water since the current interval for most of these vessels is five years. The reduction for fresh water service is necessary because fresh water accelerates deterioration due to rot on wooden hull vessels. Exeptions to the above current drydock intervals are: (1) Wooden hull tank vessels which have a drydock interval of four years regardless of area of operation; and (2) sailing school vessels operating in fresh water, which have a drydock interval of six years.

4. Under these proposed regulations the Coast Guard would accept underwater surveys alternating with scheduled drydockings for all vessels except wooden hull vessels and double hull tank barges in inland service. Alternating underwater surveys will only be accepted for vessels that are less than fifteen years of age and that are equipped with effective hull protection. Effective hull protection includes impressed current systems, certain coatings, and sacrificial anodes. The Commandant (G–MVI) will make all decisions regarding the acceptability of underwater surveys for each vessel. Decisions of acceptability will be based on the condition of the vessel, the hull protection system, and the procedures that will be followed for performing the underwater survey. These decisions will, in many cases, require an on-site evaluation and may, in some instances, depend on quality of the survey results. For these reasons, no survey procedures or standards are included in the proposed regulations. The Coast Guard has published guidelines for underwater examinations, which, among other things, include requirements that rudder and bearing clearances must be obtained, suitable arrangements must be made to allow for the inspection of the sea valves from inside the vessel, the underwater body must be suitably marked, the vessel must be at light draft, and a minimum of seventy-five percent of the internals in way of the underwater body must be cleaned and made available for inspection. These guidelines are in Chapter 8, Volume II of the Marine Safety Manual.

Water conditions are of primary importance when considering the acceptability of an underwater survey. The Coast Guard has an experimental program whereby certain vessels have been allowed to substitute an underwater survey for a drydocking; fifteen vessels are participating. Experience from this program has indicated that it is unlikely that there are many ports within the U.S. that are suitable for underwater surveys, because of poor water quality (turbidity and current); however, there are locations outside the U.S. that are suitable. Once a vessel is accepted for alternate underwater examinations, the water conditions at the time of the survey must be suitable, with final judgment being made by the Officer in Charge, Marine Inspection (OCMI).

The proposed change is expected to provide the most benefit to vessels which must travel long distances to be drydocked, especially vessels with high operating costs, where lost time for transit is a significant portion of the drydock examination cost. It is not expected to aid vessels which can be readily drydocked. Experience from the experimental program has indicated that, when the survey is properly performed and water conditions are adequate, an underwater survey provides the necessary information to judge the condition of the vessel's underwater body. A properly performed underwater survey is at least as time consuming as a drydock examination, and with the costs associated for divers and the necessary video equipment, the Coast Guard does not believe an underwater survey would consistently be less costly than a drydock examination. In fact, if the underwater survey is not performed properly or if it shows the vessel requires repairs to the underwater hull, the vessel would then be required to be drydocked. This would result in the owner/operator having to spend more money than if the vessel had been initially drydocked for the examination.

5. The proposed regulations will retain the current provision that allows double hulled tank barges in inland service to undergo an internal examination of the spaces between the outer hull and the tank boundaries in lieu of alternate drydockings. Because of the proposed drydock schedule discussed above in paragraphs 1 and 2, the intervals between mandatory drydocking will be increased from four years (salt water) and six years (fresh water) to five years and ten years, respectively. Because of this extended time between mandatory drydocking, and to verify the integrity of

the cargo tank boundary, these proposed regulations require that all internal tanks be examined whenever the vessel is scheduled for a drydock examination. This includes alternate internal examinations for double hull tank barges and alternate underwater surveys for tank ships and single skin tank barges. This proposed requirement will apply to all tank vessels except those certificated to carry products regulated under 46 CFR Subchapter 0, in which case internal tank examinations must be performed as specified in 46 CFR Part 151. Including this proposed requirement is not expected to impose a burden on the owners and operators of tank vessels. The internals of cargo tanks are required to be periodically examined and for economic reasons, they have usually been examined concurrently with the scheduled drydocking.

6. These proposed regulations will also provide that all extensions to the drydocking intervals must be approved by the Commandant (G–MVI). Under the current regulations, the Commandant has delegated the authority to grant six month extensions to the OCMIs. This delegation will be removed. The drydock examination intervals being proposed go a long way toward harmonizing the Coast Guard requirements with those specified by the classification societies. In addition, they provide vessel owners and operators the necessary flexibility to schedule drydock examinations without disrupting the vessel's schedule. These are the two biggest factors vessel onwers/operators currently cite when requesting drydock extensions. For these reasons the need for extensions should decrease significantly and the Coast Guard is of the opinion that extensions should only be granted in unusual circumstances. The Coast Guard considers that, for the sake of consistency in granting extensions, control should be maintained by the Commandant (G–MVI).

7. These regulations propose that each vessel that holds a Load Line Certificate must have on board a plan that shows the dimensions and location of the hull plating and framing. This plan is to be made available to the Coast Guard marine inspector whenever the vessel undergoes a drydock examination or, in lieu of a drydock examination, an underwater survey or internal examination. The purpose of this requirement is to insure that the information necessary for the Coast Guard marine inspector to determine the extent of the vessel's hull deterioration is readily available. This proposed requirement incorporates Recommendation No. 7 from the Coast Guard Marine Casualty Report on the capsizing and sinking of the SS MARINE ELECTRIC, O.N. 245675, Report No. 16732/0001 HQS 83.

8. With one exception, discussed below, these proposed regulations generally extend the interval between tailshaft examinations. In addition to the comments received, the basis for the proposed intervals is to harmonize the tailshaft examination intervals with the proposed drydocking intervals and the intervals specified by the classification societies. For water lubricated bearings the intervals proposed are as follows:

a. Tailshafts with no special provisions, i.e. continuous liner, corrosion resistant shafts, or stress reducing design, must be examined twice within a five year cycle with no more than three years elapsing between any two examinations. The cycle restarts after the second examination. This is an extension beyond the current requirement of an examination once every two years.

b. Tailshafts constructed of corrosion resistant materials or fitted with a continuous liner will be required to be examined once every three years for single shafted vessels and once every five years for multiple shafted vessels. These are the same intervals currently required except for multiple shafted vessels, which is four years.

c. Tailshafts made of corrosion resistant materials or fitted with a continuous liner and which have been designed to reduce stress or are equipped with a flanged propeller will be required to be examined once every five years. This is a change from the current requirement of once every four years.

The exception to lengthened tailshaft examination intervals concerns nautical school ships. Presently, nautical school ships are not subject to the same intervals as other vessels and have an interval of four years regardless of the construction features of the tailshaft. Under these proposed regulations, they will be subject to the same intervals as other vessels and consequently the interval will depend on the construction features of the tailshaft. The practical effect of these proposed regulations on existing nautical school ships is that the tailshaft examination interval will be lengthened to five years.

9. These regulations propose that tailshafts with oil lubricated bearings will not be required to be drawn at specified intervals for examination. At each drydocking or alternate underwater survey, bearing weardown readings must be taken. In addition, the propeller must be removed to permit the non-destructive testing of the forward ⅓ of the tapered section of the tailshaft every five years. Quarterly oil analysis must be done and made available to the OCMI. These tailshafts would be required to be drawn only if a problem was indicated by these methods. As indicated by the comments received, drawing a tailshaft with oil lubricated bearings often does more harm than good. These bearings have an excellent service record and drawing the shaft may only result in bearing damage. Monitoring the tailshaft through periodic bearing clearance readings, non-destructive testing of the taper and key way, and oil analysis is just as effective. The American Bureau of Shipping has recently changed its rules to no longer require tailshafts with oil lubricated bearings to be drawn at specified intervals. Currently, the Coast Guard requires tailshafts with oil lubricated bearings to be drawn once every ten years.

10. These regulations propose that all extensions to the tailshaft examination intervals must be approved by the Commandant (G–MVI). Under the current regulations, OCMIs have the authority to grant six-month extensions for water lubricated bearings and up to two-year extensions for oil lubricated bearings. This authority will be removed. The tailshaft examination intervals being proposed go a long way towards being harmonized with the drydock intervals and with the intervals specified by the classification societies. In addition, they provide vessel owners and operators the necessary flexibility to schedule the tailshaft examination without disrupting the vessel's schedule. These are the biggest factors vessel owners/operators currently cite when requesting tailshaft extensions. For these reasons the need for extensions should decrease significantly and, in order to be consistent in granting extensions, control should be maintained by the Commandant (G–MVI).

Regulatory Evaluation

These proposed regulations are considered to be non-major under Executive Order 12281. They are considered significant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979) because of the possible safety implication of extending the drydock and tailshaft examination intervals. The Coast Guard has determined that these extended intervals will provide an adequate level of safety. This determination is based on

the improved hull coatings and corrosion prevention methods used on present day vessels. In addition, the Coast Guard has, under the present regulations, granted six month drydock extensions to give vessels flexibility in scheduling the examinations. There is no indication that these longer intervals have degraded safety. Accordingly, a draft regulatory evaluation has been prepared and placed in the rulemaking docket.

The basis for estimating the economic impact was the information received in response to the questions posed in the ANPRM concerning the costs for vessels to undergo a drydock and tailshaft examination. Most of the information received pertained to tankers above 20,000 DWT and tankbarges. While there was information received concerning drydocking and tailshaft examination costs for the other vessel types, there was not enough to establish general class costs. Consequently, the information received on tankers and tankbarges was adapted and used to determine the costs for all vessels. This has undoubtedly introduced some errors in the cost calculations. Persons interested in submitting information concerning the costs for other vessel types are invited to do so. This information will be used in preparing the final evaluation.

Based on this information, it is estimated that these proposed regulations would provide cost reductions to vessel owners through fewer examinations resulting in a savings of $295.4 million (present value in 1986 dollars). The annual savings is estimated to be $29.57 million, also in 1986 dollars. Savings will be realized by all vessels except wooden hull vessels in fresh water service, wooden hull tank vessels and sailing school vessels since the proposed regulations shorten the drydock intervals for these vessels. The Coast Guard has identified three small vessels from these categories. The increase in cost to these vessels is significantly less than $1000 per year and based on this, the Coast Guard has determined no further evaluation is necessary.

The draft regulatory evaluation may be inspected or copied at the location referred to in **ADDRESSES.** Copies may also be obtained by contacting LCDR Jeffrey G. Lantz at (202) 426–4431.

Environmental Assessment

The Coast Guard has assessed the environmental impacts of these regulations and has determined they will have no significant impact.

Paperwork Reduction Act

These proposed regulations contain information collection requirements in the following sections of 46 CFR:

§ 31.10–23	§ 31.10–24
§ 71.50–3	§ 71.50–5
§ 91.40–3	§ 91.40–5
§ 167.15–30	§ 167.15–35
§ 169.229	§ 169.233
§ 189.40–3	§ 189.40–5

They have been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Persons desiring to comment on these information collection requirements should submit their comments to: Office of Regulatory Policy, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, ATTN: Desk Officer, Coast Guard. Persons submitting comments to OMB are also requested to submit a copy of their comments to the Coast Guard as indicated under **ADDRESSES.**

Regulatory Flexibility Act

These proposed regulations would affect all companies that own or operate vessels within the scope of this rulemaking, some of which may be small entities. The proposed rules apply to all inspected vessels except small passenger vessels and mobile offshore drilling units. The proposed rules will provide an economic benefit to these vessels as the intervals between drydock and tailshaft examinations are being extended beyond the current requirements. The Coast Guard estimates the proposal could save those vessels which could be considered a small entity as much as $2,500 annually.

The Coast Guard does not consider this economic impact to be significant. Consequently the Coast Guard certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities.

List of Subjects

46 CFR Part 31

Coast Guard, Marine safety, Tank vessels, Tank barges, Law enforcement, Flammable materials

46 CFR Part 61

Coast Guard, Marine safety, Vessels, Tests and inspections

46 CFR Part 71

Coast Guard, Marine safety, Passenger vessels, Reporting requirements, Foreign trade, Law enforcement

46 CFR Part 91

Coast Guard, Marine safety, Cargo vessels, Law enforcement, Reporting requirements

46 CFR Part 167

Coast Guard, Marine safety, School vessels, Reporting requirements, Fire protection

46 CFR Part 189

Coast Guard, Marine safety, Oceanographic vessels.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Title 46 Code of Federal Regulations as follows:

PART 31—[AMENDED]

1. The authority citation for Part 31 is revised to read as follows and all other authority citations in the part are removed.

Authority: 46 U.S.C. 3306, 3703; 49 CFR 1.46(b).

2. By revising § 31.10–20 to read as follows:

§ 31.10–20 Drydock examinations, underwater surveys and internal examinations—TB/ALL.

(a) A drydock examination means hauling out a vessel or placing a vessel in a drydock or slipway for an examination of all accessible parts of the vessel's underwater body and all through-hull fittings, including sea chests, sea valves, and sea strainers. A drydock examination also includes a complete internal examination of all cargo and ballast tanks except if the vessel is certificated to carry cargoes regulated under 46 CFR Part 38 or 46 CFR Subchapter O, in which case cargo tank internal examinations must be accomplished as specified in 46 CFR Part 38 and 151, respectively.

(b) An underwater survey means the examination of a vessel, while afloat, of all accessible parts of the vessel's underwater body and all through-hull fittings, including sea chests, sea valves, and sea strainers and bilge injection valves. An underwater survey also includes a complete internal examination of all cargo and ballast tanks except if the vessel is certificated to carry cargoes regulated under 46 CFR Part 38 or 46 CFR Subchapter O, in which case cargo tank internal examinations must be accomplished as specified in 46 CFR Part 38 and 151, respectively.

(c) An internal examination of a double hulled tank barge (double sides, ends, and bottom) means an

examination of the barge while afloat with no cargo or ballast on board and consists of a complete examination of—

(1) The internal side of the barge's outer hull;

(2) The exterior side of the barge's cargo tank boundary;

(3) All interior spaces; and

(4) The internals of all ballast and cargo tanks except if the vessel is certificated to carry cargoes regulated under 46 CFR Part 38 or 46 CFR Subchapter O, in which case cargo tank internal examinations must be accomplished as specified in 46 CFR Part 38 and 151, respectively.

3. By adding a new § 31.10–23 to read as follows:

§ 31.10–23 Drydock examinations, underwater surveys and internal examination intervals—TB/ALL.

(a) Except as provided for in paragraphs (b) through (e) of this section, each tank vessel must undergo a drydock examination as follows:

(1) Vessels in salt water service must undergo two drydock examinations within a five year cycle. A new five year cycle begins upon completion of the second drydock examination in the previous five year cycle. No more than three years may elapse between any two drydock examinations.

(2) Vessels that operate in fresh water an aggregate of at least 6 months in every 12 month period since the last drydock examination must undergo a drydock examination at intervals not to exceed four years.

(3) Vessels that operate exclusively in fresh water must undergo a drydock examination at intervals not to exceed five years.

(b) Vessels with wooden hulls must undergo two drydock examinations within a five year cycle regardless of the type of water they operate in. A new five year cycle begins upon completion of the second drydock examination in the previous five year cycle. No more than three years may elapse between any two drydock examinations.

(c) An underwater survey may be done in lieu of alternate drydock examinations for all vessels, except wooden hull vessels and double hull tank barges in inland service, provided the vessel is less than 15 years of age and is fitted with an effective hull protection system. Vessel owners or operators must apply to the Commandant (G–MVI) for approval of underwater surveys in lieu of alternate drydock examinations for each vessel. The application must include the following information:

(1) The procedures to be followed in carrying out the underwater surveys;

(2) The location or locations where the underwater surveys will be accomplished;

(3) The method to be used to accurately determine the diver location relative to the hull;

(4) The means that will be provided for examining sea chests, sea valves and other through-hull fittings;

(5) The means that will be provided for taking shaft bearing clearances;

(6) The internal spaces in way of the vessel's underwater body that will be available for inspection; and

(7) The condition of the vessel, including the hull protection system used on the vessel and the anticipated draft of the vessel at the time of the survey.

(d) An internal examination may be done in lieu of drydock examinations on double hull tank barges in inland service.

(e) Each vessel, irrespective of service, which has not complied with the requirements of paragraphs (a) through (d) of this section, either because it was on a voyage or was laid up, must undergo a drydock examination upon completion of the voyage or before being placed in service.

(f) The Commandant (G–MVI) may authorize extensions to the drydock intervals specified in paragraphs (a) and (b) of this section.

4. By adding a new § 31.10–24 to read as follows:

§ 31.10–24 Notice and plans required.

(a) The master, owner, operator, or agent shall notify the Officer in Charge, Marine Inspection, whenever any vessel is to be drydocked regardless of the purpose.

(b) Each vessel that holds a Load Line Certificate must have on board a shell expansion plan showing the vessel's hull scantlings. This plan is to be made available to the Coast Guard marine inspector whenever the vessel undergoes a drydock examination, underwater survey, internal examination, or whenever repairs are made to the vessel's hull.

PART 61—[AMENDED]

5. The authority citation for Part 61 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; 49 CFR 1.46(b).

6. By revising § 61.20–17 to read as follows:

§ 61.20–17 Examination intervals.

(a) Except as provided in paragraphs (b) through (e) of this section, each tailshaft on a vessel must be examined twice within a five year cycle. A new five year cycle begins upon completion of the second tailshaft examination in the previous five year cycle. No more than three years may elapse between any two tailshaft examinations.

(b) Tailshafts fabricated of materials resistant to corrosion by sea water, or fitted with a continuous liner or a sealing gland which prevents sea water from contacting the shaft, must be examined at the following intervals:

(1) Once every three years for vessels with a single shaft; or

(2) Once every five years for vessels with multiple shafts.

(c) Tailshafts constructed or fitted as described in paragraph (b) of this section that are fitted with a taper, keyway, and propeller designed in accordance with American Bureau of Shipping standards to reduce stress concentration, or that are fitted with a flanged propeller, must be examined once every five years.

(d) Tailshafts with oil lubricated bearings are not required to be examined provided—

(1) Tailshaft bearing clearance readings are taken whenever the vessel undergoes a drydock examination or underwater survey;

(2) The propeller is removed and non-destructive testing of the taper and keyway is done at intervals not to exceed five years; and

(3) Analysis of the tailshaft bearing lubricating oil is performed quarterly.

(e) A tailshaft on a mobile offshore drilling unit is not subject to the examination intervals prescribed in paragraphs (a) through (c) of this section if it is:

(1) Examined during each regularly scheduled drydocking; or

(2) Regularly examined in a manner acceptable to the Commandant (G–MVI).

7. By revising § 61.20–18 to read as follows:

§ 61.20–18 Examination details.

(a) Each tailshaft must be drawn and visually inspected at each examination.

(b) On tailshafts with a taper, keyway, and propeller designed in accordance with American Bureau of Shipping standards to reduce stress concentration, in addition to a visual inspection of the entire shaft, the forward ⅓ of the shaft's taper section must be nondestructively tested.

(c) On tailshafts with a propeller fitted to the shaft by means of a coupling flange, in addition to a visual inspection of the entire shaft, the flange, the fillet at the propeller end, and each coupling bolt must be nondestructively tested.

8. By revising § 61.20–21 to read as follows:

§ 61.20–21 Extension of examination interval.

The Commandant (G–MVI) may authorize extensions to the interval between tailshaft examinations.

PART 71—[AMENDED]

9. The authority citation for Part 71 is revised to read as follows and all other authority citations in the part are removed.

Authority: 46 U.S.C. 2113, 3306; 49 CFR 1.46(b)

10. By revising § 71.50–1 to read as follows:

§ 71.50–1 Drydock examinations and underwater surveys.

(a) A drydock examination means hauling out a vessel or placing a vessel in a drydock or slipway for an examination of all accessible parts of the vessel's underwater body and all through-hull fittings, including sea chests, sea valves and sea strainers.

(b) An underwater survey means the examination of a vessel, while afloat, of all accessible parts of the vessel's underwater body and all through-hull fittings, including sea chests, sea valves, sea strainers and bilge injection valves.

11. By adding a new § 71.50–3 to read as follows:

§71.50–3 Drydock examination intervals.

(a) Each vessel making international voyages must undergo a drydock examination once every 12 months.

(b) Except as provided for in paragraphs (c) through (e) of this section, each vessel not making international voyages must undergo a drydock examination as follows:

(1) Vessels in salt water service must undergo two drydock examinations within a five year cycle. A new five year cycle begins upon completion of the second drydock examination in the previous five year cycle. No more than three years may elapse between any two drydock examinations.

(2) Vessels that operate in fresh water an aggregate of at least 6 months in every 12 month period since the last drydock examination must undergo a drydock examination at intervals not to exceed four years.

(3) Vessels that operate exclusively in fresh water must undergo a drydock examination at intervals not to exceed five years.

(c) Vessels with wooden hulls must undergo two drydock examinations within a five year cycle regardless of the type of water they operate in. A new five year cycle begins upon completion of the second drydock examination in the previous five year cycle. No more than three years may elapse between any two drydock examinations.

(d) An underwater survey may be done in lieu of alternate drydock examinations for all vessels, except wooden hulls and vessels making international voyages, provided the vessel is less than 15 years of age and is fitted with an effective hull protection system. Vessel owners or operators must apply to the Commandant (G–MVI) for approval of underwater surveys in lieu of alternate drydock examinations for each vessel. The application must include the following information:

(1) The procedures to be followed in carrying out the underwater surveys;

(2) The location or locations where the underwater surveys will be accomplished;

(3) The method to be used to accurately determine the diver location relative to the hull;

(4) The means that will be provided for examining sea chests, sea valves and other through-hull fittings;

(5) The means that will be provided for taking shaft bearing clearances;

(6) The internal spaces in way of the vessel's underwater body that will be made available for inspection; and

(7) The condition of the vessel, including the hull protection system used on the vessel and the anticipated draft of the vessel at the time of the survey.

(e) Each vessel, irrespective of service, which has not complied with the requirements of paragraphs (a) through (d) of this section, either because it was on a voyage or was laid up, must undergo a drydock examination upon completion of the voyage or before being placed in service.

(f) The Commandant (G–MVI) may authorize extensions to the drydock intervals specified in paragraphs (a) and (b) of this section.

12. By revising § 71.50–5 to read as follows:

§ 71.50–5 Notice and plans required.

(a) The master, owner, operator, or agent shall notify the Officer in Charge, Marine Inspection, whenever any vessel is to be drydocked regardless of the purpose.

(b) Each vessel that holds a Load Line Certificate must have onboard a shell expansion plan showing the vessel's hull scantlings. This plan is to be made available to the Coast Guard marine inspector whenever the vessel undergoes a drydock examination, underwater survey, or whenever repairs are made to the vessel's hull.

PART 91—[AMENDED]

13. The authority citation for Part 91 is revised to read as follows and all other authority citations in the part are removed.

Authority: 46 U.S.C. 3306, 3703; 49 CFR 1.46(b)

14. By revising § 91.40–1 to read as follows:

§ 91.40–1 Drydock examinations, underwater surveys and internal examinations.

(a) A drydock examination means hauling out a vessel or placing a vessel in a drydock or slipway for an examination of all accessible parts of the vessel's underwater body and all through hull-fittings, including sea chests, sea valves and sea strainers. For vessels certificated to carry cargoes regulated under 46 CFR Subchapter O, a drydock examination also includes a complete internal examination of all ballast tanks.

(b) An underwater survey means the examination of a vessel, while afloat, of all accessible parts of the vessel's underwater body and all through-hull fittings, including sea chests, sea valves, sea strainers and bilge injection valves. An underwater survey also includes a complete internal examination of all cargo and ballast tanks except if the vessel is certificated to carry cargoes regulated under 46 CFR Subchapter O, in which case cargo tank internal examinations must be accomplished as specified in 46 CFR Part 151.

(c) An internal examination of a double hulled tank barge (double sides, ends, and bottom) means an examination of the barge while afloat with no cargo or ballast on board and consists of a complete examination of—

(1) The internal side of the barge's outer hull;

(2) The exterior side of the barge's cargo tank boundary;

(3) All interior spaces; and

(4) The internals of all ballast and cargo tanks except if the vessel is certificated to carry cargoes regulated under 46 CFR Subchapter O, in which case cargo tank internal examinations must be accomplished as specified in 46 CFR Part 151.

15. By adding a new § 91.40–3 to read as follows:

§ 91.40-3 Drydock examination, underwater survey and internal examination intervals.

(a) Except as provided for in paragraphs (b) through (e) of this section, each vessel must undergo a drydock examination as follows:

(1) Vessels in salt water service must undergo two drydock examinations within a five year cycle. A new five year cycle begins upon completion of the second drydock examination in the previous five year cycle. No more than three years may elapse between any two drydock examinations.

(2) Vessels that operate in fresh water an aggregate of at least 6 months in every 12 month period since the last drydock examination must undergo a drydock examination at intervals not to exceed four years.

(3) Vessels that operate exclusively in fresh water must undergo a drydock examination at intervals not to exceed five years.

(b) Vessels with wooden hulls must undergo two drydock examinations within a five year cycle regardless of the type of water they operate in. A new five year cycle begins upon completion of the second drydock examination in the previous five year cycle. No more than three years may elapse between any two drydock examinations.

(c) An underwater survey may be done in lieu of alternative drydock examinations for all vessels, except wooden hull vessels and double hull tank barges in inland service, provided the vessel is less than 15 years of age and is fitted with an effective hull protection system. Vessel owners or operators must apply to the Commandant (G-MVI) for approval of underwater surveys in lieu of alternate drydock examinations for each vessel. The application must include the following information:

(1) The procedures to be followed in carrying out the underwater surveys;

(2) The location or locations where the underwater surveys will be accomplished;

(3) The method to be used to accurately determine the diver location relative to the hull;

(4) The means that will be provided for examining sea chests, sea valves and other through-hull fittings;

(5) The means that will be provided for taking shaft bearing clearances;

(6) The internal spaces in way of the vessel's underwater body that will be made available for inspection; and

(7) The condition of the vessel, including the hull protection system used on the vessel and the draft of the vessel at the time of the survey.

(d) An internal examination may be done in lieu of alternate drydock examinations on double hull tank barges in inland service.

(e) Each vessel, irrespective of service, which has not complied with the requirements of paragraphs (a) through (d), either because it was on a voyage or was laid up, must undergo a drydock examination upon completion of the voyage or before being placed in service.

(f) The Commandant (G-MVI) may authorize extensions of the drydock interval specified in paragraphs (a) and (b) of this section.

16. By revising § 91.40-5 to read as follows:

§ 91.40-5 Notice and plans required.

(a) The master, owner, operator, or agent shall notify the Officer in Charge, Marine Inspection, whenever any vessel is to be drydocked regardless of the purpose.

(b) Each vessel that holds a Load Line Certificate must have onboard a shell expansion plan showing the vessel's hull scantlings. This plan is to be made available to the Coast Guard marine inspector whenever the vessel undergoes a drydock examination, underwater survey, internal examination, or whenever repairs are made to the vessel's hull.

PART 167—[AMENDED]

17. The authority citation for Part 167 is revised to read as follows and all other authority citations in the part are removed.

Authority: 46 U.S.C. 3306, § 167.65-65 also issued under 46 U.S.C. 6101 and § 167.60-15 also issued under 46 U.S.C. 8105; 49 CFR 1.46.

18. By adding a new § 167.15-27 to read as follows:

§ 167.15-27 Drydock examinations and underwater surveys.

(a) A drydock examination means hauling out a vessel or placing a vessel in a drydock or slipway for an examination of all accessible parts of the vessel's underwater body and all through hull fittings including sea chests, sea valves and sea strainers.

(b) An underwater survey means the examination of a vessel, while afloat, of all accessible parts of the vessel's underwater body and all through-hull fittings, including sea chests, sea valves, sea strainers and bilge injection valves.

19. By revising § 167.15-30 to read as follows:

§167.15-30 Drydock examination intervals.

(a) Except as provided for in paragraphs (b) through (d) of this section, each vessel must undergo a drydock examination as follows:

(1) Vessels in salt water service must undergo two drydock examinations within a five year cycle. A new five year cycle begins upon completion of the second drydock examination in the previous five year cycle. No more than three years may elapse between any two drydock examinations.

(2) Vessels that operate in fresh water an aggregate of at least 6 months in every 12 month period since the last drydock examination must undergo a drydock examination at intervals not to exceed four years.

(3) Vessels that operate exclusively in fresh water must undergo a drydock examination at intervals not to exceed five years.

(b) Vessels with wooden hulls must undergo two drydock examinations within a five year cycle regardless of the type of water they operate in. A new five year cycle begins upon completion of the second drydock examination in the previous five year cycle. No more than three years may elapse between any two drydock examinations.

(c) An underwater survey may be done in lieu of alternate drydock examinations for all vessels, except vessels with wooden hulls, provided the vessel is less than 15 years of age and is fitted with an effective hull protection system. Vessel owners or operators must apply to the Commandant (G-MVI) for approval of underwater surveys in lieu of alternate drydock examinations for each vessel. The application must include the following information:

(1) The procedures to be followed in carrying out the underwater surveys;

(2) The location or locations where the underwater surveys will be accomplished;

(3) The method to be used to accurately determine the diver location relative to the hull;

(4) The means that will be provided for examining sea chests, sea valves and other through hull fittings;

(5) The means that will be provided for taking shaft bearing clearances;

(6) The internal spaces in way of the vessel's underwater body that will be made available for inspection; and

(7) The condition of the vessel, including the hull protection system used on the vessel and the anticipated draft of the vessel at the time of the survey.

(d) Each vessel, irrespective of service, which has not complied with

the requirements of paragraphs (a) through (c) of this section, either because it was on a voyage or was laid up, must undergo a drydock examination upon completion of the voyage or before being placed in service.

(e) The Commandant (G–MVI) may authorize extensions to the drydock intervals specified in paragraphs (a) and (b) of this section.

20. By adding a new § 167.15–35 to read as follows:

§ 167.15–35 Notice and plans required.

(a) The master, owner, operator, or agent shall notify the Officer in Charge, Marine Inspection, whenever any vessel is to be drydocked regardless of the purpose.

(b) Each vessel that holds a Load Line Certificate must have onboard a shell expansion plan showing the vessel's hull scantlings. This plan is to be made available to the Coast Guard marine inspector whenever the vessel undergoes a drydock examination, underwater survey, or whenever repairs are made to the vessel's hull.

21. By revising § 167.15–50 to read as follows:

§ 167.15–50 Tailshaft examinations.

Tailshaft examinations on nautical school ships shall conform to the standards in Part 61 of Subchapter F (Marine Engineering) of this chapter.

PART 169—[AMENDED]

22. The authority citation for Part 169 continues to read as follows:

Authority: 46 U.S.C. 3306; 49 CFR 1.46(b).

23. By revising § 169.229 to read as follows:

§ 169.229 Drydock examination intervals.

(a) Except as provided for in paragraphs (b) through (d) of this section, each vessel must undergo a drydock examination as follows:

(1) Vessels in salt water service must undergo two drydock examinations within a five year cycle. A new five year cycle begins upon completion of the second drydock examination in the previous five year cycle. No more than three years may elapse between any two drydock examinations.

(2) Vessels that operate in fresh water an aggregate of at least 6 months in every 12 month period since the last drydock examination must undergo a drydock examination at intervals not to exceed four years.

(3) Vessels that operate exclusively in fresh water must undergo a drydock examination at intervals not to exceed five years.

(b) Vessels with wooden hulls must undergo drydock examinations within a five year cycle regardless of the type of water they operate in. A new five year cycle begins upon completion of the second drydock examination in the previous five year cycle. No more than three years may elapse between any two drydock examinations.

(c) An underwater survey may be done in lieu of alternate drydock examinations for all vessels, except vessels with wooden hulls, provided the vessel is less than 15 years of age and is fitted with an effective hull protection system. Vessel owners or operators must apply to the Commandant (G–MVI) for approval of underwater surveys in lieu of alternate drydock examinations for each vessel. The application must include the following information:

(1) The procedures to be followed in carrying out the underwater surveys;

(2) The location or locations where the underwater surveys will be accomplished;

(3) The method to be used to accurately determine the diver location relative to the hull;

(4) The means that will be provided for examining sea chests, sea valves and other through hull fittings;

(5) The means that will be provided for taking shaft bearing clearances;

(6) The internal spaces in way of the vessel's underwater body that will be made available for inspection; and

(7) The condition of the vessel, including the hull protection system used on the vessel and the anticipated draft of the vessel at the time of the survey.

(d) Each vessel, irrespective of service, which has not complied with the requirements of paragraphs (a) through (c) of this section, either because it was on a voyage or was laid up, must undergo a drydock examination upon completion of the voyage or before being placed in service.

(e) The Commandant (G–MVI) may authorize extensions to the drydock intervals specified in paragraphs (a) and (b) of this section.

24. By revising § 169.231 to read as follows:

§ 169.231 Drydock examinations and underwater surveys.

(a) A drydock examination means hauling out a vessel or placing a vessel in a drydock or slipway for an examination of all accessible parts of the vessel's underwater body and all through hull fittings including sea chests, sea valves and sea strainers.

(b) An underwater survey means the examination of a vessel, while afloat, of all accessible parts of the vessel's underwater body and all through-hull fittings, including sea chests, sea valves, sea strainers and bilge injection valves.

25. By revising § 169.233 to read as follows:

§ 169.233 Notice and plans required.

(a) The master, owner, operator, or agent shall notify the Officer in Charge, Marine Inspection, whenever any vessel is to be drydocked regardless of the purpose.

(b) Each vessel that holds a Load Line Certificate must have onboard a shell expansion plan showing the vessel's hull scantlings. This plan is to be made available to the Coast Guard marine inspector whenever the vessel undergoes a drydock examination, underwater survey, or whenever repairs are made to the vessel's hull.

PART 189—[AMENDED]

26. The authority citation for Part 189 is revised to read as follows and all other authority citations in the part are removed.

Authority: 46 U.S.C. 2113, 3306; 49 CFR 1.46.

27. By revising § 189.40–1 to read as follows:

§ 189.40–1 Drydock examinations and underwater surveys.

(a) A drydock examination means hauling out a vessel or placing a vessel in a drydock or slipway for an examination of all accessible parts of the vessel's underwater body and all through-hull fittings including sea chests, sea valves, sea strainers and bilge injection valves.

(b) An underwater survey means the examination of a vessel, while afloat, of all accessible parts of the vessel's underwater body and all through-hull fittings, including sea chests, sea valves and sea strainers.

28. By adding a new §189.40–3 to read as follows:

§189.40–3 Drydock examination intervals.

(a) Except as provided for in paragraphs (b) through (d) of this section, each vessel must undergo a drydock examination as follows:

(1) Vessels in salt water service must undergo two drydock examinations within a five year cycle. A new five year cycle begins upon completion of the second drydock examination in the previous five year cycle. No more than three years may elapse between any two drydock examinations.

(2) Vessels that operate in fresh water an aggregate of at least 6 months in every 12 month period since the last drydock examination must undergo a drydock examination at intervals not to exceed four years.

(3) Vessels that operate exclusively in fresh water must undergo a drydock examination at intervals not to exceed five years.

(b) Vessels with wooden hulls must undergo two drydock examinations within a five year cycle regardless of the type of water they operate in. A new five year cycle begins upon completion of the second drydock examination in the previous five year cycle. No more then three years may elapse between any two drydock examinations.

(c) An underwater survey may be done in lieu of alternate drydock examinations for all vessels, except vessels with wooden hulls, provided the vessel is less than 15 years of age and is fitted with an effective hull protection system. Vessel owners/operators must apply to the Commandant (G–MVI) for approval of underwater surveys in lieu of alternate drydock examinations for each vessel. The application must include the following information:

(1) The procedures to be followed in carrying out the underwater surveys;

(2) The location or locations where the underwater surveys will be accomplished;

(3) The method to be used to accurately determine the diver location relative to the hull;

(4) The means that will be provided for examining sea chests, sea valves and other through–hull fittings;

(5) The means that will be provided for taking shaft bearing clearances;

(6) The internal spaces in way of the vessel's underwater body that will be made available for inspection; and

(7) The condition of the vessel, including the hull protection system used on the vessel and the anticipated draft of the vessel at the time of the survey.

(d) Each vessel, irrespective of service, which has not complied with the requirements of paragraphs (a) through (c) of this section, either because it was on a voyage or was laid up, must undergo a drydock examination upon completion of the voyage or before being placed in service.

(e) The Commandant (G–MVI) may authorize extensions to the drydock intervals specified in paragraphs (a) and (b) of this section.

29. By revising §189.40–5 to read as follows:

§189.40–5 Notice and plans required.

(a) The master, owner, operator, or agent shall notify the Officer in Charge, Marine Inspection, whenever any vessel is to be drydocked regardless of the purpose.

(b) Each vessel that holds a Load Line Certificate must have onboard a shell expansion plan showing the vessel's hull scantlings. This plan is to be made available to the Coast Guard marine inspector whenever the vessel undergoes a drydock examination, alternate underwater survey, or whenever repairs are made to the vessel's hull.

Signed: May 22, 1986.

J.S. Gracey,

Admiral, U.S. Coast Guard Commandant.

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federal register

Friday
May 30, 1986

Part VIII

Department of Health and Human Services

Health Care Financing Administration

Schedule of Limits on Home Health Agency Costs Per Visit for Cost Reporting Periods Beginning On or After July 1, 1986, But Before July 1, 1987; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[BERC-355-FN]

Medicare Program; Schedule of Limits on Home Health Agency Costs per Visit for Cost Reporting Periods Beginning on or After July 1, 1986 But Before July 1, 1987

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

ACTION: Final notice.

SUMMARY: This notice sets forth a schedule of limits on home health agency (HHA) costs that may be reimbursed under the Medicare program. The schedule is an update of the limits to take into account the effects of inflation on HHA operating costs, and was developed using the HCFA wage index. This notice applies to HHA costs for entire cost reporting periods beginning on or after July 1, 1986 but before July 1, 1987.

EFFECTIVE DATE: The schedule of limits is effective for cost reporting periods beginning on or after July 1, 1986 and before July 1, 1987.

FOR FURTHER INFORMATION CONTACT: Steven R. Kirsh (301) 594–9465.

SUPPLEMENTARY INFORMATION:

I. General Information

Section 1861(v)(1) of the Social Security Act (the Act) authorizes the Secretary to set limits on allowable costs incurred by a provider of services that may be reimbursed under the Medicare program, based on estimates of the costs necessary for the efficient delivery of needed health services. The limits may be applied to direct or indirect overall costs or to the costs incurred for specific items or services furnished by the provider. This provision of the statute is implemented under regulations at 42 CFR 405.460.

Under this authority, we have maintained limits on home health agency (HHA) per visit costs since 1979. The schedule set forth below replaces the schedule that we published in the **Federal Register** on July 5, 1985 (50 FR 27734), which was applicable to cost reporting periods beginning on or after July 1, 1985 but before July 1, 1986. The July 5, 1985 notice established a three-year methodology to be used in calculating the limits. This three-year methodology provided for the limits to be set at 115 percent of the mean cost for cost reporting periods beginning on or after July 1, 1986 but before July 1, 1987, and at 112 percent of the mean cost for cost reporting periods beginning on or after July 1, 1987 but before July 1, 1988. The July 5, 1985 notice further provided that the updated schedules of limits, that would apply to cost reporting periods beginning July 1, 1986 and July 1, 1987 were to be based on the latest available cost data adjusted by the latest estimates in the market basket index (50 FR 27740).

On March 25, 1986 we published in the **Federal Register** (51 FR 10267) a proposed notice soliciting public comments on the use of the HCFA survey-based wage index in calculating the schedule of limits on home health agency per visit costs for cost reporting periods beginning on or after July 1, 1986. As we stated in the proposed notice, all other elements of the methodology used to determine HHA cost limits for cost reporting periods beginning on or after July 1, 1986 will remain as they were announced in the July 5, 1985 final notice.

II. Responses to Comments

We received comments on the proposed notice from 16 commenters. These commenters included HHAs, national and State HHAs associations, associations representing other providers and other interested parties. These comments and our responses to them are discussed below.

Comment: Several commenters suggested that the development of an HHA-specific wage index from the HHA cost report data would be preferable to either the BLS or HCFA hospital wage index.

Response: We would agree that, in theory, the use of an HHA industry-specific wage index could result in some increase in the accuracy of the limits. We included additional required schedules in the revised HHA cost report that was effective October 1, 1980 to capture the wage and employment data necessary to calculate such a wage index. Unfortunately, a large proportion of HHAs failed to report either the wage or the employment data, or both, making it impossible for us to do a meaningful analysis of the data. In addition, we wish to note that, of those HHAs that do report the data, a significant proportion are reporting data that is obviously erroneous. Using these data, we have calculated *annual* salary levels for skilled medical professionals and obtained a salary range between $3,000 to $500,000. Until all HHAs begin to report the required wage and employment data, and report it accurately, no further progress toward the development of an industry-specific wage index is possible.

Comment: Some commenters stated that we should have published two sets of limits in the March 25, 1986 proposed notice, one set using the BLS Wage Index and one set using the HCFA Wage Index. These commenters stated that they could not assess the actual effect of the change in wage indexes without knowing what effect the change had on the limit that would be applied to their agency.

Response: In the proposed notice, we stated that, with the exception of the change in wage indexes, "All other elements of the HHA limits methodology to be applied for cost reporting periods beginning on July 1, 1986 would remain as they were announced in the July 5, 1985 final notice." We also stated that the net effect of the change in wage indexes would be negligible because increased and decreased payments would offset each other. Therefore, it should have been clear that the change in wage indexes would have no significant effect on the base limit values (Tables I and II). This follows logically from the function of the wage index in the cost limits methodology, which is to eliminate the effect of geographic variations in prevailing wage levels on per visit cost. While the HCFA wage index, by accounting for part-time employment, results in a more accurate limit as applied to a given HHA, both the HCFA and BLS wage indexes normalized all per visit costs to the national average. Therefore, the use of either index in adjusting the labor-related portion of per visit cost will result in base limit values with no significant difference. Providers wishing to gauge the effect of the proposed change in wage indexes needed only to apply the HCFA wage index to the limits effective July 1, 1985. For example, substituting the HCFA wage index value for Dallas, TX, into the illustration shown in the July 5, 1985 publication (50 FR 27741, Column 2) would reflect the difference caused by the change in the wage index.

Comment: Some commenters were of the opinion that the BLS wage index, by virtue of being based on 1983 data, would be more accurate than the HCFA wage index, which is based on 1982 data.

Response: Since our first use of wage indexes to adjust cost limits, in 1979, our experience has been that year-to-year changes in the wage indexes based on BLS data have been minimal. Therefore, while the BLS index does relfect changes over time in the prevailing wage level for each area, relative to the national average, it continues to fail to account for the significant effect part-

time employment has on the index value for a particular area.

The HCFA wage index, while based on data one year older than the BLS data, does account for part-time employment. In doing this, the HCFA index presents a much more accurate measure of the true prevailing wage level in each area. We find that the increased accuracy resulting from accounting for the effect of part-time employment far outweighs the minimal increase in accuracy of using BLS data that is one year later.

Future schedules of HHA cost limits will utilize wage indexes based on the latest available data.

Comment: One commenter stated that the primary motivation in the change to the HCFA wage index was that it resulted in lower limit values.

Response: As we discussed above, the change from BLS to HCFA wage indexes had no effect on expenditures for home health services. Our sole concern in making this change was to assure that the limits applied to any HHA's per visit cost represented the most accurate possible estimate of the costs necessary in the efficient delivery of needed health services.

In comparing the base limits in Table I of this notice with those in Table I of the July 5, 1985 final notice, it should be noted that the actual and projected annual rates of inflation used in developing the limits in this notice are below those used to develop the previous schedule of limits. Therefore, HHAs with costs at or above the level of the limits effective July 1, 1985 have benefited from our overestimate of the rate of inflation in the cost of goods and services consumed by HHAs. For example, if the estimated rates of inflation for the years covered by the July 1, 1985 limits are determined to be greater than the actual rates of inflation by not more than 3/10 of one percentage point, no retroactive adjustment will be made. Retroactive adjustments will be made only if the projected rate of inflation exceeds the actual rate by more than 3/10 of one percentage point. In this case, HHAs with costs in excess of the limits will have benefited because they had the use of federal funds. The limits in this notice reflect later, and more accurate, actual and estimted rates of inflation in HHA costs.

Comment: We received a number of other comments concerning various elements of the methodology used in both this and previous schedules of limits.

Response: As has been true of all schedules of limits, the limits in this schedule represent our best estimate of the cost necessary in the efficient delivery of needed health services. The methodology used in this notice incorporates all feasible refinements to improve the accuracy of the limits. We intend to continue studying various aspects of the home health industry. As information that allows further refinements to the limits methodology becomes available, we will include these refinements as proposed changes to future schedules of limits.

III. Provisions of the Limits Effective July 1, 1986

With the exception of the use of the HCFA survey-based wage index, the methodology used to calculate the schedule of limits set forth in this final notice is the same as that explained in the July 5, 1985 notice (50 FR 27734–27751). The schedule of limits set forth below was calculated using 115 percent of mean cost and is based on the latest available cost data adjusted by the latest estimates in the market basket index.

The provisions of the new schedule of limits effective July 1, 1986 are summarized below.

A. A classification system based on whether an HHA is located within a metropolitan statistical area (MSA) or a New England County metropolitan area (NECMA) or a non-MSA area. (See Table III.A., below, for the listing of MSA/NECMA areas.)

B. The use of a single schedule of limits for hospital-based and freestanding agencies. This single limit is based on the cost experience of freestanding agencies. We have provided for an "add-on" adjustment of the freestanding HHA limit (which is equal to 10.7204 percent of the mean for the MSA group and 11.5237 percent for the non-MSA group) for each hospital-based discipline to account for the higher administrative and general (A & G) costs resulting from Medicare cost allocation requirements. That is, the labor-related portion of the add-on, adjusted by the appropriate wage index, plus the nonlabor portion, will be added to each freestanding limit to determine the per discipline limits for hospital-based agencies.

C. The use of the following market basket index developed from the price of goods and services purchased by HHAs to account for the impact of changing wage and price levels on HHA costs. The limit values contained in this schedule reflect the latest available actual and projected rates of inflation in HHA expenses. The categories used were identified through an analysis of 1977 Medicare cost reports and other available home health industry surveys. The categories of expenses are weighted according to the estimated proportion of HHA costs attributable to each category.

The categories used in the market basket contained in this schedule have not changed from those used for the July 1, 1985 schedule. However, the relative cost shares used change over time because of differences in the rate of increase in the various price variables. Categories with higher rates of price increases receive higher weights and vice versa.

In developing the market basket index, we obtained historical and projected rates of increase in the resource prices for each category. The price variables and the source of the forecast for calendar years 1986 through 1988 are identified in the third and fourth columns of the updated market basket included in this notice.

HOME HEALTH AGENCY INPUT PRICE INDEX: COST CATEGORIES, RELATIVE IMPORTANCE, FORECASTERS, AND PRICE VARIABLES USED

Cost Categories	Relative [1] importance 1987	Forecaster of [2] percent changes (1986–88)	Price variables used
Wages and salaries	66.46	DRI-CFS	Average hourly earnings of nonsupervisory private hospital workers (SIC 806) Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Employment and Earnings* (Monthly).
Employee benefits	8.39	DRI-TL	Supplements to wages and salaries per worker in non-agriculture establishments. Source: For supplements to wages and salaries—U.S. Dept. of Commerce, Bureau of Economic Analysis, *Survey of Current Business* (monthly). For total employment—U.S. Department of Labor, Bureau of Labor Statistics, *Employment and Earnings (monthly).*
Transportation	4.23	DRI-TL	Transportation component of Consumer Price Index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review.*
Office costs	2.90	DRI-TL	Services Component of Consumer Price Index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review.*
Medical nursing supplies and rental equipment.	2.47	HCFA-HHS	Medical equipment and supplies component of the Consumer Price Index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review.*

HOME HEALTH AGENCY INPUT PRICE INDEX: COST CATEGORIES, RELATIVE IMPORTANCE, FORECASTERS, AND PRICE VARIABLES USED—Continued

Cost Categories	Relative [1] importance 1987	Forecaster of [2] percent changes (1986-88)	Price variables used
Rent	1.19	DRI-CFS	Residential rent component of Consumer Price Index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review.*
Nonrental space occupancy	1.10	DRI-TL	Composite Fuel and Other Utilities Index. Source: HHS-HCFA, Community Hospital Price Index.
Miscellaneous	6.39	DRI-TL	Consumer Price Index for all items, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review.*
Contract services	6.87	HHS	Weighted mean of price variables for the preceding eight items.
Total	100.00		

[1] Relative cost weights for 1977 were derived from special studies by HCFA using primarily data from HCFA Medicare cost reports and data from the Council of Home Health Agencies and Community Health Services. A Laspeyres price index was constructed using 1977 weights and price variables indicated in this table. The relative importance values change over time in accordance with price changes for each price variable. Cost categories with relatively higher price increases get higher relative importance values and vice versa.

[2] DRI-TL refers to Data Resources, Inc., Trendlong (TL 0486) 29 Hartwell Avenue, Lexington, Massachusetts 02173; DRI-CFS refers to Data Resources, Inc., Cost Forecasting Services (CFS-862), 1750 K Street NW., Washington, DC 20006.

D. An adjustment to the limits if the estimated market basket rate differs from the actual rate by more than 3/10 of one percentage point (that is, higher or lower).

E. The use of the HCFA survey-based gross wage index that was developed based on data obtained from a survey conducted by HCFA. The survey provided for the extraction of specific hospital salary and fringe benefit data from the Medicare cost report for hospital fiscal years ending in calendar year 1982, and for the extraction from hospital records of data on paid hours worked. A complete description of the survey, as well as the survey results, can be found in the following **Federal Register** publication:

- Proposed rule published on July 3, 1984 (49 FR 27439);
- Final rule published on August 31, 1984 (49 FR 34764);
- Proposed rule published on June 10, 1985 (50 FR 24375); and
- Final rule published on September 3, 1985 (50 FR 35646).

A description of the methodology used to compute the gross wage index (see tables III.A. and III.B.) was described in the March 25, 1986 proposed notice. Corrections of data for several areas were made subsequent to the publication of the proposed notice and have been incorporated in the wage indexes included in this final notice. The wage index is used to adjust the labor-related portion of the limits and the A & G add-on to reflect differing wage levels among the areas (MSA/NECMA and non-MSA) in which HHAs are located. The employee wage portion of the market basket index (66.46 percent) and the employee benefits portion (8.39 percent), plus a factor representing a proportionate share of contract services (5.52 percent), is used to determine the labor component (80.37 percent) of all HHA per visit costs used to set the limits.

If the Executive Office of Management and Budget (EOMB) announces changes in the MSA designations effective before July 1, 1986, we will recalculate the wage indexes for the affected areas and direct our intermediaries to use these revised indexes in determining the limits for HHAs they service.

F. Separate treatment of the labor-related and nonlabor components of per visit costs. The separate components of cost are calculated by obtaining actual HHA cost data for each agency and increasing those data by the actual and projected increases in the HHA market basket. We then separate each HHA's per visit costs into labor and nonlabor portions, and divide the labor portion by the wage index value for the agency's location to control for the effect of wage geographic variations in prevailing wage levels. Separate means are computed for the labor and nonlabor components of per visit costs. For each comparison group, the resulting amounts are shown in Table I.

G. The use of a cost of living adjustment to the nonlabor portion of the limits for HHAs in Alaska, Hawaii, Puerto Rico, and the Virgin Islands.

H. Limits that are applied to the per visit cost of each type of service: skilled nursing care, physical therapy, speech pathology, occupational therapy, medical social services, and home health aide.

IV. Methodology for Determining Cost per Visit Limits

A. Data

The limit values were determined by extracting actual cost per visit data from Medicare cost reports for periods ending on or before September 30, 1983. We then adjusted the data using the latest available market basket factors to reflect cost increases occurring between the cost reporting periods contained in our data base and December 31, 1986 (the midpoint of the first cost reporting period to which the limits will apply). The annual percentage increases used to compute the per visit costs are:

	Percent increase
Calendar Year:	
1982	[1] 10.0
1983	[1] 6.7
1984	[1] 5.3
1985	[1] 4.6
1986	[2] 3.4
1987	[2] 4.2

[1] Final rate.

[2] Forecasted increases. The projected rate of increase in the market basket index will be adjusted to the actual inflation rate if the actual rate of increase differs from the estimated rate by more than 3/10 of one percentage point. We will notify the Medicare intermediaries of the actual rate of increase and advise them to adjust each HHA's cost limit at the time of final settlement.

B. Deflation by Wage Index

After adjustment by the market basket index, we divided each HHA's per visit costs into labor and nonlabor portions. The labor portion of costs (80.37 percent) was determined by using the 74.85 percent employee wage and benefit factor from the market basket, plus 5.52 percent, which represents a proportionate share of the market basket relative importance for contract services. We then divided the labor portion of per visit costs by the wage index applicable to the HHA's location to arrive at an adjusted labor cost.

C. Adjustment for "Outliers"

We transformed all per visit cost data into their natural logarithms and grouped them by type of service and MSA and non-MSA locations, in order to determine the mean cost and standard deviation for each group. We then eliminated all "outlier" costs, retaining only those per visit costs within two standard deviations from the mean in each service.

D. Basic Service Limit

A basic service limit equal to 115 percent of the mean labor and nonlabor portions of the per visit costs of freestanding HHAs is calculated for each type of service. (See Table I.)

V. Computing the Adjusted Limit

A. Adjustment of Limits by Wage Index

To arrive at the adjusted limit, which is to be applied to each service furnished by an HHA, the Medicare fiscal intermediary first multiplies the labor-related component of the limit for the comparison group by the appropriate

wage index. (See Tables I, III.A. and III.B.) The adjusted limit applicable to an HHA is the sum of the nonlabor component plus the adjusted labor-related component.

Example—Calculation of Adjusted Occupational Therapy Limit for a Freestanding HHA in Dallas, TX

Labor component (Table I)	$41.37
Wage index (Table III.A.)	×1.0733
Adjusted labor component	$44.40
Nonlabor component (Table I)	+11.36
Adjusted occupational therapy limit	$55.76

B. Adjustment for Reporting Year

If an HHA has a cost reporting period beginning on or after August 1, 1986, the adjusted per visit limit for each service is revised by a factor from Table IV that corresponds to the month and year in which the cost reporting period begins. Each factor represents the compounded rate of monthly increase derived from the projected annual increase in the market basket index, and is used to account for inflation in costs that will occur after the date on which the limits become effective.

For example, an HHA's cost reporting period begins January 1, 1987. As calculated in the example in section V.A. of this notice, the labor adjusted per visit limit for occupational therapy for this HHA's group is $55.76.

Computation of Revised Limit for Occupational Therapy

Adjusted per visit limit	$55.76
Adjustment factor from Table IV	x1.0210
Revised per visit limit	$56.93

In this example, the revised adjusted per visit limit for occupational therapy applicable to this HHA for the cost reporting period beginning January 1, 1987, is $56.93 per visit.

If an HHA uses a cost reporting period that is not 12 months in duration, a special calculation of the adjustment factor must be made. This results from the fact that projections are computed to the midpoint of a cost reporting period. For cost reporting periods of other than 12 months in duration, the calculation must be done specifically for the midpoint of the cost reporting period. In such cases, the intermediary for the HHA must obtain this adjustment factor from HCFA.

C. Adjustment for Hospital-Based Agencies

If an HHA participates in the Medicare program as part of a hospital that is required to file a HCFA–2552 cost report (see Provider Reimbursement Manual, HCFA Pub. 15–2, Chapters 12, 15 and 19), and qualifies as hospital-based in accordance with the requirements specified in the schedule of limits published June 5, 1980 (45 FR 38014), the HHA will be considered a hospital-based agency and will be entitled to an adjustment of the per visit limit to account for higher administrative and general costs resulting from the Medicare cost allocation requirements. The intermediary will compute the adjusted cost limit as described in the example following Table II.

VI. Schedule of Limits Effective July 1, 1986

The schedule of limits set forth below applies to cost reporting periods beginning on or after July 1, 1986 and before July 1, 1987. The intermediaries will compute the adjusted limits using the wage indexes published in Tables III.A. and III.B. and notify each HHA they service of its applicable limits.

The HHA costs that are subject to the limits include the cost of medical supplies routinely furnished in conjunction with patient care. Medical supplies that are not routinely furnished in conjunction with patient care visits and are directly identifiable as services to an individual patient (that is, medical supplies for which a separate charge is made, in addition to the per visit charge) are excluded from the per visit cost if they meet all of the following criteria—

- The common and established practice of comparable HHAs in the area is to charge separately for the items.
- The HHA follows a consistent charging practice for Medicare and non-Medicare patients receiving the item.
- Generally, the item is not frequently furnished to patients.
- The item is directly identifiable to an individual patient and its costs can be identified and accumulated in a separate cost center.
- The item is furnished at the direction of the patient's physician and is specifically identified in the plan of treatment.

This explanation of nonroutine medical supplies is consistent with instructions for reporting the cost of these supplies on the revised HHA cost report, forms HCFA–1728 and HCFA–2552K. The reasonable cost of durable medical equipment and supplies that are not routinely furnished in conjunction with patient care visits will be reimbursed without regard to the schedule of limits.

Before the limits are applied at cost settlement, the provider's actual costs will be reduced by the amount of individual items of cost (for example, administrative compensation or contract services) that are found to be excessive under Medicare principles of provider reimbursement. In this regard, the fiscal intermediaries will review the various reported costs against such screens as the cost guidelines for physical therapy under arrangements (see § 405.432) and against the limitation on costs that are substantially out of line with those of comparable agencies (see § 405.451).

TABLE I—PER VISIT LIMITS FOR HOME HEALTH AGENCIES [1]

Type of visit	Limit	Labor portion	Nonlabor portion
MSA (NECMA) location			
Skilled nursing care	$52.27	$41.31	$10.96
Physical therapy	50.14	39.61	10.53
Speech pathology	56.79	44.82	11.97
Occupational therapy	52.73	41.37	11.36
Medical social services	78.37	61.36	17.01
Home health aid	33.76	26.60	7.16
NON-MSA location			
Skilled nursing care	57.43	47.49	9.94
Physical therapy	59.52	49.34	10.18
Speech pathology	68.71	56.69	12.02
Occupational therapy	64.49	53.16	11.33
Medical social services	81.42	67.44	13.98
Home health aide	33.77	27.89	5.88

[1] Nonlabor component of limits for HHAs located in Alaska, Hawaii, Puerto Rico, and the Virgin Islands will be increased by multiplying them by the following cost-of-living adjustment factors:

Location	Adjustment factor
Alaska	1.250
Hawaii:	
Oahu	1.225
Kauai	1.175
Maui, Lanai, and Molokai	1.200
Hawaii (island)	1.150
Puerto Rico	1.100
Virgin Islands	1.125

TABLE II—ADD-ON AMOUNTS FOR HOSPITAL-BASED HOME HEALTH AGENCIES

	A&G Add-On	Labor portion	Nonlabor portion
MSA (NECMA) location			
Skilled nursing care	$6.11	$4.78	$1.33
Physical therapy	5.16	4.00	1.16
Speech pathology	6.20	4.82	1.38
Occupational therapy	5.37	4.13	1.24
Medical social services	8.51	6.57	1.94
Home health aide	3.91	3.06	.85
NON-MSA location			
Skilled nursing care	6.36	5.25	1.11
Physical therapy	6.39	5.28	1.11
Speech pathology	8.31	6.83	1.48
Occupational therapy	6.20	5.15	1.05
Medical social services	11.65	9.60	2.05
Home health aide	4.09	3.38	.71

Example

A hospital-based agency in Orlando, FL has a wage index of 1.0188. It provides the following services:

Skilled Nursing
Physical Therapy
Home Health Aides

The published limits for that agency are:

	Limit		Add-On	
	Labor portion	Nonlabor portion	Labor portion	Nonlabor portion
SN	$41.31	$10.96	$4.78	$1.33
PT	39.61	10.53	4.00	1.16
HHA	26.60	7.16	3.06	.85

Calculation of Hospital-Based Limit With Add-On

	SN	PT	HHA
Limit labor portion	$41.31	$39.61	$26.60
Add-on labor portion	+4.78	+4.00	+3.06
Total labor portion	$46.09	$43.61	$29.66
Wage index	×1.0188	×1.0188	×1.0188
Adjusted labor portion	$46.96	$44.43	$30.22
Limit nonlabor portion	10.96	10.53	7.16
Add-on nonlabor portion	+1.33	+1.16	+.85
Adjusted limits	$59.25	$56.12	$38.23

TABLE III.A.—WAGE INDEX FOR URBAN AREAS

Urban area (Constituent counties or county equivalents)	Wage index
Abilene, TX (Taylor, TX)	.9003
Aguadilla, PR (Aguada, PR; Aguadilla, PR; Isabella, PR; Moca, PR)	[1].5581
Akron, OH (Portage, OH; Summit, OH)	1.1080
Albany, GA (Dougherty, GA; Lee, GA)	.8183
Albany-Schenectady-Troy, NY (Albany, NY; Greene, NY; Montgomery, NY; Rensselaer, NY; Saratoga, NY; Schenectady, NY)	.9248
Albuquerque, NM (Bernalillo, NM)	1.1078
Alexandria, LA (Rapides, LA)	.9169
Allentown-Bethlehem, PA-NJ (Warren, NJ; Carbon, PA; Lehigh, PA; Northampton, PA)	1.0454
Altoona, PA (Blair, PA)	1.0022
Amarillo, TX (Potter, TX; Randall, TX)	.9595
Anaheim-Santa Ana, CA (Orange, CA)	1.2615
Anchorage, AK (Anchorage, AK)	1.5849
Anderson, IN (Madison, IN)	.9882
Anderson, SC (Anderson, SC)	.8369
Ann Arbor, MI (Washtenaw, MI)	1.2607
Anniston, AL (Calhoun, AL)	.8519
Appleton-Oshkosh-Neenah, WI (Calumet, WI; Outagamie, WI; Winnebago, WI)	1.0666
Arecibo, PR (Arecibo, PR; Camuy, PR; Hatillo, PR; Quebradillas, PR)	[1].6081
Asheville, NC (Buncombe, NC)	.8844
Athens, GA (Clarke, GA; Jackson, GA; Madison, GA; Oconee, GA)	.8179
Atlanta, GA (Barrow, GA; Butts, GA; Cherokee, GA; Clayton, GA; Cobb, GA; Coweta, GA; De Kalb, GA; Douglas, GA; Fayette, GA; Forsyth, GA; Fulton, GA; Gwinnett, GA; Henry, GA; Newton, GA; Paulding, GA; Rockdale, GA; Spalding, GA; Walton, GA)	.9663
Atlantic City, NJ (Atlantic, NJ; Cape May, NJ)	1.0566
Augusta, GA-SC (Columbia, GA; McDuffie, GA; Richmond, GA; Aiken, SC)	.9602
Aurora-Elgin, IL (Kane, IL; Kendall, IL)	1.1015
Austin, TX (Hays, TX; Travis, TX; Williamson, TX)	1.1177
Bakersfield, CA (Kern, CA)	1.2059
Baltimore, MD (Anne Arundel, MD; Baltimore, MD; Baltimore City, MD; Carroll, MD; Harford, MD; Howard, MD; Queen Anne's, MD)	1.1150
Bangor, ME (Penobscot, ME	.9285
Baton Rouge, LA (Ascension, LA; East Baton Rouge, LA; Livingston, LA; West Baton Rouge, LA)	.9825
Battle Creek, MI (Calhoun, MI)	1.0302
Beaumont-Port Arthur, TX (Hardin, TX; Jefferson, TX; Orange, TX)	1.0082
Beaver County, PA (Beaver, PA)	1.0919
Bellingham, WA (Whatcom, WA)	1.1471
Benton Harbor, MI (Berrien, MI)	.8911
Bergen-Passaic, NJ (Bergen, NJ; Passaic, NJ)	1.0748
Billings, MT (Yellowstone, MT)	1.0226
Biloxi-Gulfport, MS (Hancock, MS; Harrison, MS)	.8489
Binghamton, NY (Broome, NY; Tioga, NY)	.9558
Birmingham, AL (Blount, AL; Jefferson, AL; Saint Clair, AL; Shelby, AL; Walker, AL)	.9663
Bismarck, ND (Burleigh, ND; Morton, ND)	.9943
Bloomington, IN (Monroe, IN)	.9899
Bloomington-Normal, IL (McLean, IL)	.9844
Boise City, ID (Ada, ID)	1.0584
Boston-Lawrence-Salem-Lowell-Brockton, MA (Essex, MA; Middlesex, MA; Norfolk, MA; Plymouth, MA; Suffolk, MA)	1.1560
Boulder-Longmont, CO (Boulder, CO)	1.1326
Bradenton, FL (Manatee, FL)	.9196
Brazoria, TX (Brazoria, TX)	.8742
Bremerton, WA (Kitsap, WA)	.9813
Bridgeport-Stamford-Norwalk-Danbury, CT (Fairfield, CT)	1.1846
Brownsville-Harlingen, TX (Cameron, TX)	.8977
Bryan-College Station, TX (Brazos, TX)	.9569
Buffalo, NY (Erie, NY)	1.0687
Burlington, NC (Alamance, NC)	.7926
Burlington, VT (Chittenden, VT; Grand Isle, VT)	1.0131
Caguas, PR (Caguas, PR; Gurabo, PR; San Lorenz, PR; Aguas Buenas, PR; Cayey, PR; Cidra, PR)	[1].6279
Canton, OH (Carroll, OH; Stark, OH)	1.0080
Casper, WY (Natrona, WY)	1.1063
Cedar Rapids, IA (Linn, IA)	1.0174
Champaign-Urbana-Rantoul, IL (Champaign, IL)	.9965
Charleston, SC (Berkeley, SC; Charleston, SC; Dorchester, SC)	.8912
Charleston, WV (Kanawha, WV; Putnam, WV)	1.0482
Charlotte-Gastonia-Rock Hill, NC-SC (Cabarrus, NC; Gaston, NC; Lincoln, NC; Mecklenburg, NC; Rowan, NC; Union, NC; York, SC)	.8991
Charlottesville, VA (Albermarle, VA; Charlottesville City, VA; Fluvanna, VA; Greene, VA)	.9345
Chattanooga, TN-GA (Catoosa, GA; Dade, GA; Walker, GA; Hamilton, TN; Marion, TN; Sequatchie, TN)	1.0041
Cheyenne, WY (Laramie, WY)	.9702
Chicago, IL (Cook, IL; Du Page, IL; McHenry, IL)	1.2351
Chico, CA (Butte, CA)	1.2463
Cincinnati, OH-KY-IN (Dearborn, IN; Boone, KY; Campbell, KY; Kenton, KY; Clermont, OH; Hamilton, OH; Warren, OH)	1.1050
Clarksville-Hopkinsville, TN-KY (Christian, KY; Montgomery, TN)	.8183
Cleveland, OH (Cuyahoga, OH; Geauga, OH; Lake, OH; Medina, OH)	1.1565
Colorado Springs, CO (El Paso, CO)	1.0439
Columbia, MO (Boone, MO)	1.1022
Columbia, SC (Lexington, SC; Richland, SC)	.9168
Columbus, GA-AL (Russell, AL; Chattanoochee, GA; Muscogee, GA)	.7929
Columbus, OH (Delaware, OH; Fairfield, OH; Franklin, OH; Licking, OH; Madison, OH; Pickaway, OH; Union, OH)	.9684
Corpus Christi, TX (Nueces, TX; San Patricio, TX)	.9899
Cumberland, MD-WV (Allegany, MD; Mineral, WV)	.8996
Dallas, TX (Collin, TX; Dallas, TX; Denton, TX; Ellis, TX; Kaufman, TX; Rockwall, TX)	1.0733
Danville, VA (Danville City, VA; Pittsylvania, VA)	.8087
Davenport-Rock Island-Moline, IA-IL (Scott, IA; Henry, IL; Rock Island, IL)	1.0660
Dayton-Springfield, OH (Clark, OH; Greene, OH; Miami, OH; Montgomery, OH)	1.0939
Daytona Beach, FL (Volusia, FL)	.9139
Decatur, IL (Macon, IL)	.9592
Denver, CO (Adams, CO; Arapahoe, CO; Denver, CO; Douglas, CO; Jefferson, CO)	1.2865
Des Moines, IA (Dallas, IA; Polk, IA; Warren, IA)	1.0556
Detroit, MI (Lapeer, MI; Livingston, MI; Macomb, MI; Monroe, MI; Oakland, MI; Saint Clair, MI; Wayne, MI)	1.1725
Dothan, AL (Dale, AL; Houston, AL)	.8457
Dubuque, IA (Dubuque, IA)	1.0590
Duluth, MN-WI (St. Louis, MN; Douglas, WI)	.9930
Eau Claire, WI (Chippewa, WI; Eau Claire, WI)	.9498
El Paso, TX (El Paso, TX)	.9437
Elkhart-Goshen, IN (Elkhart, IN)	.9650
Elmira, NY (Chemung, NY)	.9741
Enid, OK (Garfied, OK)	.9626
Erie, PA (Erie, PA)	.9991
Eugene-Springfield, OR (Lane, OR)	1.1163
Evansville, IN-KY (Posey, IN; Vanderburgh, IN; Warrick, IN; Henderson, KY)	1.0217
Fargo-Moorhead, ND-MN (Clay, MN; Cass, ND)	1.0644
Fayetteville, NC (Cumberland, NC)	.8330
Fayetteville-Springdale, AR (Washington, AR)	.8078
Flint, MI (Genesee, MI)	1.2104
Florence, AL (Colbert, AL; Lauderdale, AL)	.7689
Florence, SC (Florence, SC)	.7686
Fort Collins-Loveland, CO (Larimor, CO)	1.0846
Fort Lauderdale-Hollywood-Pompano Beach, FL (Broward, FL)	1.1249
Fort Myers-Cape Coral, FL (Lee, FL)	.9533
Fort Pierce, FL (Martin, FL; St. Lucie, FL)	1.0215
Fort Smith, AR-OK (Crawford, AR; Sebastian, AR; Sequoyah, OK)	.9243
Fort Walton Beach, FL (Okaloosa, FL)	.8751
Fort Wayne, IN (Allen, IN; De Kalb, IN; Whitley, IN)	.9568
Fort Worth-Arlington, TX (Johnson, TX; Parker, TX; Tarrant, TX)	.9998
Fresno, CA (Fresno, CA)	1.1490
Gadsden, AL (Etowah, AL)	.8777
Gainesville, FL (Alachua, FL; Bradford, FL)	.9642
Galveston-Texas City, TX (Galveston, TX)	1.1412
Gary-Hammond, IN (Lake, IN; Porter, IN)	1.0978
Glens Falls, NY (Warren, NY; Washington, NY)	.9607
Grand Forks, ND (Grand Forks, ND)	.9871
Grand Rapids, MI (Kent, MI; Ottawa, MI)	1.0663
Great Falls, MT (Cascade, MT)	1.0722
Greeley, CO (Weld, CO)	1.0763
Green Bay, WI (Brown, WI)	1.0326
Greensboro-Winston-Salem-High Point, NC (Davidson, NC; Davie, NC; Forsyth, NC; Guilford, NC; Randolph, NC; Stokes, NC; Yadkin, NC)	.9388
Greenville-Spartanburg, SC (Greenville, SC; Pickens, SC; Spartanburg, SC)	.9130
Hagerstown, MD (Washington, MD)	.9585
Hamilton-Middletown, OH (Butler, OH)	1.0214
Harrisburg-Lebanon-Carlisle, PA (Cumberland, PA; Dauphin, PA; Lebanon, PA; Perry, PA)	.9868
Hartford-New Middletown-Britain-Bristol, CT (Hartford, CT; Litchfield, CT; Middlesex, CT; Tolland, CT)	1.1486
Hickory, NC (Alexander, NC; Burke, NC; Catawba, NC)	.8982
Honolulu, HI (Honolulu, HI)	1.2022
Houma-Thibodaux, LA (Lafourche, LA; Terrebonne, LA)	.9229
Houston, TX (Fort Bend, TX; Harris, TX; Liberty, TX; Montgomery, TX; Waller, TX)	1.0668
Huntington-Ashland, WV-KY-OH (Boyd, KY; Carter, KY; Greenup, KY; Lawrence, OH; Cabell, WV; Wayne, WV)	.9509
Huntsville, AL (Madison, AL)	.8661
Indianapolis, IN (Boone, IN; Hamilton, IN; Hancock, IN; Hendricks, IN; Johnson, IN; Marion, IN; Morgan, IN; Shelby, IN)	1.0594
Iowa City, IA (Johnson, IA)	1.3084
Jackson, MI (Jackson, MI)	1.0206
Jackson, MS (Hinds, MS; Madison, MS; Rankin, MS)	.9354
Jackson, TN (Madison, TN)	.7916
Jacksonville, FL (Clay, FL; Duval, FL; Nassau, FL; St. Johns, FL)	.9481
Jacksonville, NC (Onslow, NC)	.7966
Janesville-Beloit, WI (Rock, WI)	.9422
Jersey City, NJ (Hudson, NJ)	1.1108
Johnson City-Kingsport-Bristol, TN-VA (Carter, TN; Hawkins, TN; Sullivan, TN; Unicoi, TN; Washington, TN; Bristol City, VA; Scott, VA; Washington, VA)	.8617
Johnstown, PA (Cambria, PA; Somerset, PA)	.9526
Joliet, IL (Grundy, IL; Will, IL)	1.1253
Joplin, MO (Jasper, MO; Newton, MO)	.9202
Kalamazoo, MI (Kalamazoo, MI)	1.2341
Kankakee, IL (Kankakee, IL)	.9510
Kansas City, MO-KS (Johnson, KS; Leavenworth, KS; Miami, KS; Wyandotte, KS; Cass, MO; Clay, MO; Jackson, MO; Lafayette, MO; Platte, MO; Ray, MO)	1.0660
Kenosha, WI (Kenosha, WI)	1.0875
Killeen-Temple, TX (Bell, TX; Coryell, TX)	.8849

TABLE III.A.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (Constituent counties or county equivalents)	Wage index
Knoxville, TN (Anderson, TN; Blount, TN; Grainger, TN; Jefferson, TN; Knox, TN; Sevier, TN; Union, TN)	.8996
Kokomo, IN (Howard, IN; Tipton, IN)	.9870
LaCrosse, WI (LaCrosse, WI)	1.0167
Lafayette, LA (Lafayette, LA; St. Martin, LA)	1.0114
Lafayette, IN (Tippecanoe, IN)	.9163
Lake Charles, LA (Calcasieu, LA)	1.0036
Lake County, IL (Lake, IL)	1.1637
Lakeland-Winter Haven, FL (Polk, FL)	.8851
Lancaster, PA (Lancaster, PA)	1.0396
Lansing-East Lansing, MI (Clinton, MI; Eaton, MI; Ingham, MI)	1.0769
Laredo, TX (Webb, TX)	.8163
Las Cruces, NM (Dona Ana, NM)	.8767
Las Vegas, NV (Clark, NV)	1.1254
Lawrence, KS (Douglas, KS)	1.0180
Lawton, OK (Comanche, OK)	.9469
Lewiston-Auburn, ME (Androscoggin, ME)	.9426
Lexington-Fayette, KY (Bourbon, KY; Clark, KY; Fayette, KY; Jessamine, KY; Scott, KY; Woodford, KY)	.9873
Lima, OH (Allen, OH; Auglaize, OH)	.9866
Lincoln, NE (Lancaster, NE)	.9710
Little Rock-North Little Rock, AR (Faulkner, AR; Lonoke, AR; Pulaski, AR; Saline, AR)	1.1135
Longview-Marshall, TX (Gregg, TX; Harrison, TX)	.8410
Lorain-Elyria, OH (Lorain, OH)	1.0280
Los Angeles-Long Beach, CA (Los Angeles, CA)	1.3290
Louisville, KY-IN (Clark, IN; Floyd, IN; Harrison, IN; Bullitt, KY; Jefferson, KY; Oldham, KY; Shelby, KY)	1.0081
Lubbock, TX (Lubbock, TX)	1.0128
Lynchburg, VA (Amherst, VA; Campbell, VA; Lynchburg City, VA)	.9215
Macon-Warner Robins, GA (Bibb, GA; Houston, GA; Jones, GA; Peach, GA)	.9325
Madison, WI (Dane, WI)	1.0902
Manchester-Nashua, NH (Hillsboro, NH; Merrimack, NH)	.9724
Mansfield, OH (Richland, OH)	.9919
Mayaguez, PR (Anasco, PR; Cabo Rojo, PR; Hormigueros, PR; Mayaguez, PR; San German, PR)	[1].5732
McAllen-Edinburg-Mission, TX (Hidalgo, TX)	.8105
Medford, OR (Jackson, OR)	1.0356
Melbourne-Titusville, FL (Brevard, FL)	.9378
Memphis, TN-AR-MS (Crittenden, AR; De Soto, MS; Shelby, TN; Tipton, TN)	1.0494
Miami-Hialeah, FL (Dade, FL)	1.0703
Middlesex-Somerset-Hunterdon, NJ (Hunterdon, NJ; Middlesex, NJ; Somerset, NJ)	1.0349
Midland, TX (Midland, TX)	1.1305
Milwaukee, WI (Milwaukee, WI; Ozaukee, WI; Washington, WI; Waukesha, WI)	1.1411
Minneapolis-St. Paul, MN-WI (Anoka, MN; Carver, MN; Chicago, MN; Dakota, MN; Hennepin, MN; Isanti, MN; Ramsey, MN; Scott, MN; Washington, MN; Wright, MN; St. Croix, WI)	1.1772
Mobile, AL (Baldwin, AL; Mobile, AL)	.8927
Modesto, CA (Stanislaus, CA)	1.2103
Monmouth-Ocean, NJ (Monmouth, NJ; Ocean, NJ)	.9924
Monroe, LA (Ouachita, LA)	.9343
Montgomery, AL (Autauga, AL; Elmore, AL; Montgomery, AL)	.8876
Muncie, IN (Delaware, IN)	1.0065
Muskegon, MI (Muskegon, MI)	.9912
Naples, FL (Collier, FL)	1.0448
Nashville, TN (Cheatham, TN; Davidson, TN; Dickson, TN; Robertson, TN; Rutherford, TN; Sumner, TN; Williamson, TN; Wilson, TN)	.9414
Nassau-Suffolk, NY (Nassau, NY; Suffolk, NY)	1.3399
New Bedford-Fall River-Attleboro, MA (Bristol, MA)	.9795
New Haven-West Haven-Waterbury-Meriden, CT (New Haven, CT)	1.1276
New London-Norwich, CT (New London, CT)	1.1103
New Orleans, LA (Jefferson, LA; Orleans, LA; St. Bernard, LA; St. Charles, LA; St. John The Baptist, LA; St. Tammany, LA)	.9344
New York, NY (Bronx, NY; Kings, NY; New York City, NY; Putnam, NY; Queens, NY; Richmond, NY; Rockland, NY; Westchester, NY)	1.3809
Newark, NJ (Essex, NJ; Morris, NJ; Sussex, NJ; Union, NJ)	1.1404
Niagara Falls, NY (Niagara, NY)	.8963
Norfolk-Virginia Beach-Newport News, VA (Chesapeake City, VA; Gloucester, VA; Hampton City, VA; James City Co., VA; Newport News City, VA; Norfolk City, VA; Poquoson, VA; Portsmouth City, VA; Suffolk City, VA; Virginia Beach City, VA; Williamsburg City, VA; York, VA)	.9692
Oakland, CA (Alameda, CA; Contra Costa, CA)	1.4893
Ocala, FL (Marion, FL)	.8735
Odessa, TX (Ector, TX)	.9619
Oklahoma City, OK (Canadian, OK; Cleveland, OK; Logan, OK; McClain, OK; Oklahoma, OK; Pottawatomie, OK)	1.0930
Olympia, WA (Thurston, WA)	1.0787
Omaha, NE-IA (Pottawattamie, IA; Douglas, NE; Sarpy, NE; Washington, NE)	1.0509
Orange County, NY (Orange, NY)	.9299
Orlando, FL (Orange, FL; Osceola, FL; Seminole, FL)	1.0188
Owensboro, KY (Daviess, KY)	.8243
Oxnard-Ventura, CA (Ventura, CA)	1.2851
Panama City, FL (Bay, FL)	.8354
Parkersburg-Marietta, WV-OH (Washington, OH; Wood, WV)	.9121
Pascagoula, MS (Jackson, MS)	.9678
Pensacola, FL (Escambia, FL; Santa Rosa, FL)	.8742
Peoria, IL (Peoria, IL; Tazewell, IL; Woodford, IL)	1.0584
Philadelphia, PA-NJ (Burlington, NJ; Camden, NJ; Gloucester, NJ; Bucks, PA; Chester, PA; Delaware, PA; Montgomery, PA; Philadelphia, PA)	1.1783
Phoenix, AZ (Maricopa, AZ)	1.0801
Pine Bluff, AR (Jefferson, AR)	.8009
Pittsburgh, PA (Allegheny, PA; Fayette, PA; Washington, PA; Westmoreland, PA)	1.1011
Pittsfield, MA (Berkshire, MA)	1.0246
Ponce, PR (Juana Diaz, PR; Ponce, PR)	[1].6935
Portland, ME (Cumberland, ME; Sagadahoc, ME; York, ME)	1.0114
Portland, OR (Clackamas, OR; Multnomah, OR; Washington, OR; Yamhill, OR)	1.2074
Portsmouth-Dover-Rochester, NH (Rockingham, NH, Strafford, NH)	.9373
Poughkeepsie, NY (Dutchess, NY)	1.0052
Providence-Pawtucket-Woonsocket, RI (Bristol, RI; Kent, RI; Newport, RI; Providence, RI; Statewide, RI; Washington, RI)	1.0553
Provo-Orem, UT (Utah, UT)	.9858
Pueblo, CO (Pueblo, CO)	1.1210
Racine, WI (Racine, WI)	1.0002
Raleigh-Durham, NC (Durham, NC; Franklin, NC; Orange, NC; Wake, NC)	.9720
Rapid City, SD (Pennington, SD)	.9623
Reading, PA (Berks, PA)	1.0248
Redding, CA (Shasta, CA)	1.2396
Reno, NV (WASHOE, NV)	1.1839
Richland-Kennewick, WA (Benton, WA; Franklin, WA)	1.0256
Richmond-Petersburg, VA (Charles City Co., VA; Chesterfield, VA; Colonial Heights City, VA; Dinwiddie, VA; Goochland, VA; Hanover, VA; Henrico, VA; Hopewell City, VA; New Kent, VA; Petersburg City, VA; Powhatan, VA; Prince George, VA; Richmond City, VA)	.9564
Riverside-San Bernardino, CA (Riverside, CA; San Bernardino, CA)	1.2517
Roanoke, VA (Botetourt, VA; Roanoke, VA; Roanoke City, VA; Salem City, VA)	.8997
Rochester, MN (Olmsted, MN)	1.0284
Rochester, NY (Livingston, NY; Monroe, NY; Ontario, NY; Orleans, NY; Wayne, NY)	1.0226
Rockford, IL (Boone, IL; Winnebago, IL)	1.1354
Sacramento, CA (Eldorado, CA; Placer, CA; Sacramento, CA; Yolo, CA)	1.2969
Saginaw-Bay City-Midland, MI, (Bay, MI; Midland, MI; Saginaw, MI)	1.1070
St. Cloud, MN (Benton, MN; Sherburne, MN; Stearns, MN)	1.0018
St. Joseph, MO (Buchanan, MO)	.9487
St. Louis, MO-IL (Clinton, IL; Jersey, IL; Madison, IL; Monroe, IL; St. Clair, IL; Franklin, MO; Jefferson, MO; St. Charles, MO; St. Louis, MO; St. Louis City, MO)	1.0827
Salem, OR (Marion, OR; Polk, OR)	1.0971
Salinas-Seaside-Monterey, CA (Monterey, CA)	1.2571
Salt Lake City-Ogden, UT (Davis, UT; Salt Lake, UT; Weber, UT)	1.0354
San Angelo, TX; (Tom Green, TX)	.8719
San Antonio, TX (Bexar, TX; Comal, TX; Guadalupe, TX)	.8943
San Diego, CA (San Diego, CA)	1.3104
San Francisco, CA (Marin, CA; San Francisco, CA; San Mateo, CA)	1.6517
San Jose, CA (Santa Clara, CA)	1.4805
San Juan, PR (Barcelona PR; Bayoman, PR; Canovanas, PR; Carolina, PR; Catano, PR; Corozal, PR; Dorado, PR; Fajardo, PR; Florida, PR; Guaynabo, PR; Humacao, PR; Juncos, PR; Los Piedras, PR; Loiza, PR; Luguillo, PR; Manati, PR; Naranjito, PR; Rio Grande, PR; San Juan, PR; Toa Alta, PR; Toa Baja, PR; Trojillo Alto, PR; Vega Alta, PR; Vega Baja, PR)	[1].6197
Santa Barbara-Santa Maria-Lompoc, CA (Santa Barbara, CA)	1.1822
Santa Cruz, CA (Santa Cruz, CA)	1.2432
Santa Fe, NM (Los Alamos, NM; Santa Fe, NM)	.9809
Santa Rosa-Petaluma, CA (Sonoma, CA)	1.3112
Sarasota, FL (Sarasota, FL)	.9639
Savannah, GA (Chatham, GA; Effingham, GA)	.8917
Scranton-Wilkes Barre, PA (Columbia, PA; Lackawanna, PA; Luzerne, PA; Monroe, PA; Wyoming, PA)	.9982
Seattle, WA (King, WA; Snohomish, WA)	1.1579
Sharon, PA (Mercer, PA)	.9757
Sheboygan, WI (Sheboygan, WI)	.9885
Sherman-Denison, TX (Grayson, TX)	.8619
Shreveport, LA (Bossier, LA; Caddo, LA)	.9613
Sioux City, IA-NE (Woodbury, IA; Dakota, NE)	1.0062
Sioux Falls, SD (Minnehaha, SD)	1.0211
South Bend-Mishawaka, IN (St. Joseph, IN)	1.0087
Spokane, WA (Spokane, WA)	1.1559
Springfield, IL (Menard, IL; Sangamon, IL)	1.0664
Springfield, MO (Christian, MO; Greene, MO)	.9863
Springfield, MA (Hampden, MA; Hampshire, MA)	1.0060
State College, PA (Centre, PA)	1.0772
Steubenville-Weirton, OH-WV (Jefferson, OH; Brooke, WV; Hancock, WV)	.9655
Stockton, CA (San Joaquin, CA)	1.2871
Syracuse, NY (Madison, NY; Onondaga, NY; Oswego, NY)	1.0301
Tacoma, WA (Pierce, WA)	1.1052
Tallahassee, FL (Gadsden, FL; Leon, FL)	.9509
Tampa-St. Petersburg-Clearwater, FL (Hernando, FL; Hillsborough, FL; Pasco, FL; Pinellas, FL)	.9830
Terre Haute, IN (Clay, IN; Vigo, IN)	.8456
Texarkana-TX-Texarkana, AR (Miller, AR; Bowie, TX)	.8650
Toledo, OH (Fulton, OH; Lucas, OH; Wood, OH)	1.2267
Topeka, KS (Shawnee, KS)	1.0632
Trenton, NJ (Mercer, NJ)	1.0317
Tucson, AZ (Pima, AZ)	1.0090
Tulsa, OK (Creeks, OK; Osage, OK; Rogers, OK; Tulsa, OK; Wagoner, OK)	1.0131
Tuscaloosa, AL (Tuscaloosa, AL)	1.0172
Tyler, TX (Smith, TX)	1.0035
Utica-Rome, NY (Herkimer, NY; Oneida, NY)	.8840
Vallejo-Fairfield-Napa, CA (Napa, CA; Solano, CA)	1.3397
Vancouver, WA (Clark, WA)	1.1659
Victoria, TX (Victoria, TX)	.8205
Vineland-Millville-Bridgeton, NJ (Cumberland, NJ)	.9929
Visalja-Tulare-Porterville, CA (Tulare, CA)	1.0643
Waco, TX (McLennan, TX)	.9117
Washington, DC-MD-VA (District of Columbia, DC; Calvert, MD; Charles, MD; Frederick, MD; Montgomery, MD; Prince Georges, MD; Alexandria City, VA; Arlington, VA; Fairfax, VA; Fairfax City, VA; Falls Church City, VA; Loudoun, VA; Manassas City, VA; Manassas Park City, VA; Prince William, VA; Stafford, VA	1.1965
Waterloo-Cedar Falls, IA (Black Hawk, IA; Bremer, IA)	.9993
Wausau, WI (Marathon, WI)	.9871
West Palm Beach-Boca Raton-Delray Beach, FL (Palm Beach, FL)	.9972
Wheeling, WV-OH (Belmont, OH; Marshall, WV; Ohio, WV)	.9771
Wichita, KS (Butler, KS; Sedgwick, KS)	1.1589
Wichita Falls, TX (Wichita, TX)	.8776
Williamsport, PA (Lycoming, PA)	.9048
Wilmington, DE-NJ-MD (New Castle, DE; Cecil, MD; Salem, NJ)	1.0588
Wilmington, NC (New Hanover, NC)	.9591
Worcester-Fitchburg-Leominster, MA (Worcester, MA)	1.0094
Yakima, WA (Yakima, WA)	1.0389
York, PA (Adams, PA; York, PA)	.9853
Youngstown-Warren, OH (Mahoning, OH; Trumbull, OH)	1.0480
Yuba City, CA (Sutter, CA; Yuba, CA)	1.0460

[1] Approximate value for area.

TABLE III.B—WAGE INDEX FOR RURAL AREAS

Non-urban area	Wage index
Alabama	.7466
Alaska	1.4989
Arizona	.9323
Arkansas	.7703
California	1.1457
Colorado	.9326
Connecticut	1.0880
Delaware	.8645
Florida	.8815
Georgia	.7779
Hawaii	1.0157
Idaho	.9130
Illinois	.8917
Indiana	.8685
Iowa	.8719
Kansas	.8481
Kentucky	.8036
Louisiana	.8605
Maine	.8701
Maryland	.8773
Massachusetts	1.0548
Michigan	.9589
Minnesota	.8788
Mississippi	.7705
Missouri	.8325
Montana	.9154
Nebraska	.8310
Nevada	1.0799
New Hampshire	.9234
New Jersey	NA
New Mexico	.9213
New York	.8730
North Carolina	.8130
North Dakota	.9061
Ohio	.9100
Oklahoma	.8462
Oregon	1.0782
Pennsylvania	.9427
Puerto Rico	[1] .5736
Rhode Island	.9553
South Carolina	.7827
South Dakota	.8263
Tennessee	.7733
Texas	.8180
Utah	.9505
Vermont	.8888
Virginia	.8194
Virgin Island	[1] 1.0000
Washington	1.0273
West Virginia	.8816
Wisconsin	.8995
Wyoming	.9745

[1] Approximate value for area.

TABLE IV.—COST REPORTING YEAR ADJUSTMENT FACTORS [1]

If the HHA cost reporting period begins:	The adjustment factor is—
Aug. 1, 1986	1.0035
Sept.1, 1986	1.0070
Oct. 1, 1986	1.0104
Nov. 1, 1986	1.0140
Dec. 1, 1986	1.0174
Jan. 1, 1987	1.0210
Feb. 1, 1987	1.0256
Mar. 1, 1987	1.0298
Apr. 1, 1987	1.0345
May 1, 1987	1.0391
June 1, 1987	1.0438

[1] Based on compounded projected market basket inflation rates of 4.2 percent for 1987 and 5.5 percent for 1988. These adjustment factors are subject to change based on later estimates of cost increases.

VII. Regulatory Impact Statement and Regulatory Flexibility Analysis

A. Introduction

Executive Order 12291 (E. O. 12291) requires us to prepare and publish an initial regulatory impact analysis for any proposed regulations that are likely to meet criteria for a "major rule".

A major rule is one that would 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 any 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.

Since adopting the HCFA survey-based wage index, which is the only change in methodology being implemented by this notice, will not meet any of these criteria, this final notice is not a major rule under E.O. 12291, and a regulatory impact analysis is not required.

However, consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), we prepare and publish a regulatory flexibility analysis for a notice unless the Secretary certifies that the notice would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we consider all HHAs to be small entities. The changes contained in this final notice will result in a significant economic impact on a substantial number of HHAs, and we discussed this impact in an initial regulatory flexibility analysis included in the proposed notice published March 25, 1986. The following discussion, in combination with the rest of this notice, constitutes a final regulatory flexibility analysis.

B. Public Response to Initial Regulatory Flexibility Analysis

Several commenters criticized the initial regulatory flexibility analysis published March 25, 1986 as being inadequate.

Comment: One commenter stated that we had not performed a legally sufficient impact analysis.

Response: As noted above, E.O. 12291 specifies several criteria for identifying major rules for which a regulatory impact analysis must be prepared. In the proposed notice published March 25, 1986, we listed these criteria and explained that adopting the HCFA survey-based wage index would not meet any of these criteria. The commenter did not say which, if any, of these criteria he believed was not met. In preparing this final notice, we have reconsidered whether this should be considered a major rule and we again have concluded that it is not.

Comment: Another commenter stated that we had not met the requirements of the Regulatory Flexibility Act.

Response: Section 603(b) of the Regulatory Flexibility Act specifies that an initial regulatory flexibility analysis shall contain—

(1) A description of the reasons why action by the agency is being considered;

(2) A succinct statement of the objectives of, and legal basis for, the proposed rule;

(3) A description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply;

(4) A description of the projected reporting, recordkeeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report of record;

(5) An identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap or conflict with the proposed rule.

In addition, section 603(c) provides that:

"Each intitial regulatory flexibility analysis shall also contain a description of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities. Consistent with the stated objectives of applicable statutes, the analysis shall discuss significant alternatives such as—

(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;

(2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;

(3) the use of performance rather than design standards; and

(4) an exemption from coverage of the rule, or any part thereof, for such small entities."

The regulatory impact statement of the proposed notice, in combination with the rest of the notice, met these requirements.

Comment: Two commenters were critical of our statement that, although we estimated 36 percent of all agencies (2148 of 5964 total HHAs) would be disadvantaged and 48 percent (2865) advantaged, the net effect of the new wage index on total payments would be negligible. One commenter alleged that we were using this statement to dismiss the adverse impact on some agencies in view of the advantage to others. Another was critical that we had not

presented a more detailed analysis of individual and regional "winners" and "losers".

Response: The point we were making in the proposed notice, by pointing out the negligible budget impact, was that our objective was not budget savings, but accuracy. It is clear that the magnitude of disadvantages must be somewhat larger, in the aggregate, than the magnitude of advantages, in order for the offset to result in a negligible budget impact. However, we do not have data sufficiently precise and detailed to enable us either to model behavior changes or estimate effects on individual agencies. We stated that a large number of agencies could be adversely affected and published the index values that would enable individual agencies to assess the impact on their own behalf. It is clear from the comments received from individual HHAs that they were quite capable of assessing on their own whether they were advantaged or disadvantaged by the change.

C. Estimated Budget Effect

This is a technical notice setting forth the actual value of the cost limits applicable to HHA cost reporting periods beginning on or after July 1, 1986 and before July 1, 1987. The primary effects resulting from this notice were taken into account in last year's final notice published July 5, 1985 (50 FR 27734), which established a three-year cycle of HHA cost limits. The economic impact analysis prepared for that notice included a discussion of the effects of the methodology and limits being implemeted by this notice, except for the effects of the adoption of the HCFA gross wage index. The adoption of the new wage index will have a negligible effect on the savings estimated to result from these costs limits.

D. Effects of New Wage Index

There are about 5964 HHAs participating in Medicare throughout the country. Of these, 3603 are urban (that is, located in MSAs). Of the urban HHAs, 2924 are freestanding and 679 are hospital-based. Of the 2361 rural HHAs, 1780 are freestanding and 581 are hospital-based. Many HHAs have high Medicare utilization compared to other types of providers; a number exceed 75 percent Medicare utilization.

Adopting the HCFA survey-based gross wage index will affect the level of payment for a given HHA only if there is a significant change in the index value for the area in which it is located and if the change in wage index results in a change in the amount of an agency's costs in excess of the limits. Thus, whether or not an HHA in fact is advantaged by the change in wage index depends on whether:

- The agency would have had one or more disciplines over a limit using the BLS index;
- The applicable wage index value increased or decreased; and
- The revised limit, using the new index value, result in allowance of higher or lower costs for one or more disciplines.

Some agencies would be under all the limits, regardless of which wage index is used, and thus will be unaffected. Some HHAs that would be under all the per discipline limits using the BLS index could, as a result of a reduced wage index value, experience disallowances of the cost in excess of the limits for one or more disciplines. Conversely, some HHAs that would have costs in excess of these limits disallowed under the BLS index could, if their index values increased, experience smaller disallowances, possibly none.

Compared to the BLS wage index used in the July 5, 1985 final notice, the adoption of the HCFA survey-based gross wage index will result in increased wage index values for 163 MSAs and 27 State-wide rural areas, and decreased values for 159 MSAs and 23 rural areas. As we noted in the initial regulatory flexibility analysis, about 36 percent of all HHAs will be disadvantaged and 48 percent advantaged. Nonetheless, we estimate that the net effect of the new wage index on total annual payments to all HHAs will be negligible because in the aggregate, increased and decreased payments will offset each other.

E. Alternatives Considered

As we made clear in the notice published March 25, 1986, we considered few alternatives in developing these limits. However, as discussed in the July 5, 1985 notice, we had earlier considered particular changes to the methodology such as using a different percentage of the mean at which to set the limits. Some commenters recommended using the HCFA adjusted survey-based wage index, rather than the HCFA gross wage index. However, as we explained in the proposed notice, due to the problems of the reporting of data underlying that index, it was not as accurate as the gross wage index and was rejected.

We believe that much of the existing cost variation among HHAs is not attributable to factors related to costs necessary for the efficient delivery of needed health services. However, there are significant geographic variations in costs that we must recognize as accurately as possible. Thus, we have decided to use the HCFA survey-based gross wage index. Now that an alternative more accurate wage index is available to us, we believe that continued use of the BLS index would unnecessarily and unfairly disadvantage those HHAs that may have had their personnel costs underrepresented by that index.

F. Conclusion

We believe that the benefits of this notice will outweigh the costs because the HCFA survey-based gross wage index is a more accurate measure of the relative costs of the types of personnel utilized by HHAs than the BLS wage index. Although some HHAs will be advantaged and some disadvantaged by changes to the wage index, we believe the results generally will be equitable.

Some economizing measures adopted by HHAs in response to these limits, such as measures that could affect access to or quality of care, could be viewed as adverse consequences, or costs. However, we believe the limit levels are reasonable and we expect the majority of HHAs to be able to furnish services within them. Also, our regulation at 42 CFR 405.460(f) provided an exceptions process that allows for adjustment of a provider's limits under specific conditions.

VIII. Paperwork Burden

This notice does not impose information collection requirements. Consequently, it does not need to be reviewed by EOMB under the authority of the Paperwork Reduction Act of 1980. (44 U.S.C. 3507).

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

Dated: May 15, 1986.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved: May 28, 1986.

Otis R. Bowen,

Secretary.

[FR Doc. 86-12279 Filed 5-29-86; 8:45 am]

BILLING CODE 4120-01-M

federal register

Friday
May 30, 1986

Part IX

Department of Energy

Office of the Secretary

Amendment to Delegation Order for Approval of Power Marketing Administration Power and Transmission Rates; Notice

DEPARTMENT OF ENERGY

Office of the Secretary

Amendment to Delegation Order for Approval of Power Marketing Administration Power and Transmission Rates

AGENCY: Department of Energy.

ACTION: Notice of amendment to delegation order.

SUMMARY: Notice is hereby given of Amendment No. 1 to Delegation Order No. 0204–108 which amendment revises the delegation of authority to confirm, approve and place into effect on an interim basis power and transmission rates of the Alaska, Southeastern, Southwestern, and Western Area Power Administrations by delegating such authority to the Under Secretary of the Department of Energy rather than to the Deputy Secretary of the Department of Energy. The amendment also makes minor conforming changes to reflect the fact of that revision in delegation of authority and adds a provision that such revision is to have no effect upon rates which have been previously placed into effect by the Deputy Secretary. This Order is effective upon publication in the **Federal Register.**

EFFECTIVE DATE: May 30, 1986.

FOR FURTHER INFORMATION CONTACT: Lawrence A. Gollomp, 252–6958.

SUPPLEMENTARY INFORMATION: Delegation Order No. 0204–108, 48 FR 55664, which became effective December 14, 1983, delegated to the Deputy Secretary of the Department of Energy on a non exclusive basis, among other things, the authority to confirm, approve, and place into effect on an interim basis, power and transmission rates for the Alaska, Southeastern, Southwestern and Western Area Power Administrations. The Secretary of the Department of Energy has determined that revisions in that Delegation Order are desirable at this time, which will delegate to the Under Secretary the authority which had been previously delegated to the Deputy Secretary. The principal reason for these revisions is to reflect revised organizational relationships within the Department.

Issued in Washington, DC, on May 28, 1986.

Harry L. Peebles,

Director of Administration.

Department of Energy, Amendment No. 1 to Delegation Order No. 0204–108, Delegation Order for Approval of Power Marketing Administration Power and Transmission Rates

Pursuant to the authority vested in me as Secretary of Energy and by sections 203(a), 301(b), 302(a), 402(e), 641, 642, 643 and 644, of the Department of Energy Organization Act (Pub. L. 95–91) there is hereby delegated to the Under Secretary of the Department of Energy all authority which was previously delegated to the Deputy Secretary of the Department of Energy in Department of Energy Delegation Order No. 0204-108, as published in the **Federal Register**, December 14, 1983 (48 FR 55664), and Department of Energy Delegation Order No. 0204–108 is hereby amended to reflect such revision to that delegation of authority and to reflect related changes so as to read and provide in its amended from or as follows:

1. There is hereby delegated to the respective Administrators of the Alaska, Southeastern, Southwestern, and Western Area Power Administrations on a non-exclusive basis the authority to develop power and transmission rates for their respective Power Administrations. Rates developed by an Administrator shall not become effective on a final basis unless and until such rate is confirmed and approved by the Federal Energy Regulatory Commission (Commission) acting under section 3 below. In submitting a rate the Administrator shall certify that the rate is consistent with applicable law and that it is the lowest possible rate to customers consistent with sound business principles.

2. There is hereby delegated to the Under Secretary of the Department of Energy on a non-exclusive basis the authority to confirm, approve, and place in effect on an interim basis power and transmission rates for the Alaska, Southeastern, Southwestern, and Western Area Power Administrations for such periods as he or she may provide.

3. There is hereby delegated to the Commission on an exclusive basis the authority to confirm, approve, and place in effect on a final basis, to remand, or to disapprove, rates developed by each Administrator under section 1. The Commission review will be limited to: (a) Whether the rates are the lowest possible to customers consistent with sound business principles; (b) whether the revenue levels generated by the rates are sufficient to recover the costs of producing and transmitting electric energy including the repayment, within the period of cost recovery permitted by law, of the capital investment allocated to power and costs assigned by Acts of Congress to power for repayment, and (c) the assumptions and projections used in developing the rate components that are subject to Commission review. The Commission may require the Administrator to provide any information relevant to the Commission's confirmation and review function.

The Commission shall not review policy judgments and interpretations of laws and regulations made by the power generating agencies (i.e., the Bureau of Reclamation, the Corps of Engineers, and the International Boundary and Water Commission). The Commission shall reject decisions of the Power Marketing Administrators only if the Commission finds them to be arbitrary, capricious, or in violation of the law. *Provided,* that the Commission may reject decisions that are not in accord with (a) the standards set forth in DOE Order No. RA 6120.2, or any revisions or modifications to such standards, adopted pursuant to the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) and the Department of Energy Organization Act (42 U.S.C. 7191), and (b) the standards set forth in any interagency agreement between the Administrator and the power generating agency that is applicable. Should the Commission reject such decisions, the Power Marketing Administrator will have 30 days in which to seek rehearing.

4. In the event a rate developed by an Administrator is disapproved by the Commission, the Administrator shall, within 120 days or such additional time periods as the Commission may provide, submit to the Commission a substitute rate for action by the Commission under section 3 hereof.

A rate confirmed, approved and placed in effect by the Under Secretary on an interim basis that is disapproved by the Commission shall remain in effect, as provided by the Under Secretary until a substitute rate is confirmed and approved on a final basis; by the Commission, unless theoriginal interim rate has been superseded by a subsequent rate placed in effect on an interim basis *Provided,* that if the Administrator does not file a substitute rate within 120 days or such greater time as the Commission may provide, and if the rate has been disapproved because the Commission determined that it would result in total revenues in excess of those required by

law, the rate last previously confirmed and approved on a final basis will become effective on a date and for a period determined by the Commission, and revenues collected in excess of those generated by such rate during the interim period will be refunded with interest to the extent determined by the Commission. If a substitute rate confirmed and approved on a final basis by the Commission is lower than the rate in effect on an interim basis, any overpayment shall be refunded with interest as determined by the Commission. If a substitute rate confirmed and approved on a final basis by the Commission is higher than the rate in effect on an interim basis, such rate, if no subsequent and higher rate has been put into effect by the Under Secretary shall become effective on a subsequent date set by the Commission. If at any time it is determined by the Commission that the administrative cost of a refund would exceed the amount to be refunded, no refund will be required.

5. Notwithstanding any other provisions of this delegation order, there is hereby delegated to each Administrator the authority to develop and place into effect on a final basis rates for short-term sales of capacity, energy or transmission service. Short-term sales are those sales that last no longer than one year.

6. For the Alaska Power Administration, the Southeastern Power Administration, the Southwestern Power Administration, and the Western Area Power Administration:

A. All rates placed into effect on a final basis pursuant to any authority delegated prior to this order shall remain in full force and effect.

B. Rates filed on or before the effective date of this order, and for which the Commission has issued any substantive orders, will be governed by the terms of Delegation Order No. 0204–33 until placed in effect by the Commission on a final basis.

C. Rates filed under previous delegation orders for which the Commission has not issued any substantive orders on or before the effective date of this order will be governed by the terms of this delegation order.

7. In exercising the authority delegated by this order, the delegates shall be governed by the rules and regulations of the Department of Energy and the policies and procedures prescribed by The Secretary or his delegates.

8. Nothing in this order shall preclude The Secretary from exercising any of the authority delegated to the Under Secretary, and the Administrators whenever in his judgment his exercise of such authority is necessary or appropriate to administer the functions vested in him.

9. For the Alaska Power Administration, the Southeastern Power Administration, the Southwestern Power Administration and the Western Area Power Administration:

A. All rates placed into effect on a final basis pursuant to any authority delegated pursuant to Delegation Order No. 0204–108 as such order existed prior to the effective date of Amendment No. 1 thereto shall remain in full force and effect.

B. All rates filed before the effective date of Amendment No. 1 to Delegation Order No. 0204–108 which rates, as of the effective date of said Amendment No. 1, are in effect but which have not been placed in effect on a final basis, shall continue in effect subject to the provisions of this Amended Delegation Order. In no event shall any rates which have been filed on or before the effective date of Amendment No. 1 to Delegation Order No. 0204–108 be invalidated solely by virtue of the change in the delegation of authority from the Deputy Secretary to the Under Secretary provided for in said Amendment and all actions heretofore taken by the Deputy Secretary pursuant to Delegation Order No. 0204–108 with respect to such rates are hereby confirmed and such rates shall not be subject to challenge on the ground that any such actions were taken by the Deputy Secretary rather than by the Under Secretary.

C. All rates filed on and after the effective date of Amendment No. 1 to Delegation Order No. 0204–108 shall be governed by that order as thus amended.

10. This amended order becomes effective upon publication in the **Federal Register.**

John S. Herrington.

[FR Doc. 86–12315 Filed 5–29–86; 9:28 am]

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Federal Register

Vol. 51, No. 104

Friday, May 30, 1986

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TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, MAY

16155-16280....1
16281-16484....2
16485-16654....5
16655-16806....6
16807-16992....7
16993-17166....8
17167-17308....9
17309-17442....12
17443-17606....13
17607-17728....14
17729-17916....15
17917-18302....16
18303-18428....19
18429-18558....20
18559-18754....21
18755-18868....22
18869-19050....23
19051-19148....27
19149-19322....28
19323-19526....29
19527-19746....30

CFR PARTS AFFECTED DURING MAY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

315....16659

Proposed Rules:

Ch. III....18335

3 CFR

Proclamations:

5470....16655
5471....16657
5472....17309
5473....17311
5474....17313
5475....17607
5476....17609
5477....17729
5478....18296
5479....18303
5480....18305
5481....18433
5482....18559
5483....18755
5484....18757
5485....18759
5486....18869
5487....18871
5488....18873
5489....19051
5490....19149
5491....19151
5492....19153
5493....19155
5494....19527
5495....19529

Executive Orders:

12158 (Amended by EO 12560)....19159
12163 (Amended by EO 12560)....19159
12171 (Amended by EO 12559)....18761
12557....18429
12558....18431
12559....18761
12560....19159

Administrative Orders:

Memorandums:
May 15, 1986....18294
May 23, 1986....19157
Letters:
May 28, 1986....19531

5 CFR

Ch. XIV....19161
532....18561
550....16669
890....18562

Proposed Rules:

752....19554
831....16701

7 CFR

2....17167
25....17611
25a....17611
70....17278, 18875
210....16807
225....16807
226....16807
246....16155
271....18744
272....16281, 18744
273....16281, 18744
274....18744
276....18744
279....18744
285....18744
301....16993
400....17315
449....17611
704....17167
736....17306
905....19533
908....18875, 19534
915....18565
917....16670
918....16812
925....16285
944....18565
982....17317
1022....17922
1240....17917
1435....16285
1468....17611
1472....17612
1806....17920
1823....17922
1940....17443
1941....17922
1943....17922
1944....17922, 17443
1945....17922
1955....17922, 18435, 19053
1962....17922
1965....17922
2054....18763
3015....17169

Proposed Rules:

28....17193
29....19213
46....18590
52....17349
810....19556
911....16347
945....18796
966....18890
980....17354
982....17354
987....19558
1065....19353
1097....17982
1240....16702
1476....18552, 19214
1493....16532
1747....17034

1772.....19215–19216
1944.....19217

8 CFR

204.....18568
212.....18768
238.....16288, 18769

Proposed Rules:

103.....19559
212.....18591
214.....18591

9 CFR

77.....17001, 19161
78.....17922, 19162
91.....17318
92.....16485
161.....17318
162.....17318

Proposed Rules:

75.....18455
92.....19560
301.....18456
312.....18456
327.....17196, 18456
381.....18456

10 CFR

2.....19535
503.....18866

Proposed Rules:

0.....19067
2.....19067, 19106
19.....17634, 19106
20.....16535, 17634, 19106
21.....19106
30.....17634
31.....17634
32.....17634
34.....17634
40.....17634
50.....17361, 17634, 19561
51.....19106
55.....19561
61.....17634
70.....17634, 19106
72.....19106
73.....19106
75.....19106
150.....19106
300.....16854
810.....19218

12 CFR

Ch. VII.....16292
16.....18769
22.....18307
32.....19164
201.....16672
226.....18876
265.....18876
353.....16485
556.....16288, 16501
611.....16291

Proposed Rules:

Ch. V.....16542, 16550
204.....16855
225.....18797
523.....16536
541.....16542
545.....16542, 17634
561.....16542, 16550
563.....16542, 16550, 17634
570.....16542
611.....17035
614.....17035
615.....17035
618.....17035
740.....16710, 19353
741.....16710, 19353
745.....16710, 19353

13 CFR

120.....17002, 18436
122.....18436
123.....17002
309.....16292

Proposed Rules:

121.....16176

14 CFR

11.....18308
21.....19540
25.....18236
39.....16155, 16294, 16506–16508, 16806, 17005–17009, 17322–17324, 17613–17615, 17731, 17923–17926, 18308, 18571–18576, 18770, 18771, 19053, 19323, 19324
71.....16295, 16510, 16610, 16673, 17325–17326, 17461–17463, 17927, 18437, 18578, 18772, 18773, 19054–19057, 19325, 19490
73.....17615, 19326
75.....16295, 16814, 17463
93.....18309, 18310, 19164
95.....16814
97.....17327, 18877
121.....17274
125.....17274
127.....17274
129.....17274
135.....17274

Proposed Rules:

Ch. I.....17743, 18599
21.....17362, 19354
23.....17362
25.....19140
39.....16347, 17049–17056, 17362, 17364, 17644–17649, 17743, 17745, 18335, 18600, 18602, 18799, 19357
43.....18800
67.....19040
71.....17365, 17986, 18461, 18603, 18604, 18895, 18896, 19067–19070, 19358–19360
73.....16858, 17647, 18336
75.....19360
91.....18800
121.....19134, 19140
204.....19071
291.....19071
303.....17490, 18605

15 CFR

3.....18878
8a.....18879
370.....18773
373.....18773
376.....16674
379.....16296
385.....19058, 19542
399.....16818

Proposed Rules:

21.....18605
379.....17986, 18801

16 CFR

13.....16510–16513
305.....16516

Proposed Rules:

13.....16566, 17197, 18897

17 CFR

1.....17464
5.....17464
16.....17464
33.....17464
148.....18879
200.....18881
210.....17328
211.....17331
240.....17732, 18578

18 CFR

225.....19327
227.....19327
271.....16157, 19164
282.....19327

19 CFR

12.....17332
101.....16158
115.....16159
142.....19166
178.....16159

Proposed Rules:

113.....18801
175.....17746
211.....16858

20 CFR

404.....16166, 16818, 17173, 17616, 18312
416.....16818, 17332, 17616

Proposed Rules:

404.....18611, 19468
416.....17057, 17200, 18611

21 CFR

5.....17010, 19328
73.....19543
74.....16674, 18882
81.....16674
82.....16674, 18882
172.....19543
175.....19545
176.....16167, 17011, 19058
177.....16827, 18774, 19059
178.....19060, 19168, 19543
182.....16829, 18774
186.....16829, 18774
330.....16258, 18580
331.....16258, 18580
332.....16258, 18580
357.....16258, 18580
441.....16516
510.....18883
522.....18313, 19328, 19545
548.....19546
556.....18883
558.....16675, 18314, 18883, 19546
561.....17174, 19168
630.....18580
884.....16652
1308.....17476

Proposed Rules:

155.....19566
630.....16620
805.....16792
1301.....17494
1306.....17494

22 CFR

Proposed Rules:

22.....17650
41.....18774
213.....17068

23 CFR

625.....16830
626.....16830
630.....16830
645.....16830
650.....16830
655.....16830
666.....16830
810.....16830
922.....16830

24 CFR

200.....17927
242.....19329
251.....17175
255.....17175
882.....16296
883.....19061
990.....16835

25 CFR

700.....19169

26 CFR

1.....16297, 16298, 17929, 17936, 18775
7.....17936
53.....16300, 17732
54.....16300
141.....16300
301.....16300, 19062
602.....16298, 16300, 17936

Proposed Rules:

1.....16348, 17989, 17990
301.....19570

27 CFR

5.....16167

Proposed Rules:

4.....19361

28 CFR

0.....16841, 16842
16.....16676
21.....16171

Proposed Rules:

16.....16724

29 CFR

12.....18884
102.....17732
1601.....18778
2676.....16677, 17733

Proposed Rules:

1915.....17991
1926.....17203
1952.....18337

30 CFR

218.....19062
251.....17175
252.....17175
750.....19444
816.....19444
817.....19444
900.....19444
906.....19547
910.....19444
912.....19444

914 17478
915 17176
917 19063
921 19444
922 19444
933 19444
935 16677
937 19444
938 18314
939 19444
941 19444
942 19444
947 19444
955 19444

Proposed Rules:
75 ..... 17284, 18899
250 16348
256 16348
731 16859
732 16859
761 16859
772 16859
773 16859
779 ..... 16859, 19498
780 ..... 16859, 19498
783 ..... 16859, 19498
784 ..... 16859, 19498
816 19498
817 19498
913 17204
950 18621

31 CFR

51 19147
306 16174
357 ..... 18260, 18884

Proposed Rules:
357 17205

32 CFR

145 17178
360 17481
513 17961
553 19708
706 ..... 16174, 16680–16682, 17182–17183
732 18779
1602 17618
1605 17618
1609 17618
1618 17618
1621 17618
1624 17618
1630 17618
1633 17618
1636 17618
1639 17618
1642 17618
1648 17618
1651 17618
1653 17618
1656 17618
1657 17618

33 CFR

1 19329
100 ..... 17012, 17183, 17961
117 ..... 16306, 17012, 18787
118 16306
153 17962
162 17013
165 ..... 17016, 17332, 17968, 18321
402 16843

Proposed Rules:
Ch. I 18900
95 18902
100 ..... 17204, 18344
115 18345
117 ..... 16568, 17070, 17993
126 18276
127 18276
146 18902
150 18902
165 18803
166 17071
167 17071
173 18902
177 18902
181 19364
183 19364
209 19694
335 19694
336 19694
337 19694
338 19694

34 CFR

200 18404
204 18404
208 19170
230 19173
231 19173
300 ..... 17904, 19310
700 19314
701 19314
702 19314
703 19314
709 19314
710 19314
716 19314
718 19314
720 19314
768 18580
769 18580
770 18580
771 18580
772 18580
795 19314

Proposed Rules:
222 17720
796 17494

36 CFR

251 16682
1150 18788
1153 17734
1254 17185
1258 17185

Proposed Rules:
62 16349
223 17994
1228 17497
1232 17497
1236 17497
1239 17497
1250 17206
1254 17207

37 CFR

Proposed Rules:
1 ..... 18290, 19075
2 ..... 18290, 19075

38 CFR

3 17628
6 18789
8 18789
17 19329
21 ..... 16314, 16317, 16517, 17188, 19331, 19332

Proposed Rules:
4 16350
17 17651
21 ..... 17995, 17996
26 17656

39 CFR

3 18323
4 18323
10 ..... 17017, 17969
111 ..... 17019, 17629, 19548
951 16517

Proposed Rules:
10 17073
265 17997
310 17366
320 17366

40 CFR

52 ..... 17334, 18438, 18440, 19550
60 18538
147 16683
154 17716
155 17716
158 17716
162 ..... 17716, 19174
166 16844
172 17716
180 ..... 16688, 16844, 18585, 19175
260 16422
261 19320
264 16422
265 ..... 16422, 19176
268 19300
270 16422
271 ..... 17737, 17739
704 ..... 17336, 18323
712 18323
716 ..... 17336, 18323
721 ..... 16684, 17740
763 18326
799 18443
1502 16846

Proposed Rules:
52 ..... 17208, 17210, 19222
65 ..... 16353, 19223
141 ..... 19075, 19076
180 ..... 16178, 18913
261 16860
271 18804
421 18530
721 17499
795 ..... 17854, 17872
799 ..... 17747, 17854–17883

41 CFR

51–2 17188
51–5 17189
101–17 17630

Proposed Rules:
51–1 17212
51–3 17212
61–250 19300
101–20 18805

42 CFR

400 ..... 16772, 18790
405 16772
412 16772
420 18790
433 16318
435 19177
442 ..... 16688, 17340
489 16772

Proposed Rules:
34 17214
51e 16724
53 18462
60 18728
64a 19225
400 16792
405 ..... 16792, 17997
409 17997
431 19227
433 19227
442 17997
489 16792

43 CFR

4 ..... 16319, 18326–18328
3400 18884
3420 18884
3460 18884

Proposed Rules:
4 18345
11 16636
1780 19367

Public Land Orders:
6615 18586

44 CFR

64 ..... 17483, 19066, 19336
65 17485
67 ..... 17486, 19181

Proposed Rules:
67 17499
205 17747
222 17501

45 CFR

101 18790
205 18888

46 CFR

2 19338
4 19338
5 19341
160 19342
307 18328
310 17740
552 17025

Proposed Rules:
4 18902
5 18902
31 19720
35 18902
61 19720
71 19720
78 18902
91 19720
97 18902
109 18902
167 ..... 18902, 19720
169 19720
185 18902
189 19720
196 18902
197 18902
326 17659
401 18806
510 17754
530 18621
572 16354
580 17754
582 17754

47 CFR

Ch. I 16688, 17631, 18792
1 ..... 17969, 18889, 19346
2 16847
18 17970

21 17969
25 18444
63 18446
68 16689
69 17026
73 ..... 17027, 18448, 18793, 18794, 19346, 19348, 19349
74 18448
76 18448
87 17341
90 ..... 18330, 18794
97 ..... 17029, 17342

Proposed Rules:
1 ..... 16321, 18463
2 19570
18 18004
21 ..... 18005, 18007
22 ..... 17366, 18623
31 16178
43 ..... 18463, 19369
67 17756
73 ..... 16322, 16324, 16726, 18809, 19370
90 ..... 17757, 18464 16357–16360, 17367, 19236
94 19570
97 17074

48 CFR

6 18810
8 19712
12 19712
13 19712
15 19712
19 ..... 18810, 19712
25 16802
32 19712
36 19712
38 19712
45 19712
52 ..... 16802, 19712
213 19552
217 19552
232 18587
246 18587
252 ..... 18587, 19552
501 16690
504 16690
513 16175
514 16690
515 16690
525 16692
552 16692
553 ..... 16175, 16690
808 19349

Proposed Rules:
6 16988
8 16988
15 16988
31 ..... 19506, 19690
41 16988
52 ..... 16462, 16988
215 19236
252 19236

49 CFR

27 18994
232 17300
391 17568
571 ..... 16325, 16517, 16694, 16847, 18795
1002 18589
1011 16851
1105 16851
1144 18333
1152 16851

Proposed Rules:
Ch. X 18346, 18811
27 19032
192 ..... 16362, 18465
193 18007
391 17572
395 17214
565 18347
571 ..... 17218, 18009
604 18466
609 19032
630 ..... 17144, 17145
1135 ..... 16363, 18009
1312 ..... 16877, 17368

50 CFR

17 ..... 16474, 16526, 17343, 17971–17977, 18451
18 17980
301 ..... 16466, 16471
604 16530
611 ..... 17030, 18333, 18795, 19203
630 16530
641 19208
642 ..... 16530, 19209
649 19210
650 16520
652 17346
655 17189
658 ..... 17487, 19553
661 ..... 16520, 18451, 19350
672 ..... 17632, 19203, 19351
675 18333

Proposed Rules:
13 18812
17 ..... 16363, 16483, 16569, 18010, 18624–18630
20 18349
21 18812
23 ..... 17368, 18634
32 19572
33 19572
215 17896
216 16365
651 18913
654 ..... 17075, 18637
683 17370

LIST OF PUBLIC LAWS

Last List May 29, 1986

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202–275–3030).

H.R. 1349/Pub. L. 99–323

Presidential Libraries Act of 1986. (May 27, 1986; 100 Stat. 495; 5 pages) Price: $1.00

S.J. Res. 266/Pub. L. 99–324

To authorize and request the President to designate the month of June 1986 as "Youth Suicide Prevention Month." (May 27, 1986; 100 Stat. 500; 1 page) Price: $1.00